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Established in 1938

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Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

File Ref: SCH # 2019071059

Kern County
Attn: Carlos E. Rojas
2700 M Street, Suite 100
Bakersfield, CA 93301-2323

VIA REGULAR & ELECTRONIC MAIL (CRojas@kerncounty.com)

Subject: Notice of Preparation (NOP) for a Draft Environmental Impact Report (EIR) for the BigBeau Solar Project, Kern County

Dear Mr. Rojas:

The California State Lands Commission (Commission) staff has reviewed the subject NOP for a Draft EIR for the BigBeau Solar Project (Project), which is being prepared by the Kern County Planning and Natural Resources Department (Kern County). Kern County, as the public agency proposing to carry out the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Commission will act as a responsible agency because of its duty as the trustee of school lands to monitor projects that could directly or indirectly impact these lands. Commission staff requests that Kern County consult with Commission staff on preparation of the Draft EIR as required by CEQA section 21153, subdivision (a), and the State CEQA Guidelines section 15086, subdivisions (a)(1) and (a)(2).

Commission Jurisdiction and School Lands

In 1853, the U.S. Congress granted to California nearly 5.5 million acres of land for the specific purpose of supporting public schools. In 1984, the State Legislature passed the School Land Bank Act (Act), which established the School Land Bank Fund (SLBF) and appointed the Commission as its trustee (Pub. Resources Code, § 8700 et seq.). The Act directed the Commission to develop school lands into a permanent and productive resource base for revenue generating purposes. The Commission manages approximately 462,830 +/- acres of school lands still held in fee ownership by the state and the reserved mineral interests on an additional 790,000± acres where the surfaces estates have been sold. Revenue from school lands is deposited in the State Treasury for the benefit of the Teachers' Retirement Fund (Pub. Resources Code, § 6217.5).

The Project site is within the U.S. Geological Survey 7.5-minute series, Tylerhorse Canyon and Willow Springs, California, topographic quadrangle. The Project is located in Sections 27, 34 and 35 of Township 10 North, Range 14 West and Sections 2, 3, 4, 9 and 10 of Township 9 North, and Range 14 West, San Bernardino Meridian.

The proposed Project includes lands under the jurisdiction of the Commission encompassing 160 acres of school lands in Section 34 of Township 10 North, Range 14 West, as such a lease from the Commission will be required for the Project. This parcel has been identified and nominated for significant environmental values for desert tortoise and recreation activities, pursuant to Public Resources Code section 6370 and California Code of Regulations, title 2, section 2952. This nomination ensures the protection of the resources identified within the parcel for the two values. The Commission is entrusted to the protection of these resource values within the parcel and requests any proposed design for the solar array consider these two resource values. During its review of the proposed Project, the Commission will evaluate whether the Project would be consistent with these desert tortoise and recreation activity protections. While the EIR could support the Commission's significant lands values analysis, this review is distinct from CEQA and need not be prepared in the EIR.

Project Description

The Project being proposed by BigBeau Solar, LLC, under EDF Renewables, is a proposed photovoltaic electrical generating facility with capacity to generate up to 128 megawatt hours (MW) of renewable electrical energy and store up to 60 MW energy in a Battery Storage System (BESS). The proposed Project is situated on approximately 2,290 acres of privately-owned land and 160 acres of state-owned school land managed by the Commission as identified above.

The Project would be supported by a 220-kV overhead transmission corridor. Permanent facilities for the Project would include photovoltaic (PV) panels, BESS, fencing, a meteorological station, microwave/communication tower, service roads, a power collection system, communication cables, overhead and underground transmission lines, electrical switchyards, substations, and operations and maintenance facilities.

Environmental Review

Commission staff requests that the County consider the following comments when preparing the Draft EIR.

General Comments

1. **Project Description**: A thorough and complete Project Description should be included in the Draft EIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all allowable activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of sediment removed or disturbed, seasonal work windows, locations for material disposal, etc.), as well as the details of the timing and length of activities. Thorough descriptions will facilitate Commission staff's determination of the extent and locations of its leasing jurisdiction,

make for a more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required.

Biological Resources

2. Sensitive Species: The parcel identified having area encompassed by the Project includes habitat for several sensitive or special status species that could be affected by construction depending on the time of year, including desert tortoise. In order to ensure the EIR is as complete and thorough as possible in disclosing and analyzing potential impacts to biological resources, Kern County should conduct queries of the California Department of Fish and Wildlife's California Natural Diversity Database and U.S. Fish and Wildlife Service's Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. In addition, Kern County should initiate consultation with the above agencies to ensure the information is current and accurate. The Draft EIR should analyze the potential for such species to occur in the Project area and, if impacts to special-status species are found to be significant, identify mitigation measures that would avoid or lessen the impact to the extent feasible.

Climate Change

3. Greenhouse Gas (GHG): A GHG emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill 32) and required by the State CEQA Guidelines should be included in the Draft EIR. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to less than significant.
4. Deferred Mitigation: In order to avoid the improper deferral of mitigation, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the Project and which may be accomplished in more than one specified way" (State CEQA Guidelines, §15126.4, subd. (a)).

Prior to final action on the EIR, Kern County should provide a Mitigation Monitoring and Reporting Program (MMRP) pursuant to State CEQA Guidelines section 15074, subdivision (d). The MMRP should include methods for coordination, timing for implementation of mitigation measures and list all parties and/or agencies, in addition to the City, responsible for ensuring compliance and enforcement through permit conditions, agreements or other measures during each phase of the Project.

Cultural Resources

5. Title to Resources: The EIR should also mention that the title to all archaeological sites and historic or cultural resources on or state lands of California is vested in the state and under the jurisdiction of the California State Lands Commission (Pub. Resources Code, § 6313). Commission staff requests that County consult with Staff Attorney Jamie Garrett, should any cultural resources on state lands be discovered during construction of the proposed Project. In addition, Commission staff requests that the following statement be included in the EIR's MMRP: "The final disposition of archaeological,

historical, and paleontological resources recovered on state lands under the jurisdiction of the Commission must be approved by the Commission.”

6. Tribal Cultural Resources: The County should document and discuss in the EIR how it complied with the provisions for required consultation with California Native American Tribes pursuant to the requirements added to CEQA by AB 52 (Gatto, Stats. 2014, Ch. 532), which applies to all CEQA projects initiated after July 1, 2015. These provisions provide procedural and substantive requirements for lead agency consultation with California Native American Tribes and consideration of effects on tribal cultural resources, as well as examples of mitigation measures to avoid or minimize impacts to tribal cultural resources. Additionally, with respect to significance determinations, the State CEQA Guidelines (§ 21084.2) state that, “A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.” When feasible, public agencies must avoid damaging effects to tribal cultural resources and shall keep information submitted by the tribes confidential. The Commission’s Tribal Consultation Policy, adopted in 2016, specifies that the Commission will coordinate and consider potential impacts to Native American Tribes and tribal cultural resources in all actions, policies, and decisions.

Thank you for the opportunity to comment on the NOP for the Project. As a trustee and responsible agency, Commission staff requests that you consult with us on this Project and keep us advised of changes to the Project Description and all other important developments. Please send additional information on the Project to the Commission staff listed below as the Draft EIR is being prepared.

Please refer questions concerning environmental review to Christopher Huitt, Senior Environmental Scientist, at (916) 574-2080 or christopher.huitt@slc.ca.gov. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Staff Attorney Jamie Garrett, at (916) 574-0398 or at jamie.garrett@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Jim Porter Public Lands Manager, at (916) 574-1865 or jim.porter@slc.ca.gov.

Sincerely,



Eric Gillies, Acting Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
P. Huber, Commission
J. Garrett, Commission
J. Porter, Commission
C. Huitt, Commission