

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

JENNIFER LUCCHESI, *Executive Officer*
(916) 574-1800 Fax (916) 574-1810
California Relay Service TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1890

Governor's Office of Planning & Research

MAR 12 2020

March 12, 2020

STATE CLEARINGHOUSE

File Ref: SCH # 2019071059

Kern County Planning and Natural Resources Department
Attn: Terrance Smalls
2700 M Street, Suite 100
Bakersfield, CA 93301-2323

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

**Subject: Draft Environmental Impact Report (EIR) for the BigBeau Solar Project,
Kern County**

Dear Mr. Smalls:

The California State Lands Commission (Commission) staff has reviewed the Draft EIR for the BigBeau Solar Project (Project), which is being prepared by the Kern County Planning and Natural Resources Department (Kern County). BigBeau Solar, LLC/EDF Renewables Development, Inc. is the Project proponent proposing to carry out the Project, and Kern County 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 surface 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 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 Development, Inc., 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 prior to certifying 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 not identify the Commission as a co-lead CEQA agency. Under the State CEQA Guidelines section 15051, subdivision (b)(1) and (c), the agency with general governmental powers, such as a city or county, will be the lead agency not an agency with one specific approval action.

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. Although preliminary surveys of the proposed Project have not produced sign of any sensitive or special status species identified in the Draft EIR, Kern County should conduct preconstruction and continued surveys for these sensitive and special status species.

Cultural Resources

3. Title to Resources: The EIR should also mention that the title to all archaeological sites and historic or cultural resources on 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 staff 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 Mitigation Monitoring and Reporting Program (MMRP): "The final disposition of archaeological, historical, and paleontological resources recovered on state lands under the jurisdiction of the California State Lands Commission must be approved by the Commission."

Environmental Justice

4. The Draft EIR does not state whether the County intends to discuss and analyze potential environmental justice related issues, including an assessment of public access and equity implications and who would bear the burdens or benefits from the proposed Project. Commission staff believes the Draft EIR, as an informational public document, is an appropriate vehicle to disclose and discuss how the proposed Project would attain or be consistent with the County's and other agency's equity goals and statewide policy direction.

Prior to final action on the EIR, Kern County must adopt a MMRP pursuant to State CEQA Guidelines section 15097. The MMRP must include methods for coordination, timing for implementation of mitigation measures and list all parties and/or agencies, in addition to the County, responsible for ensuring compliance and enforcement through permit conditions, agreements or other measures during each phase of the Project.

Thank you for the opportunity to comment on the Draft EIR 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 reviewed and certified by the County. Specifically, please provide the certified EIR, MMRP, Notice of Determination, Findings, Statement of Overriding Considerations (if required), and approving resolution by the County.

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 jamie.garrett@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Randy Collins, Public Lands Manager, at (916) 574-0900 or randy.collins@slc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Gillies".

Eric Gillies, Acting Chief
Division of Environmental Planning
and Management

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