

STAFF REPORT

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CONSIDER A RESOLUTION OPPOSING FEDERAL ACTIONS THAT WOULD UNDERMINE THE DESERT RENEWABLE ENERGY CONSERVATION PLAN BY ALLOWING DEVELOPMENT IN AREAS DESIGNATED FOR CONSERVATION IN THAT PLAN. THESE ACTIONS ARE DESCRIBED IN THE “NOTICE OF INTENT TO AMEND THE CALIFORNIA DESERT CONSERVATION AREA, BAKERSFIELD, AND BISHOP RESOURCE MANAGEMENT PLANS AND PREPARE ASSOCIATED ENVIRONMENTAL IMPACT STATEMENTS OR ENVIRONMENTAL ASSESSMENTS” (83 FR 4921), PUBLISHED ON FEBRUARY 2, 2018

BACKGROUND AND ANALYSIS:

The Commission owns and manages on behalf of the State lands and minerals that it acquired from the United States Congress in 1853 (Ch. 145, 10 Stat. 244). These lands, known as school lands, are mandated to be developed for revenue-generating purposes to benefit the California State Teachers’ Retirement System (CalSTRS). In 2008, recognizing the threats posed to California’s economy, environment, and citizens from climate change and recognizing the vast potential within its school land holdings for renewable energy generation from solar, wind, geothermal, and biomass, the Commission adopted a resolution supporting the environmentally responsible development of school lands for renewable energy-related projects. In 2011, the Commission began participating in the planning activities of the Renewable Energy Action Team, a group comprised of State and federal agencies responsible for developing the Desert Renewable Energy Conservation Plan (DRECP), to ensure the DRECP would be compatible with the Commission’s school land mandates and responsibilities.

On September 14, 2016, after a more than 8-year stakeholder driven collaborative process, the U.S. Department of Interior’s Bureau of Land Management (BLM) approved the DRECP in the Mojave and Colorado regions of the California desert through its Land Use Plan Amendment process. The DRECP is a landscape-scale, multispecies conservation and energy development planning effort covering approximately 10 million acres of federal public lands in a 22.5-million-acre planning area in Imperial, Inyo, Kern, Los Angeles, Riverside, San Bernardino, and San Diego Counties. The BLM, as the overall federal lead agency for the DRECP, consulted and coordinated with over 350 parties, including the Commission, other federal, state and local agencies, Indian tribes, museums and historical societies, industry, and private groups and members of the public.

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Although the BLM's DRECP approval only directly affects federal lands, the Commission has over 322,000 acres of school lands within the area that may be indirectly affected. In addition, the Commission and the BLM are engaged in a cooperative effort, pursuant to Division 7.7 of the California Public Resources Code and a subsequent Memorandum of Agreement (2012) and Letter of Intent (2015), to pursue one or more land exchanges designed to facilitate development of renewable energy projects and conservation of desert ecosystems and sensitive species.

On February 2, 2018, ostensibly as part of implementing the President's "Promoting Energy Independence and Economic Growth" agenda (Executive Order 13783), the Department of Interior-BLM published a Notice of Intent in the Federal Register (83 FR 4921) announcing its intent to reopen the settled provisions of the DRECP by proposing amendments to the California Desert Conservation Act and the Bishop and Bakersfield Resource Management Plans, all of which were integral to the Land Use Plan Amendments that will implement the DRECP. This proposal, while stated as a review of actions under the DRECP that could "burden" development of domestic energy production, including renewable energy production, is misguided, as the DRECP is already a balanced plan that examined and incorporated human and ecological needs, incorporating mining, grazing, recreational, historical, Native American cultural and many other values of the California desert. Taking those needs into account, the DRECP identified appropriate land on which sufficient renewable energy facilities could be developed to meet the State's ambitious renewable energy targets.

Staff believes that the federal government's proposal would harm the Commission's ability to develop and manage state school lands consistent with its statutory fiduciary duties and the 2008 Resolution in the following ways:

- The DRECP land use designations were subject to extensive public and state and federal agency review and comment under the National Environmental Policy Act. Additional "energy development" under the guise of removing regulatory burdens would be a grave threat to the fragile and complex desert ecosystem, including state and federally designated endangered species.
- The proposed reevaluation would threaten irreplaceable cultural and historic landscapes, places, and artifacts, and undermine the Agreements made with sovereign Tribal Nations pursuant to the DRECP Section 106 Consultation process.
- The proposed reevaluation would undermine the mutually beneficial State-federal land exchange process being pursued by the Commission and BLM staffs pursuant to the 2012 and 2015 agreements, for which a

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significant amount of staff time and effort has been expended by both agencies.

- The proposed reevaluation would cause significant confusion, delays, and economic detriment to the State of California in its efforts to site needed renewable energy facilities, including facilities that could be located on school lands.

Staff does not believe there is any new information that would justify amending the approved DRECP, and that in contrast, the proposed amendments in the Notice would be a significant setback for the public and the environment, a position staff believes is widely held. Indeed, on February 1, 2018, U.S. Senator Diane Feinstein, the sponsor of the California Desert Conservation Act, released a statement indicating, in part, “It’s a balanced plan that resulted from years of careful analysis and wide-ranging community engagement...scrapping the plan now is a complete waste of time and money, and I oppose this.”

Furthermore, the DRECP is consistent with Strategy 2.1 of the Commission’s Strategic Plan to optimize returns for the responsible development and use of State lands and resources, both onshore and offshore, specifically Key Action 2.1.4, which calls for the Commission to continue to actively participate in the DRECP process to ensure leasing of school lands for renewable energy is efficient, transparent, and in the best interests of the State.

For all the reasons stated above, Commission staff recommends the Commission adopt the proposed Resolution, included as Exhibit A, opposing the activities contemplated in the February 2, 2018 Federal Register Notice.

EXHIBIT:

- A. Proposed Resolution Opposing Federal Actions Which Would Undermine the Desert Renewable Energy Conservation Plan by Amending the California Desert Conservation Area and the Bakersfield and Bishop Resource Management Plans to Allow Development in Areas Designated for Conservation

RECOMMENDED ACTION:

It is recommended that the Commission:

Adopt the Resolution substantially in the form as set forth in the attached Exhibit A opposing federal actions which would undermine the Desert Renewable Energy Conservation Plan by amending the California Desert Conservation Area and the Bakersfield and Bishop Resource Management Plans to allow development in areas designated for conservation, as described in the Notice of Intent (83 FR 4921) published in the federal register on February 2, 2018.

STAFF REPORT 91 - Exhibit A

**RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION OPPOSING
FEDERAL ACTIONS WHICH WOULD UNDERMINE THE DESERT
RENEWABLE ENERGY CONSERVATION PLAN BY AMENDING THE
CALIFORNIA DESERT CONSERVATION AREA AND THE BAKERSFIELD AND
BISHOP RESOURCE MANAGEMENT PLANS TO ALLOW DEVELOPMENT IN
AREAS DESIGNATED FOR CONSERVATION**

WHEREAS, California is home to abundant renewable energy resources, such as solar, wind, geothermal, and biomass; and

WHEREAS, shifting away from fossil fuel dependency and increasing the State of California's renewable energy portfolio is a key strategy to fight climate change and reduce greenhouse gas emissions; and

WHEREAS, California has spent decades laying a foundation for the green economy and renewable energy, including establishing targets to increase retail sales of renewable electricity to 50 percent by 2030, and doubling the energy efficiency savings in electricity and natural gas end uses by 2030; and

WHEREAS, California leads the nation in reducing carbon pollution and recently enacted legislation requiring statewide greenhouse gas emissions to be 40 percent below the 1990 level by 2030; and

WHEREAS, action to combat climate change works in concert with economic growth, and as California has shown, renewable energy creates more jobs per megawatt of power installed, per unit of energy produced, and per dollar of investment compared to energy production from fossil fuels; and

WHEREAS, the California State Lands Commission manages on behalf of the State hundreds of thousands of acres of "school lands," a great deal of which has potential for siting renewable energy projects; and

WHEREAS, California acquired its school lands from the United States Congress in 1853, which, as it previously did with other newly admitted states, transferred federal lands to California for the specific purpose of providing support for the public schools; and

WHEREAS, the State Legislature declared that it is in the best interest of the State that school lands be managed as a revenue source for the State Teachers' Retirement Fund; and

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WHEREAS, on October 16, 2008, the Commission adopted a Resolution supporting the environmentally responsible development of school lands for renewable energy related projects; and

WHEREAS, starting in 2011, the Commission participated in the development of the Desert Renewable Energy Conservation Plan, pursuant to memoranda of understanding and the provisions of the School Land Bank Act, to ensure school lands would be consolidated for development of renewable energy projects; and

WHEREAS, many state school land parcels are also surrounded by or abut Desert Renewable Energy Conservation Plan conservation land use designation areas, including Areas of Critical Environmental Concern, California Desert National Conservation Lands, and Wildlife Allocations that contain important habitat for listed and special status species, including desert tortoise and desert bighorn sheep; and

WHEREAS, the Commission and the federal government are engaged in a process to exchange State school lands for federal public lands to further the mutually beneficial goals of the Desert Renewable Energy Conservation Plan pursuant to a 2012 memorandum of agreement and 2015 Letter of Intent between the Commission and the Bureau of Land Management; and

WHEREAS, after an 8-year stakeholder driven collaborative process, the Desert Renewable Energy Conservation Plan carefully designated multiple uses and conditions for the use of California's desert public lands, including which lands are appropriate for the development of renewable energy and which lands are appropriate for conservation; and

WHEREAS, the Desert Renewable Energy Conservation Plan land use designations were subject to extensive public and state and federal agency review and comment under the auspices of the National Environmental Policy Act; and

WHEREAS, on September 14, 2016, the United States Department of Interior, Bureau of Land Management approved the Desert Renewable Energy Conservation Plan, which encompasses over 10.8 million acres of federal lands in a 22.5 million acre planning area, including over 322,000 acres of state-owned school lands; and

WHEREAS, the federal government, on February 2, 2018, published a notice in the Federal Register announcing its intent to reopen the settled provisions of the Desert Renewable Energy Conservation Plan by proposing amendments to the California Desert Conservation Act and the Bishop and Bakersfield Resource Management Plans; and

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WHEREAS, the proposed reanalysis and amendments would cause significant confusion, delays, and economic and ecological harm to the State of California in its efforts to site needed renewable energy facilities in the state, including facilities potentially seeking to locate on school lands; and

WHEREAS, reopening the Desert Renewable Energy Conservation Plan would cause great harm to the ability of the State to develop and manage state school lands consistent with its statutory fiduciary duties; and

WHEREAS, the Desert Renewable Energy Conservation Plan is a balanced plan that examined and incorporates mining, grazing, recreational, historical, Native American cultural and many other values of the California desert; and

WHEREAS, there is no new information that justifies amending the Desert Renewable Energy Conservation Plan, amendments that may impact the ability to generate environmentally responsible renewable energy on school lands, and amendments that may impact the integrity of the conservation strategy for the planning area and the school lands therein; now therefore, be it

RESOLVED BY THE CALIFORNIA STATE LANDS COMMISSION that it opposes the reopening of the settled provisions of the Desert Renewable Energy Conservation Plan because of the economic and ecological effects of that reopening, including effects on the economic value of state school lands and the land exchange process; and be it further

RESOLVED, that the Commission supports a policy whereby renewable energy procurement should be held to a standard as protective of multiple values as those embodied by the Desert Renewable Energy Conservation Plan; and be it further

RESOLVED, that the Commission supports the environmentally responsible development of renewable energy related projects in the Development Focus Areas established under the Desert Renewable Energy Conservation Plan and school lands under the Commission's jurisdiction consistent with the Plan, and the conservation of lands identified in other federal land use allocations in the Plan, and opposes attempts to amend the designations because such attempt could impact school lands under the Commission's jurisdiction; and be it further

RESOLVED, that the Commission's Executive Officer transmits copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.