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ANDREW C. BELL

State and Federal Regulatory Coordination

Andrew C. Bell, Esq.

Nuts and Bolts of Wind Energy:
Notes from the Field

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Fully Protected Species.

- 37 “fully protected” species in California.
 - Up until recently, no incidental “take” authorization allowed.
 - But “take” available for some of these species under federal law (e.g., golden eagle).
- SB 618.
 - Signed by Gov. Brown 8 Oct. 2011.
 - Authorizes “take” of fully protected species conserved and managed pursuant to a Natural Community Conservation Plan (e.g., DRECP).

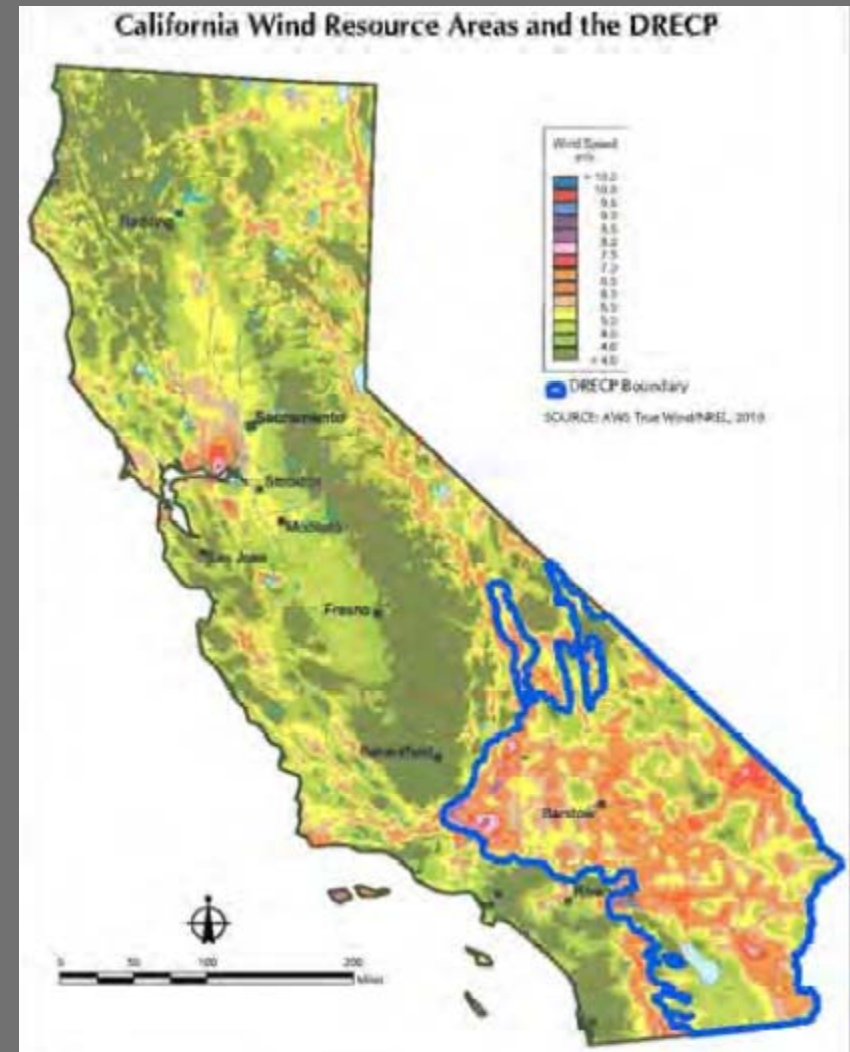


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DRECP and Wind.

DRECP includes most of the state's best wind resources.

75 percent of current in-state wind development.



Source: CalWEA



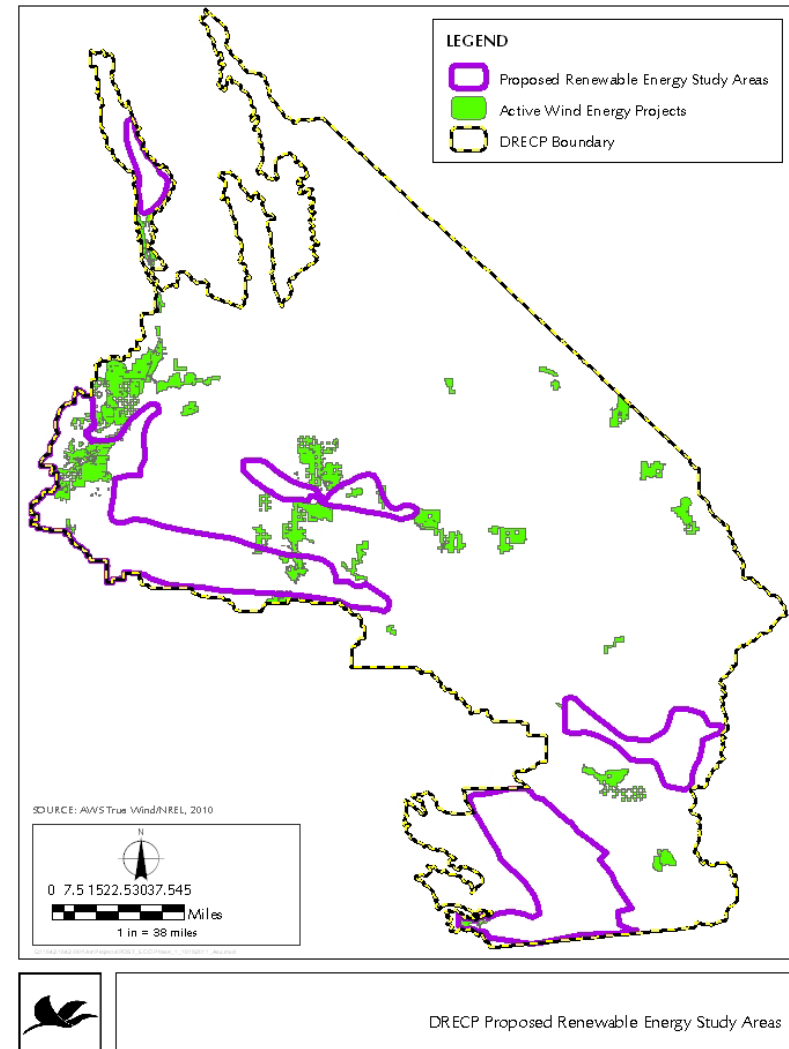
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DRECP and Wind.

Wind a covered activity,
but where's the love?

CalWEA working hard for
wind-specific plan.

- Phased approach.
- Soft-line map.
- Small footprint → compatibility.



Source: CalWEA



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CESA Consistency Determinations.

<u>Consistency Determination: §2080.1</u>	<u>Incidental Take Permit: §2081(b)</u>
Request to Director	Application to Regional Manager
\$25,000	<50MW=\$25k, 50-250MW=\$50k 250MW<\$75k (AB13 – Aug.29)
30 days to make determination	105-135 days to issue (SB16 - Sep. 22)
Species must be jointly listed	No joint listing required
Cannot add or change conditions (but must meet CESA –e.g., fully mitigate, plants, etc.)	CDFG-specified conditions
Subject to re-initiation of consult or change in FESA	Stand-alone
Not considered discretionary	Discretionary subject to CEQA



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Californian Permits on Federal Land.

- If a wind farm is on federal lands, why are Californian permits required?
 - Gen-tie?
 - 1602 streambed alteration?
 - CESA incidental take?



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Californian Permits on Federal Land.

- Alternatives to a joint EIR-EIS.
 - If local permits required, re-use of EIS in lieu of EIR “whenever possible”? PRC § 21083.7
 - If only CESA incidental take and 1602 SAA can you seek consistency determination and avoid streambeds?
 - If cannot, CDFG Certified Reg. Program in lieu of EIR? 14 CCR § 15251(o)
 - If only CESA incidental take, consistency determination?
 - If only SAA, can you avoid streambeds?



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Thanks!

Andrew C. Bell

andrewcbell.com

415-666-2296