



California  
**Department of  
Conservation**  
Division of Land Resource  
Protection

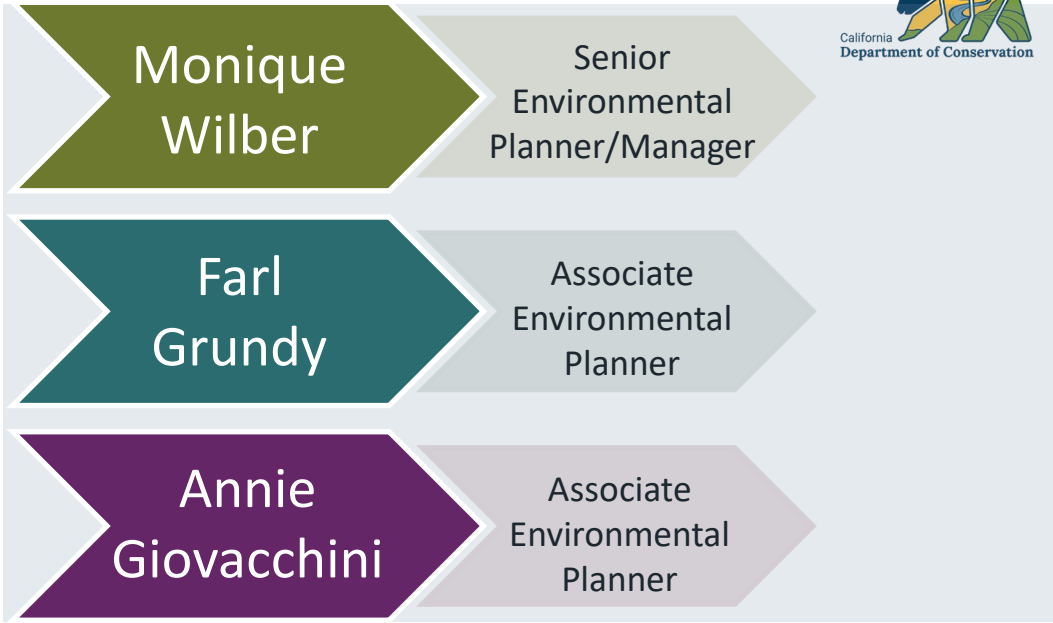
# Williamson Act

Solar Use & Williamson Act Contracts  
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Division of Land Resource Protection  
Williamson Act / CEQA  
(916) 617-0522  
[LCA@conservation.ca.gov](mailto:LCA@conservation.ca.gov)  
<https://www.conservation.ca.gov/dlrp/wa>



# Williamson Act & CEQA Program



# Team WA/CEQA!





## Solar Use & Williamson Act Contracts

- Williamson Act Overview
- Roles of State & Local Government, Landowners, and Solar Industry
- Solar Facilities Considerations
- Five Options
- Summary of Potential Tools/Considerations
- Examples around California
- Links, Email, & More Information





# Williamson Act (Land Conservation Act of 1965)

Local governments enter contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are much lower than normal because they are based upon farming and open space uses as opposed to full market value.



# Roles & Interest in Williamson Act

- State of California: Department of Conservation (DOC), Division of Land Resources Protection (DLRP), Williamson Act (WA) Program (California Government Code [GC] Section 51200 et seq.)\*
- Local Government (Counties & Cities)
- Landowners
- Solar Industry



# Solar Facilities Considerations

- Issues are very fact specific
- Local rules (and specific contract language) play an important role – such as “electric facilities”
  - GC 51200–51297.5 set the minimum legal requirements of the Williamson Act
  - Local rules may add requirements or may establish definitions for terms that are not defined in the Act
- Address each of the Act’s required findings necessary to justify a specific WA decision
  - Enforcement clause found in GC section 51251 extends legal standing to litigate. Consult your own legal counsel.





## 5 Options to Locate Solar on WA Contracted Land

1. Compatible Use
2. Non-renewal of Contract
3. Cancellation
4. Eminent Domain /  
Public Acquisition
5. Solar Use Easement



# 1. Compatible Use

Solar power facilities on ag preserve lands could be compatible use depending on local rules – **discretionary action of local government**

- Solar power generation facility could be an “electrical facility” compatible use when located on non-contracted land in ag preserve
- Solar power generation facility could be compatible use if meets “principles of compatibility” as in GC 51238.1(a)
- Solar power generation facility could be approved even if inconsistent with principles of compatibility IF:
  - proposed site is on non-prime land;
  - proposed site is approved per a CUP; and
  - four findings are made, based on substantial evidence in the record.....

...continued...







# 1. Compatible Use, Continued...

-- four findings are made, based on substantial evidence in the record (GC 51238.1(c)).....

1. CUP requires mitigation or avoidance of onsite and offsite impacts to ag operations
2. Productive capability considered as well as extent solar power generation facility may displace or impair ag ops
3. Solar power generation facility consistent with purposes of WA
4. Solar power generation facility does not include a residential subdivision

Local governments making these decisions should consult with their legal counsel.





## 2. Non-Renewal of Contract

- ✓ Non-renewal either by landowner or local government
- ✓ Starts a 10-year process towards contract expiration
  - ✓ Property taxes “ramp up” to full amount
  - ✓ Land use restrictions applicable during this period
- ✓ Avoids having to pay a cancellation fee on those lands





# 3. Cancellation

- ❖ Cancellation is subject to discretionary approval by the local agency having jurisdiction over the contract.
- ❖ Landowners who cancel Williamson Act contracts are required to pay a fee of 12.5 percent of the unrestricted value of the property to the State.
- ❖ Government Code section 51282, which allows for cancellation of a Williamson Act contract only when cancellation:  
(1) is consistent with the purposes of the Act; or  
(2) is in the public interest. Some jurisdictions require both findings.

...continued...





### 3. Cancellation, Continued...

- ❖ Cancellation is consistent with WA when a landowner satisfies the county/city that:
  1. Notice of non-renewal has been served
  2. Cancellation would not likely lead to a domino effect where nearby agricultural lands would be removed from production
  3. Cancellation is consistent with the local General Plan
  4. Cancellation would not result in scattered (or “leapfrog”) urban development
  5. No other suitable land is available for the project



...continued...



### 3. Cancellation, Continued...

- ❖ Waiver of Cancellation fees in *very narrowly defined instances*
  - ❖ The county or city and the Secretary of the California Natural Resources Agency must find that:
    1. the cancellation is caused by an involuntary transfer or change in the use which may be made of the land; and
    2. the land is not suitable for a purpose which produces a greater economic return to the owner.

It is difficult for any project to meet these requirements.

...continued...





### 3. Cancellation, Continued...

- ❖ Alternatively, a landowner can cancel if it can be demonstrated to the satisfaction of the city or county that:
  1. the benefits to the State, as a whole, substantially outweigh the State's interest in preserving that land for agricultural production; and
  2. either no other suitable non-contracted land is available nearby, or the development of the contracted land would result in more contiguous urban development than development of nearby non-contracted land.

There are many factors in determining whether the production of solar energy is of a higher public interest than the pre-existing agricultural use of the land. Some factors may include the quality of the soil, current agricultural production, and the availability of reliable irrigation water.



See Solar Power and the Williamson Act document; also, Cancellations presentation and website for full information



# 4. Eminent Domain

**Public Acquisition** via Eminent Domain removes the restrictions of a Williamson Act contract.

What is a Public Acquisition?

- Any land located within an agricultural preserve (both contracted and noncontracted) acquired by a public agency for a public improvement.
- Note: As used in this chapter, "public improvement" means facilities or interests in real property, including easements, rights-of-way, and interests in fee title, owned by a public agency or person, as defined in subdivision (a) of Section 51291." (GC §51290.5)





# 5.

## Solar Use Easements

GC 51190-51192.2 provides a Solar Use Easement (SUE) option on Williamson Act contract lands:

- **Discretionary opt-in by local government**
- Fees are 6.25% on standard WA contract; 12.5% for FSZ; no part of fee to local government
- Local government needs to create a process for SUE
- Local government will need to submit detailed report and fees to DOC (see California Code of Regulations)
- DOC will implement according to California Code of Regulations
- DOC will refer all eligibility questions to county/city as each jurisdiction has their own specific local rules for options
- DOC will need to be provided with substantial evidence and review and approval will depend on thoroughness of information provided

DOC can provide technical assistance regarding interpretation of the Williamson Act.

DOC cannot provide legal advice. Consult your own legal counsel.





# Solar Use Easement - CCR

- California Code of Regulations
- Find at Thomson Reuters Westlaw
  - Title 14, Natural Resources > Division 2 Department of Conservation > Chapter 6 Division of Land Resource Protection > Article 2 Solar-Use Easements
- Detailed items to be addressed to submit to DOC for review and approval
- DOC won't provide opinions on eligibility until local government provides DOC a formal request and complete application with supporting evidence and analysis per CCRs
- DOC will direct all initial eligibility inquiries from landowners and solar developers to local governments

## Article 2. Solar-Use Easements

[§ 3100. Solar-Use Easement Consultation Fee.](#)

[§ 3101. Definitions.](#)

[§ 3102. Application for, and Documents Regarding, a Solar-Use Easement.](#)

[§ 3103. Written Narrative Regarding Eligibility Based on Soil, Chemical, or Physical Properties.](#)

[§ 3104. Soil Test Report.](#)

[§ 3105. Water Availability Analysis.](#)

[§ 3106. Water Quality Analysis.](#)

[§ 3107. Crop and Yield Information.](#)

[§ 3108. Soil Management and Site Restoration.](#)

[§ 3109. Additional Requirements.](#)

[§ 3110. Site Inspections.](#)

[§ 3111. Restoration Security Amount.](#)

[§ 3112. Restoration Security Instruments.](#)

[§ 3113. Reduction or Release of Restoration Security.](#)

[§ 3114. Amendment Fee.](#)

[§ 3115. Forfeiture of Restoration Security.](#)

[§ 3116. Criteria for Determining Financial Capability.](#)

[§ 3117. Procedure for Forfeiture of Restoration Security - Public Hearing.](#)





# Discretionary Local Government Tools & Potential Options for Consideration

- ✓ WA contract termination: non-renewal or cancellation; public acquisition
- ✓ Solar Use Easements
- ✓ WA Compatible Use findings / local rules
- ✓ Land Use & Zoning
- ✓ General Plan policies to guide solar projects toward electrical corridors to tie into the grid; away from prime ag lands
  - ✓ Mitigation for loss of farmland
  - ✓ Incentives or land use/zoning for locating solar projects in lower quality farmland areas or in solar priority areas
  - ✓ Flexibility in critical groundwater shortage areas (SGMA) for multi-benefit land repurposing
  - ✓ Require reclamation plans
  - ✓ Incentives for agrivoltaics (combo of solar panels and crops or animals)
- ✓ Agrivoltaics? SB 688 (Padilla, 2023) – outcome unknown at time of this presentation (9/2023)



Image by Dimitris Vetsikas from Pixabay



# Examples around California Solar Compatible Use Inventory



# Examples around California: 1. Fresno County



## Requires:

- ✓ Cancellation of WA contracts before the erection of commercial solar facilities on WA lands
- ✓ Reclamation plans detailing:
  - ✓ Lease life
  - ✓ Timeline for removal
  - ✓ Specific measures to return site to the ag capability it previously held

## Examples around California: 2. Kern County



- ✓ Solar facilities are considered a compatible use in Exclusive Agriculture districts, with the approval of a conditional use permit (Kern County Code § 19.12.030 section G).
- ✓ 1:1 mitigation for Productive Farmland lost through conversion (per CEQA), with the Kern County Board of Supervisors additionally mandating 1.5:1 mitigation for loss of Productive Farmland, and the funding of a program promoting the long-term stability of agricultural production in Kern County.

## Examples around California: 3. Kings County



- ✓ Commercial solar farms in agriculturally zoned land are considered a conditional use, and county guidance is that commercial solar installations should be directed towards lower priority farmland.
- ✓ It is particularly encouraged to direct development towards dry and marginal farmlands, such as those used for dry farm seasonal grazing and other low-intensity co-utilization.
- ✓ Soil reclamation plans are required for any proposed solar projects on WA contracted lands.

## Examples around California: 4. San Luis Obispo County



- ✓ Only renewable energy generation facilities are considered a compatible use of agricultural preserve land.

Non-renewable energy generation facilities are considered incompatible.

## Examples around California: 5. Yolo County



- ✓ Only small and medium-sized solar generation facilities are considered a compatible use, with larger facilities considered incompatible with the mandate of the WA



## Examples around California: 6. Glenn County



- ✓ Commercial solar facilities must comprise 50% or less of the total lot area to be considered for approval under a Conditional Use Permit.

## Examples around California: 7. Tehama County



- ✓ Has a section of its County Code dedicated solely to guidance on solar installations on WA land. Solar power facilities and dual-purpose solar energy systems are considered incompatible with the Williamson Act unless the land otherwise qualified for placement into a solar use easement.
- ✓ Where solar use easements are applicable, the county requires a decommissioning plan and mitigation agreement before approval can be granted.



# Examples around California: Key Findings

- ✓ Most require application for CUPs
- ✓ Others require SUPs
- ✓ Many provide no guidance on solar facilities, only listing “public utilities and electrical distribution” as compatible uses under WA contracts
- ✓ Most with solar facilities limits as compatible uses on WA lands allow for solar as accessory structures, provided they produce energy for the ag ops on the parcel and not operating as commercial facilities





# Consult Your Legal Counsel



# Links

[WA Homepage](#)

[WA Govt Code  
51200 - 51297.4](#)

[Enforcement  
Clause GC 51251 /  
Contracts](#)

[Principles of  
Compatibility GC  
51238.1\(a\) / Ag  
Preserves](#)

[Cancellation  
GC 51282](#)

[Eminent Domain /  
Public Acquisition  
GC 51290-51295](#)

[Solar Use Easement  
Regulations  
Cal. Code Regs., tit.  
14, §§ 3100-3117](#)

[DOC Solar Use  
Easements  
webpage](#)

[Solar Use Easement  
GC 51192-51192.2](#)

[Solar Power and  
the Williamson Act  
White Paper](#)





# THANK YOU

Questions?

Williamson Act Staff

[LCA@conservation.ca.gov](mailto:LCA@conservation.ca.gov)

<https://www.conservation.ca.gov/dlrp/wa>