| **DOCKETED** |
|-----------------|-----------------|
| **Docket Number:** | 09-AFC-06C |
| **Project Title:** | Blythe Solar Power Project - Compliance |
| **TN #:** | 201174 |
| **Document Title:** | Intervenor CRIT Ex. 4005 |
| **Description:** | SUPPLEMENTAL DECLARATION OF LYLE BALENQUAH IN SUPPORT OF PLAINTIFF’S APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE |
| **Filer:** | Winter King |
| **Organization:** | Shute, Mihaly & Weinberger LLP |
| **Submitter Role:** | Intervenor |
| **Submission Date:** | 11/13/2013 10:13:36 AM |
| **Docketed Date:** | 11/13/2013 |
COLORADO RIVER INDIAN TRIBES, a federally recognized Indian Tribe,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, et al.,

Defendants.

GENESIS SOLAR LLC

Intervenor-Defendants.
DECLARATION OF LYLE BALENQUAH

1. I, Lyle Balenquah, declare as follows:

1. I am an archaeologist and cultural resources consultant to Plaintiff Colorado River Indian Tribes (“CRIT”). I received my bachelor’s and master’s degrees in archaeology from Northern Arizona University, and have been working as an archaeologist and consultant for the past ten years. I am very familiar with the requirements of the National Historic Preservation Act and implementing regulations as they apply to tribal cultural resources. I am also a member of CRIT.

2. I have reviewed the Programmatic Agreement and Historic Properties Treatment Plan (“HPTP”) for the Genesis Solar Energy Project (“Project”). According to those documents, “cultural resources” are defined to include “object[s] . . . of human activity, occupation, use, or significance identifiable through field inventory, historical documentation, or oral evidence. Cultural resources are prehistoric, historic, archaeological, or architectural sites, . . . places or objects and locations of traditional cultural or religious importance to specified social and/or culture groups. Cultural resources include the entire spectrum of objects and places, from artifacts to cultural landscapes, without regard to eligibility for inclusion in the National Register of Historic Places (NRHP) or California Register of Historical Resources (CRHR).” In my experience, this is a standard definition of “cultural resources.”

3. I have also reviewed the results from the “Controlled Grading Plan” and have discussed the finds at the Genesis site with BLM archaeologists and archaeologists from AECOM, a consulting firm hired that I am informed and believe was hired by the Project developer. The cultural resources found within the Site, both during the initial discovery and in the Controlled Grading Plan, include the following types:

   a. Manos and Metates (Grinding Implements/Daily Use Items): Used to process various food items such as seeds, plant materials and possibly minerals (for food or non-food uses, such as pigments).
b. Hammerstones/Flakes/Cores: Lithic (stone) material used to process various food items such as plant materials, animal butchering and production of daily use items such as textiles and animal skins. Hammerstones are the blunt instrument used to reduce (shape) the desired lithic material into a useable product, such as a projectile point or other cutting implement. Flakes and Cores are the “waste” material resulting from the production of these cutting implements. Preferred materials for the production of these cutting implements include various types of stone including, Chert, Quartz, Chalcedony and Obsidian as they produce a very fine cutting edge.

c. Fire-Affected Rock: The result of cooking/roasting pits/heating hearths found in association with habitation structures and other daily communal gathering areas. In some cases they are the only indications of possible habitation structures as they remain present long after the natural, organic materials used in the construction of these structures have deteriorated.

d. Pendant: Jewelry item. May possibly indicate status symbol/religious, ceremonial use.

4. All of the buried objects described in paragraphs 3(a)-(d), above, are “cultural resources,” as defined in the Programmatic Agreement and HPTP.

5. These types of cultural resources provide valuable information about the past lifeways of prehistoric peoples. They illustrate subsistence patterns that the people were following and the types of plant, animal and mineral resources they were using. The artifact density and diversity of these cultural resources may indicate the presence of, or be interpreted as representing, more stable occupations, since longer periods of occupation tend to result in more artifacts being discarded. Such occupations tend to have a higher diversity of artifacts as well, reflecting the wider range of activities at longer-term settlements. The specific types of cultural resources found within the Site (listed above) indicate that the area served as a habitation area where prehistoric peoples gathered to collect, process and use the various plant, animal and mineral resources found along the shoreline of the Ford Dry Lake region.
6. Taken as a whole, the cultural significance of the artifacts cannot be understated. From the CRIT perspective, the value of the artifacts lies in their ability to convey a history that is not documented in the written form. The artifacts in question can best be viewed as metaphorical “footprints” of CRIT ancestors that provide one form of documentation and verification of the oral history of CRIT people. That is, the artifacts serve as tangible reminders of past lifeways and contain information that is not always obtainable through traditional scientific, archeological analyses. The cultural knowledge of how CRIT ancestors lived, traveled and survived in the Ford Dry Lake region is contained within the artifacts found there today. While mano or metates maybe defined (according to strict archaeological definitions) as simply being “utilitarian” items, these items hold different meanings for CRIT peoples.

7. Like many Indigenous tribes, CRIT people rely on the oral tradition in the process of re-telling historical events, persons or places. Oral histories from CRIT people tell of how their ancestors once lived in areas well outside of modern reservation boundaries, including the Ford Dry Lake region. These oral histories contain specific details for how the CRIT people came to be, how they were to live according to an established life plan, and ultimately how they were to survive into the future. This latter idea reminds modern day CRIT people to always remember their history, as it is embedded in the ancestral landscapes. Part of these landscapes also includes the artifacts left behind by their ancestors. In today’s world, these artifacts are viewed as physical proof that the events, persons or places described in CRIT oral histories indeed did exist, and still do. The artifacts found within the Site and throughout the Ford Dry Lake region attest to cultural knowledge that was learned in the ancestral past, and still carries through to the modern day descendants.

8. A general concept of this idea can be expressed through the statement; the meaning of the past is what it contributes to life in the present. This belief underlies the inherent connection that CRIT people have with the landscapes of their ancestors. How this connection manifests itself, often daily, is in the cultural knowledge and traditional
know-how a CRIT person maintains. This knowledge is evident in many forms within traditional CRIT culture; the art they create, the ceremonies they enact and the languages they speak. All of which is really an accumulation of ancestral CRIT experiences, learned over countless generations.

9. Within the Ford Dry Lake region are thousands of areas both natural and human-made that are imbued with a powerful sense of meaning and connection for modern CRIT people. Today, when a CRIT person visits such places, they don’t simply see the remnants of a by-gone era, they see reflections of who their people once were and what they have now become. They witness the artistic and technical accomplishments of CRIT ancestors, and recall the spiritual accomplishments of those ancestors as well.

10. Thus, the artifacts found in the “Exclusion Zone” during project grading and subsequent implementation of the Controlled Grading Plan at the Site, all contribute to a definition of culture that enables CRIT peoples to remember and learn from their ancestral lifeways. The ability to recount traditional oral histories, with the physical proof of artifacts to verify that history, is paramount to the maintenance of CRIT culture, now and into the future.

11. Based on the previously identified cultural resources of the Site, in addition to the location of the Site (along the edge/shoreline of the Ford Dry Lake), it is my professional opinion that similar types of cultural resources would be encountered within the Site boundaries, as well as throughout the entire Ford Dry Lake region. It is known from traditional oral histories, as well as previous archaeological research done in similar landscapes (i.e. dry lakes) that these areas were visited and used by various Indigenous groups over thousands of years. See Lowell Bean, “Ethnographic Overview of the Historic Trails Network Cultural Landscape,” included as Appendix H to the Historic Properties Treatment Plan-Genesis Solar Energy Project (09-AFC-08), Prepared by Tetra Tech EC, Inc. (May 2011). Therefore, it should be expected that sites similar to the one discovered in Block 2 of Unit 1 would be encountered with further ground disturbance activities. It is difficult, however, to speculate on the densities of any un-identified, still-
buried, artifacts that maybe discovered within the existing, undisturbed boundaries of the site. This is due to the fact that any sites that are located along the shoreline area of Ford Dry Lake most likely remain buried under accumulated sand/silt deposits.

12. Based on my professional experience, the trenching activities proposed in the GSEP Unit 1 Buried Resource Phase I and Phase II Mitigation Plan, and the subsequent proposed Project construction on the “Exclusion Zone,” will almost certainly damage and/or destroy buried cultural resources there.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.


______________________________
Lvle Balequah
UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered by King, Winter on 5/23/2012 at 11:56 AM PDT and filed on 5/23/2012

Case Name: Colorado River Indian Tribes v. United States Department of the Interior et al
Case Number: 2:12-cv-04291-GW-SS
Filer: Colorado River Indian Tribes

Docket Text:
DECLARATION of Lyle Balenquah in opposition EX PARTE APPLICATION for Preliminary Injunction re ground-disturbing activities. Ex Parte Application EX PARTE APPLICATION for Temporary Restraining Order as to ground-disturbing activities Ex Parte Application[3] SUPPLEMENTAL filed by Plaintiff Colorado River Indian Tribes. (King, Winter)

2:12-cv-04291-GW-SS Notice has been electronically mailed to:
Adam J Thurston adam.thurston@dbr.com, DOCKET_LA@dbr.com, tamara.castro@dbr.com
George T Caplan George.Caplan@dbr.com, Shanta.Teekah@dbr.com
John P Tustin john.tustin@usdoj.gov, efile_nrs.enrd@usdoj.gov
Kristopher S Davis kristopher.davis@dbr.com, Shanta.Teekah@dbr.com
Paul M Gelb Paul.Gelb@dbr.com, Shanta.Teekah@dbr.com
Romney Philpott romney.philpott@usdoj.gov, efile_nrs.enrd@usdoj.gov, jane.bamford@usdoj.gov
Sara Ann Clark clark@smwlaw.com
Uyen D Le ule@critdoj.com
Winter King king@smwlaw.com, jawad@smwlaw.com

2:12-cv-04291-GW-SS Notice has been delivered by First Class U. S. Mail or by other means BY THE FILER to:
The following document(s) are associated with this transaction:

Document description:Main Document
Original filename:Balenquah Dec ISO Reply.pdf
Electronic document Stamp:
[STAMP cadcStamp_ID=1020290914 [Date=5/23/2012] [FileNumber=13674573-0 ] [5b7903f0ea0b43799902e8e855f79bc1edc4b8a1263fc740b5f58a5f00b8865a655dcbd3d1d4e927743d43cd6ed23e39a5d0d7700a4e8098a37c63510584146e]]