

DOCKETED

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RESPONSE TO PUBLIC COMMENTS

Comments from Mr. Lin Porter: Docketed November 8, 2013 TN# 201150

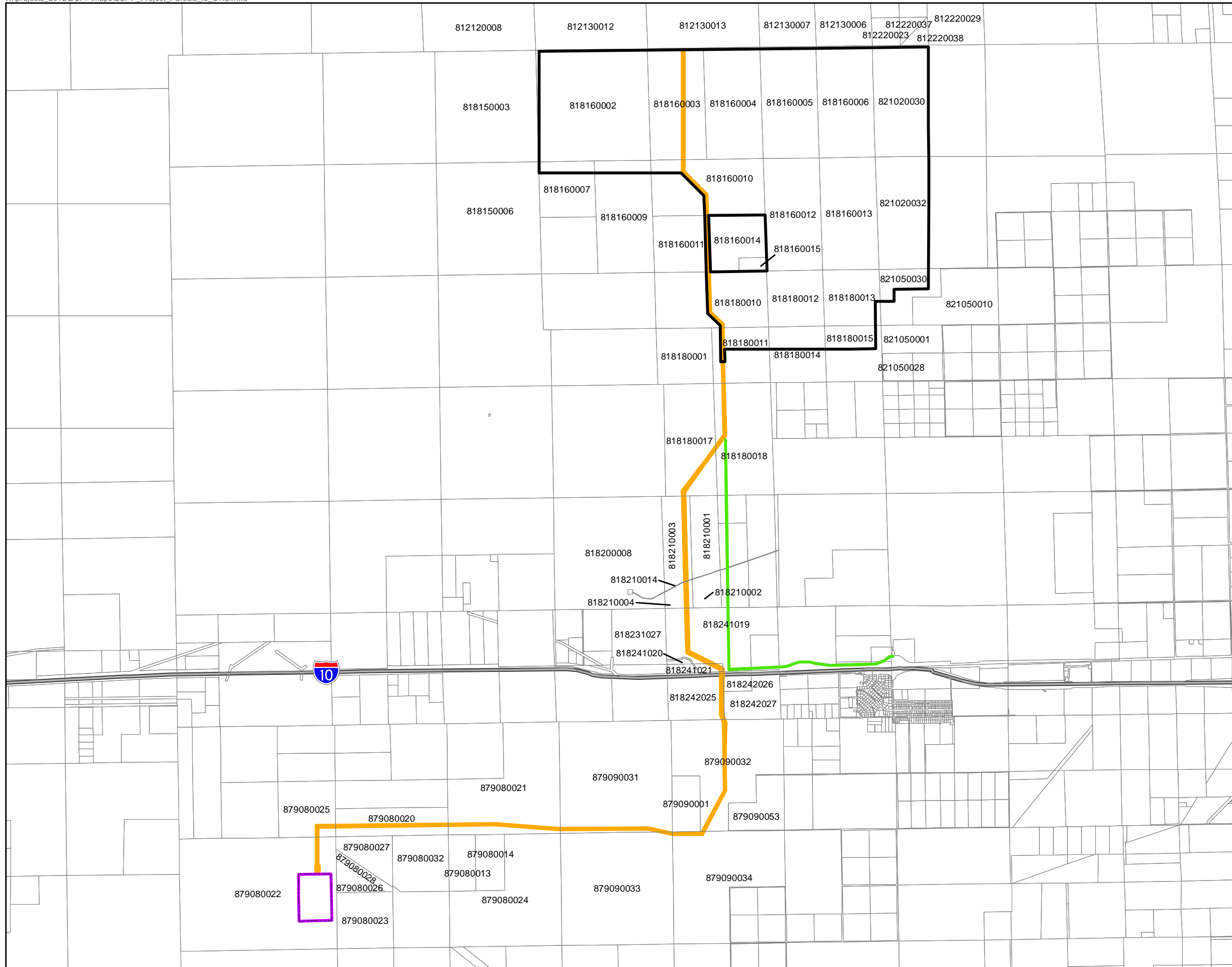
COMMENT: I WOULD LIKE THE EASEMENT BLM GRANTED TO NEXTERA IN A PDF FORM WITH DIMENSIONS AND ALL APN NUMBERS FROM THE FREEWAY TO THE PROJECT (BLM SHOULD HAVE THIS ON FILE) I WOULD ALSO LIKE TO KNOW HOW THEY COULD GRANT THIS EASEMENT WITHOUT CONTACTING PRIVATE PROPERTY OWNERS FOR THEIR INPUT ? I WOULD ALSO LIKE TO RECEIVE THE LATEST SITE PLAN FOR THIS PROJECT WITH PROPOSED FENCING, RIGHT OF WAY BOUNDARY AND BUFFER ZONES. I WOULD ALSO LIKE TO RECEIVE INGRESS EGRESS EASEMENT WITH ALL DIMENSIONS AND APN FROM THE FREEWAY TO THE PROJECT.

RESPONSE: Staff is not clear as to what easement is being referenced. The BLM will issue a Right of Way to the project applicant for the use of BLM managed land. The attached map provides parcel numbers and the boundary line for the proposed project. Staff understands Mr. Porter's parcel is #818180001 which is located outside the project boundaries. Additional maps showing various project features can be found in the Revised Petition to Amend, available on the Blythe project page on the Energy Commission's website, at the following pages: 2-3, 2-4, 2-23 and 5.1-6. In addition, Appendix B-1 to B-5 of the Revised Petition to Amend contains the Right of Way legal description and maps of all the project features including the solar field, transmission line and access roads. Staff believes these maps will provide all the information the commenter is looking for and will confirm the project is not on private property. Staff is unaware of any easement over private property that has been granted by the BLM to the project owner. In addition to the maps contained in the Revised Petition to Amend, the BLM posts a project map on its webpage for the project which can be found at: http://www.blm.gov/ca/st/en/fo/palmsprings/Solar_Projects/Blythe_Solar_Power_Project.html

COMMENT: BUT ON THE OTHER IT IS UNDENIABLE THAT THIS PROJECT HAS ADVERSE INPACT ON MY PROPERTY. I WAS UNDER THE IMPRESSION IT IS THE ENERGY COMMISSIONS RESPONSIBILITY TO TAKE INTO CONSIDERATION SUCH IMPACTS AND EXPLORE SOLUTIONS WHICH I'M SURE YOU WILL AGREE. IN CONCLUSION.

RESPONSE: The Staff Assessment (Parts A and B) contains a comprehensive review of the project impacts in many technical areas ranging from noise to biology to waste management. Staff has recommended over a hundred conditions of certification to ensure the project impacts are mitigated. The statement that the project has adverse impacts on a particular nearby parcel of private property is too general to respond to

with any specificity. When analyzing a project, Staff considered impacts outside the project area, including the commenter's property. The mitigation recommended by Staff reduces project impacts, including any potential impacts to nearby property.



BLYTHE SOLAR POWER PROJECT RIVERSIDE COUNTY, CA



Legend

- Blythe Solar Plant Site Boundary
- Linear Corridor
- Access Road
- Assessor's Parcel
- SCE Colorado River Substation

0 2,500 5,000 10,000
Feet

Notes:
(a) UTM Zone 11, NAD 1983 Projection.
(b) Source data: ESRI, Tt, Riverside Co.

RESPONSE TO AGENCY AND PUBLIC COMMENTS

The applicant has provided comments (Docketed November 7, 2013, TN 201138) that have been addressed in a separate document, with minor modifications, as considered acceptable by staff. The only other agency or public comments received on the SA to date are from the Mojave Desert Air Quality Management District and Michael R. Lozeau Comments on behalf of LIUNA.

Mojave Desert Air Quality Management District Comments Regarding SA (Docketed October 25, 2013 TN 201056)

Response: MDAQMD has reviewed the SA, and based on the information available, the District determined the applicant is required to submit a dust control plan that describes all applicant's fugitive dust best management practices that would be implemented on the construction and operational phases of the project. Staff concurs with the MDAQMD and will recommend the dust plan also be submitted not only to Energy Commission staff, but also to MDAQMD for review and approval.

Michael R. Lozeau Comments: LIUNA Comments On Staff Assessment - Part A For The Proposed Blythe Solar Power Project (Docketed October 23, 2013 TN 201027)

The Intervenor raised concerns in their October 23, 2013 filing. Each comment is responded to separately below.

Dust control during construction activities and wind erosion control techniques

Response: Worst-case daily offsite dust and exhaust emissions are expected to occur during the overlap period of the gen-tie and access road construction phases. Construction related fugitive dust emissions are based on a modified version of the EPA AP-42, Section 13.2.3 procedure, as implemented in the MRI Level II analysis. This procedure essentially uses an emissions factor in terms of tons/acre/month of construction activity. The MRI Level II analysis also includes an estimation procedure for quantifying fugitive dust emissions from construction related cut and fill activities. This procedure is widely used (and approved for use) as an estimation procedure and has been used in numerous AFC construction related analyses, as well as a wide range of CEQA and NEPA analyses for projects ranging in size from less than 5 acres to large power and transmission line construction projects.

Energy Commission staff recommends the BSPP project be required to comply with Conditions of Certification **AQ-SC1** to **AQ-SC4** to minimize dust and to prevent dust from leaving the project's boundary and creating poor visibility conditions along the state highway. Conditions of Certification **AQ-SC3** and **AQ-SC4** require the use of water or chemical dust suppressants to control any dust plume, and have a dust plume response plan to minimize fugitive dust.

Vehicles on unpaved roads to the construction site

Response: Energy Commission staff recommends the BSPP project be required to comply with revised Condition of Certification **AQ-SC3(c)**, to minimize and prevent dust emissions from construction activities on unpaved roads with a requirement of not exceeding speeds of 10 mph.

Prevention of dust/dirt track-out.

Response: Energy Commission staff recommends the BSPP project be required to comply with revised Condition of Certification **AQ-SC3** to minimize dust/dirt track-out from all construction equipment. Track-out is to be minimized by inspecting, washing as necessary and cleaning tires so they are free of dirt prior to entering paved roadways, and adding gravel ramps of at least 20 feet in length at the tire washing/cleaning station. Additionally, all unpaved exits from the construction site are to be graveled or treated to prevent track-out onto public roadways.

Thresholds of Significance

LIUNA recommends that the Energy Commission use MDAQMD regional significance criteria for determining CEQA impacts and if impacts are found to be significant all mitigation measures should be considered to reduce these impacts to the extent feasible.

Response: The Energy Commission, as a state agency that licenses projects in various local air quality jurisdictions throughout the state, has selected a single CEQA methodology approach rather than use the inconsistent approaches and thresholds proposed by different local air quality agencies.

Staff believes that our state-wide CEQA methodology provides a more consistent regulatory approach and Energy Commission staff is not considering changing this approach at this time. We believe our conditions of certification fully mitigate impacts to be less than CEQA significant.

Staff's approach considers whether a project is or is not in a non-attainment area and requires mitigation for emissions that would either create new exceedances (for attainment pollutants) or would contribute to existing exceedances (for nonattainment pollutants). For this project, staff has considered the state ozone and PM10 non-attainment status of the project site, as well as the expected cumulative impacts from future projects in this region of the desert. We have provided what we believe to be comprehensive mitigation measures that would reduce emissions during construction and operation to the maximum extent feasible. In fact, staff believes that the recommended staff mitigation measures are as comprehensive and stringent as, or more comprehensive and stringent than, any other lead agency's proposed mitigation measures for a project such as BSPP. We would also note that the project was already approved by the Energy Commission, and that the current proposal reduces most

construction and operation emissions. To determine the potential worst-case daily construction impacts, exhaust and dust emission rates have been evaluated for each source of emissions. Worst-case daily onsite exhaust and dust emissions are expected to occur during the overlap of the various phases of construction.

Construction modeling

Response: Project construction site impacts for this project are not unusual in comparison to most construction sites; construction sites that use good dust suppression techniques and low-emitting vehicles typically do not cause violations of air quality standards.

Recommendation of Additional Mitigation

Staff considered recommending more stringent requirements for this project but mitigation must be tied to significant environmental impacts. In the case of this project, Staff found all impacts were adequately reduced with the proposed mitigation. In addition, this project is an amendment to a fully licensed project. California Code of Regulations Title 20, Section 1769 and the California Environmental Quality Act (CEQA) Guidelines establishes that staff's review of amended projects already approved by the Energy Commission should be limited to:

- Changes in assumptions, findings, analyses and Conditions of Certification **caused by** the changes to the project outlined in the Petition to Amend (PTA); or
- Changes in laws, ordinances, regulations or standards (LORS) since the time of the Energy Commission's Final Decision; or
- Scientific data that was not available at the time of the Energy Commission's Final Decision and is relevant to the proposed amended project.

Staff found that the amended project had lower impacts to air quality than the licensed project.

**Comments from Metropolitan Water District of southern CA
Dated October 23, 2013**

(Letter on Blythe Solar final Staff Assessment - Part A)

Page 3, first paragraph:

On Page 1-15 of the Staff Assessment Part A, please revise "144-foot" to "438-foot lift" in the Project Description column of the table. The 144-foot value is for Iron Mountain Pumping Plant rather than Eagle Mountain Pumping plant, the subject of this row.

Staff Response:

Staff will make the requested change to the table as noted above.

Riverside County, Airport Land Use Commission, Edward Cooper, Comments on Part B of the California Energy Commission's Staff Assessment of the Blythe Solar Power Project, TN # 201145, November 7, 2013:

Comment: ALUC recommends a comprehensive glare analysis be conducted for the Blythe solar thermal project. ALUC also recommends the use of the Solar Glare Hazard Analysis Tool (SGHAT) to determine glare impacts as recommended by a Federal Aviation Administration (FAA) interim policy, FAA Review of Solar Energy System Projects on Federally Obligated Airports.

Response: Energy Commission staff used the SGHAT to determine the potential for glare impacts. The SGHAT results show that there would be the potential for temporary after-image at certain locations, elevations, and time periods for PV panels with and without light textured glass and/or anti-reflective coating. Specifically, the results show the potential for temporary after-image to aircraft pilots using Runway 8/26, the most used runway at Blythe Airport, for a maximum of 1 hour in the morning and in the afternoon during the spring and fall seasons (equivalent to approximately 2 percent of the total hours in a year). It should be noted the results show that pilots using Runway 17/35 would also experience potential after-image for a maximum of 2 hours during the spring and fall seasons (equivalent to approximately 4 percent of the total hours in a year). The results also show that the potential for temporary after-image can be eliminated with the use of deeply textured glass. Lastly, the SGHAT results show that there would be no potential for permanent eye damage. Staff has recommended under TRANS-12 and the petitioner has agreed to the use of textured glass or anti-reflective coating on all photovoltaic (PV) solar panels and under TRANS-13 that PV support structures be constructed with matte or non-reflective surfaces to eliminate reflective glare from these structures.

Comment Letter from Deirdre West of the Metropolitan Water District dated October 23, 2013 (TN 201031)

MWD is concerned that the project would pump water that would be replaced by the Colorado River. Water from the Colorado River is allocated pursuant to federal law. In order to use Colorado River water an entity must have an entitlement to do so under federal law. The project groundwater use is within an area defined as the “accounting surface”. The accounting surface is used to determine if pumping would affect entitlements on the Colorado River. The federal government (Bureau of Reclamation) has not however, adopted the rule and there is no regulation in place to determine whether a project would affect entitlements. Since MWD is a priority water rights’ holder, it has the authority to sell water to the project owner if it is determined they are pumping groundwater that is affecting Colorado River entitlements. MWD points out that although all Colorado River water rights have already been assigned, they are willing to discuss an exchange of a portion of their water supplies to offset project impacts. MWD recommended changes to the conditions of certification that would require use of the accounting surface as a basis for determining impact to the river, limit the types of activities that could be used for mitigation, and a request that they be included in review of submittals pursuant to the changed condition.

Staff’s response:

In determining whether there is potential for water to be drawn from the Colorado River, MWD relied on the Bureau of Reclamation’s “accounting surface” rule. Since this rule has not been adopted as a regulation and the Bureau of Reclamation has provided no specific guidance to staff on how they should determine if there is an effect on the Colorado River entitlements, staff cannot condition the project to ensure compliance. Staff understands that if at some point in the future the Bureau of Reclamation finds the project is affecting entitlements on the river they may assert authority to require an offset or cease pumping. This action would be outside the Energy Commission authority.

Staff’s determination of potential impacts to the Colorado River and mitigation requirements is based on a CEQA level analysis. In Condition of Certification SOIL&WATER -2 the final commission decision requires the project owner to prepare a water supply plan to mitigate project impacts to surface water, including the Colorado River, and implement Condition of Certification SOIL&WATER -16 to determine what volume of river water must be offset through the water supply plan. Staff notes that the amended project water use has gone down significantly from that evaluated in the Final Commission Decision therefore there is a proportionate reduction in the potential impact to the river. In addition, the methods of mitigating potential impacts identified in SOIL&WATER - 2 are appropriate for offsetting affects in the Colorado River watershed. Staff believes Conditions of Certification SOIL&WATER –2 and -16 may provide staff the flexibility to address MWD’s concerns regarding the impacts on their entitlements

and look forward to working with them to review and comment on the water supply plan as requested.

Staff believes the conditions of certification are sufficient to ensure there are no environmental impacts from project pumping and no changes are proposed.

Letter from Tanya Trujillo of the Colorado River Board dated October 21, 2013 (TN 201036)

Similar to MWD, the Colorado River Board raises the concern that the project is underlain by an aquifer that is hydraulically connected to the Colorado River and that groundwater withdrawn from wells located on site would be eventually replaced, at least in part, by Colorado River water which requires an entitlement from the agency with jurisdiction over the river water.

The Colorado River Board expressed agreement with staff's analysis and conditions of certification SOIL & WATER -2 and -16. The Colorado River Board would also like to be included in review of the water supply plan required in Condition of Certification SOIL&WATER – 2..

Staff's response:

Staff appreciates that the Colorado River Board agrees with its analysis and with the conditions of certification staff proposed to mitigate impacts from the project to the Colorado River. Please also see staff response to Metropolitan Water District letter dated October 23, 2013, (TN 201031) above. Staff looks forward to working with the Colorado River Board and Metropolitan Water District on review of the water supply plan.

Letter from Michael Lozeau of LiUNA dated October 23, 2013 (TN 201027)

LiUNA did not have any concerns about project's water supply. There was a mention of COC Soil & Water -10, but that only was in the context of proving that a project closure plan should be submitted earlier in the project life than other conditions propose.

Riverside County, Airport Land Use Commission, John Guerin, Comments on Part A of the California Energy Commission's Staff Assessment of the Blythe Solar Power Project, TN # 201058, October 22, 2013:

Comment: ALUC requests the opportunity to review Part B of the Staff Assessment. ALUC also requests the opportunity to consider the project locally at a public hearing in Riverside County.

Response: There is still opportunity for the ALUC to comment on the project. Evidentiary Hearings for the Blythe Solar Power Project will be held on November 19, 2013, and any written or oral comments the LAUC provides may be entered into the record at that time. Also, after the hearings, the Energy Commission will release a Presiding Members Proposed Decision (PMPD), which requires a 30-day public review period during which the ALUC may also submit comments.

Staff made the following comments in response to CRIT's attorney's opening statements and follow-up questions during the Cultural Resources section of the Blythe Amendment workshop (11-12-13).

1. Staff reviewed the nature of the consideration of the proposed amendment which, under CEQA, only warrants staff to conduct analysis on the difference between what was originally licensed and what is now petitioned for amendment. Staff reviewed that the petitioned amendment proposes diminished vertical and horizontal impacts to cultural resources. Therefore staff's analysis is not as robust as other recently completed staff analysis for other nearby projects that CRIT has witnessed and come to expect. Staff primarily relied upon the previous analysis conducted for the originally proposed Blythe project that featured solar trough technology.
2. Staff reviewed the regulatory history within which the original project was licensed by the Energy Commission in 2010. Staff utilized the available staff resources to develop the original RSA upon which the original project was licensed, and in the subsequent preparation of the Staff Assessment for the proposed amendment. While a careful read of the Staff Assessment may find minor inconsistencies across cultural resources sections, texts, and tables, those inconsistencies do not change or otherwise compromise staff conclusions.
3. While the Genesis discovery and ensuing mitigation have provided abundant information on lakeshore subsurface cultural resources, staff considers the Genesis project lake shore environment, geology and geography to be substantially different than the Palo Verde Mesa and Colorado River environment, geology and geography proposed for amendment at the Blythe project site. Therefore staff does not consider the Genesis discovery situation to constitute "New Information" that warrants staff to conduct Blythe project analysis beyond the diminished difference that is currently being petitioned and considered. Staff reiterated that the petitioned amendment also curtails ground disturbance significantly from what was originally licensed.
4. Staff reviewed the history of tribal consultation afforded the CRIT during the original licensing and during the petitioned amendment. During the original licensing, because the project was a Bureau of Land Management federal undertaking, because the original analysis was conducted during the ARRA era, because a Programmatic Agreement was negotiated and signed by multiple parties, but not the Energy Commission, and because the original licensing was conducted prior to the issuance of the Governor Brown's Executive Order B-10-11 ordering California State Agencies to conduct tribal consultation, the Energy Commission deferred to the Bureau of Land Management and its lead federal agency tribal consultation obligations. However, the petitioned amendment was proposed after Executive Order B-10-11 was issued and staff, implementing the Executive Order, engaged in consultation with multiple tribes affiliated with the project area, including CRIT. An Energy

Commission letter, inviting consultation was issued to CRIT, follow-up phone calls were made and a meeting was scheduled and conducted.

Riverside County, Office of County Counsel, Pamela Walls, Comments on the California Energy Commission's Staff Assessment of the Blythe Solar Power Project, TN # 201158, November 12, 2013:

Comment: Riverside County requests that the County of Riverside be included in Condition of Certification TRANS-5 as part of directing the project owner in restoring public roads, easements, and rights-of-way that have been damaged by project-related construction activities.

Response: The Energy Commission utilizes the Compliance Project Manager (CPM) as the staff member responsible for taking forward actions required under conditions of certification and ensuring those actions specified are implemented by the project owner. The verification identifies how the project owner will implement the condition. The verification process allows for the authority of local agencies (e.g., Riverside County) to review and provide input that ensures action(s) taken by the project owner meet the local agency's requirements. To provide Riverside County the ability to consult with the CPM as part of directing the project owner in restoration of public roads, easements, and rights-of-way, the Energy Commission recommends revising Condition of Certification TRANS-5 as follows.

TRANS-5 RESTORATION OF ALL PUBLIC ROADS, EASEMENTS AND RIGHTS- OF-WAY. The project owner shall restore all public roads, easements, and rights-of-way that have been damaged due to project-related construction activities to original or near-original condition in a timely manner, as directed by the CPM in consultation with County of Riverside. Repair and restoration of access roads may be required at any time during the construction phase of the project to assure public safety.