

## DOCKETED

<b>Docket Number:</b>	09-AFC-06C
<b>Project Title:</b>	Blythe Solar Power Project - Compliance
<b>TN #:</b>	201372
<b>Document Title:</b>	Email exchange between parties re CRIT-NextEra Stipulation on Conditions of Certification
<b>Description:</b>	N/A
<b>Filer:</b>	Sara Clark
<b>Organization:</b>	Shute, Mihaly & Weinberger LLP
<b>Submitter Role:</b>	Intervenor Representative
<b>Submission Date:</b>	12/5/2013 9:37:54 AM
<b>Docketed Date:</b>	12/5/2013

## Sara A. Clark

---

**From:** Scott Galati <SGalati@gb-llp.com>  
**Sent:** Wednesday, December 04, 2013 4:46 PM  
**To:** Sara A. Clark  
**Cc:** Babula, Jared@Energy; Dyas, Mary@Energy; Winter King; Rebecca Loudbear  
**Subject:** Re: CRIT-NEXTERA stipulated conditions

Sara and Jared

NextEra agrees with CRIT and prefers the conditions to stay in the form provided in the NextEra CRIT stipulation.

*Sent from my Verizon Wireless 4G LTE DROID*

"Sara A. Clark" <[Clark@smwlaw.com](mailto:Clark@smwlaw.com)> wrote:

Jared,

Winter and I have reviewed your proposed edits, but our client is out of the office today. Consequently, this email provides a preliminary response; we may have additional comments tomorrow.

From our perspective, we don't see how many of these edits improve the process from the original conditions or how they address our specific concerns. In particular, we are concerned about the following:

1. In a number of areas, you are taking the CEC out of the enforcement loop and essentially abdicating enforcement responsibility to the project owner. For instance, the CPM will no longer facilitate review and comment of the CRMMP, the CPM will have no responsibility to ensure unanticipated resources aren't harmed, the CPM will not be required to notify Tribes regarding unanticipated discoveries or changes in monitoring, and the CPM will not be required to provide written responses to concerns raised by the Tribes. While NextEra has generally been responsive to CRIT's concerns, it is the Commission that is responsible for ensure mitigation is enforced and consultation is occurring. CRIT's proposed edits intended to make sure the mitigation measures were enforceable, and your proposed edits have taken us in the opposite direction.
2. The removal of the in-situ reburial option, which is already contingent on BLM's approval.
3. The narrowing of the involvement of area tribes to those who have been involved in formal consultation. Given the difficulties we've had with consultation, as described, we're not sure which tribes would end up on this list.

You've also provided no explanation for the majority of these changes. We are unaware of any commission regulations that would prevent approval of the mitigation measures we've agreed to with NextEra and we've received no information about the "consequences" that may occur to your compliance process. If you have additional information to share, perhaps a phone call would be in order to talk through these issues.

While there may be some small changes that we can agree to, it will be difficult to accomplish in the timeline you've set out, as we need to consult with our client.

Best,  
Sara

-----

Sara A. Clark  
Shute, Mihaly & Weinberger, LLP  
(415) 552-7272

---

**From:** Babula, Jared@Energy [<mailto:Jared.Babula@energy.ca.gov>]  
**Sent:** Tuesday, December 03, 2013 10:15 PM  
**To:** Scott Galati <[SGalati@gb-llp.com](mailto:SGalati@gb-llp.com)>; Sara A. Clark  
**Cc:** Dyas, Mary@Energy  
**Subject:** CRIT-NEXTERA stipulated conditions

Cultural staff has reviewed the CRIT-Nextera stipulation. Some of the changes seek to shift obligations from the project owner to the CPM others may have consequences within our compliance process. Staff finds these changes problematic but offers alternative language to try and accomplish the goals set out by CRIT and Nextera. If CRIT and Nextera agree to these I can fold these changes into a clean copy and file with the other COCs on Wed. I will be in the office all day tomorrow to try and get this all worked out so a complete set of COCs can be filed. Thanks

Jared

**DECLARATION OF SERVICE**

I, Sara Clark, declare that on December 5, 2013, I served and filed copies of the an email exchange between parties regarding CRIT-NextEra Stipulation on Conditions of Certification dated December 4, 2013. The most recent Proof of Service List, which I copied from the web page for this project at: <http://www.energy.ca.gov>, is attached to this Declaration.

**(Check one)**

**For service to all other parties and filing with the Docket Unit at the Energy Commission:**

I successfully uploaded the document to the Energy Commission's e-filing system and I personally delivered the document or deposited it in the US mail with first class postage to those persons for whom a physical mailing address but no e-mail address is shown on the attached Proof of Service List. [The e-filing system will serve the other parties and Committee via e-mail when the document is approved for filing.] **or**

I e-mailed the document to [docket@energy.ca.gov](mailto:docket@energy.ca.gov) and I personally delivered the document or deposited it in the US mail with first class postage to those persons for whom a physical mailing address but no e-mail address is shown on the attached Proof of Service List. [The e-filing system will serve the other parties and Committee via e-mail when the document is approved for filing.] **or**

Instead of e-filing or e-mailing the document, I personally delivered it or deposited it in the US mail with first class postage to all of the persons on the attached Proof of Service List for whom a mailing address is given and to the

California Energy Commission – Docket Unit  
Attn: Docket No. \_\_\_\_\_  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

[The e-filing system will serve an additional electronic copy on the other parties and Committee via e-mail when the paper document or CD is received, scanned, uploaded, and approved for filing. The electronic copy stored in the e-filing system is the official copy of the document.]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: December 5, 2013

\_\_\_\_\_/s/ Sara Clark\_\_\_\_\_  
[Name]



## Proof of Service List

Docket: 09-AFC-06C

Project Title: Blythe Solar Power Project - Compliance

Generated On: 12/5/2013 9:30:52 AM

### Applicant

**Dan Neville**, Project Director, Development  
NextEra Energy Resources  
505 14th Street, Suite 310  
Oakland, CA 94616  
daniel.neville@nexteraenergy.com

### Applicant Representative

**Marie Fleming**  
Galati/Blek, LLP  
455 Capitol Mall, Suite 350  
Sacramento, CA 95814  
mfleming@gb-llp.com

**Scott Galati**  
Galati/Blek, LLP  
455 Capitol Mall, Suite 350  
Sacramento, CA 95814  
sgalati@gb-llp.com

### Applicant Consultant

**Sara Head**  
AECOM  
1220 Avenida Acaso  
Camarillo, CA 93012  
sara.head@aecom.com

**Tricia Bernhardt**  
Tetra Tech, Inc.  
143 Union Boulevard, Suite 1010  
Lakewood, CO 80228  
tricia.bernhardt@tetrattech.com

### Intervenor

**Elizabeth Klebaner**, Counsel for California Unions for Reliable Energy (CURE)  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
eklebaner@adamsbroadwell.com

**Marc D. Joseph**, Counsel for California Unions for Reliable Energy (CURE)  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
mdjoseph@adamsbroadwell.com

**Rebecca Loudbear**, Office of the Attorney General  
Colorado River Indian Tribes  
26600 Mohave Road  
Parker, AZ 85344  
rloudbear@critoj.com

**Tanya A. Gulesserian**, Counsel for California Unions for Reliable Energy (CURE)  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
tgulesserian@adamsbroadwell.com

### Intervenor Representative

**Michael R. Lozeau**, Counsel for LIUNA Local 1184  
Lozeau Drury LLP  
410 12th Street, Suite 250  
Oakland, CA 94607  
michael@lozeaudrury.com

**Richard T. Drury**, Counsel for LIUNA Local 1184  
Lozeau Drury LLP  
410 12th Street, Suite 250  
Oakland, CA 94607  
richard@lozeaudrury.com

**Sara A. Clark**, Counsel for Colorado River Indian Tribes  
Shute, Mihaly & Weinberger, LLP  
396 Hayes Street  
San Francisco, CA 94102  
clark@smwlaw.com

**Winter King**, Counsel for Colorado River Indian Tribes  
Shute, Mihaly & Weinberger, LLP  
396 Hayes Street  
San Francisco, CA 94102  
king@smwlaw.com

### Commission Staff

**efiling archive**

**Jared Babula**, Staff Counsel

**Mary Dyas**, Project Manager

California Energy Commission  
Sacramento, CA  
efilingPOSarchive@energy.ca.gov

California Energy Commission  
Office of the Chief Counsel, 1516 Ninth Street,  
MS-14  
Sacramento, CA 95814  
jared.babula@energy.ca.gov

California Energy Commission  
Siting, Transmission & Environmental Protection  
Division, 1516 Ninth Street, MS-2000  
Sacramento, CA 95814  
mary.dyas@energy.ca.gov

## Committee

**DAVID HOCHSCHILD, Associate Member,**  
Commissioner  
California Energy Commission  
Sacramento, CA

**Eileen Allen,** Commissioners' Technical Adviser  
for Facility Siting  
California Energy Commission  
Sacramento, CA

**Eli Harland,** Adviser to Commissioner Douglas  
California Energy Commission  
Sacramento, CA

**Jennifer Nelson,** Adviser to Commissioner  
Douglas  
California Energy Commission  
Sacramento, CA

**KAREN DOUGLAS, Presiding Member,**  
Commissioner  
California Energy Commission  
Sacramento, CA

**Kelly Foley,** Adviser to Commissioner  
Hochschild  
California Energy Commission  
Sacramento, CA

**Raoul Renaud,** Hearing Adviser  
California Energy Commission  
Sacramento, CA

## Public Adviser

**Alana Mathews,** Public Adviser  
California Energy Commission  
Public Advisers Office, 1516 Ninth Street, MS-12  
Sacramento, CA 95814  
publicadviser@energy.ca.gov

## Public Agency

**California ISO**  
Folsom, CA  
e-recipient@caiso.com

**Jeff Childers**  
Bureau of Land Management, Desert District  
Office  
22835 Calle San Juan De Los Lagos  
Moreno Valley, CA 92553  
jchilders@blm.gov

**John Guerin**  
Riverside County Airport Land Use Commission  
Riverside County Administrative Center, 4080  
Lemon Street, 14th Floor  
Riverside, CA 92501  
jguerin@rctlma.org

**Magdalena Rodriguez**  
California Department of Fish and Game, Inland  
Desert Region  
3602 Inland Empire Boulevard, Suite C-220  
Ontario, CA 91764  
magdalena.rodriguez@wildlife.ca.gov

**Tera Baird**  
United States Fish and Wildlife Service  
777 East Tahquitz Canyon Way, Suite 208  
Palm Springs, CA 92262  
Tera\_baird@fws.gov

**Tiffany North,** Supervising Deputy County  
Counsel  
Riverside County  
3960 Orange Street, Suite 500  
Riverside, CA 92501  
tnorth@co.riverside.ca.us