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Sara and Jared

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

"Sara A. Clark" <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

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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 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

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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
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