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Project Title:	Blythe Solar Power Project - Compliance
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Document Title:	Colorado River Indian Tribes (CRIT) Response to Finalization of Revised Blythe Solar CRMMP
Description:	CRIT response to staff comment on CRIT letters of November 24, 2014 and April 2, 2015 with regard to draft versions of the Revised Cultural Resources Monitoring and Mitigation Plan (CRMMP) for Blythe Solar.
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Sent Via Electronic Mail and United States Mail

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Siting, Transmission, and Environmental
Protection Division Tribal Liaison
California Energy Commission
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Re: **CEC Letter to CRIT regarding Comments on Draft Revisions of
Cultural Resources Monitoring and Mitigation Plan**

Dear Mr. Johnson:

The Colorado River Indian Tribes (Tribes) have reviewed your August 27, 2015, letter regarding our comments on draft revisions of the Cultural Resources Monitoring and Mitigation Plan (CRMMP) for the Modified Blythe Solar Power Project (Project). While we appreciate the California Energy Commission's (CEC) efforts to respond in writing to our comments on the draft CRMMP, these written responses would have been far more meaningful had they been timely. You acknowledge in your letter that the Tribes provided written comments to the CEC on draft versions of the CRMMP in letters dated November 24, 2014 and April 2, 2015. Therefore, we disagree that providing a written response to the Tribes months after the fact, and as construction is in full swing at the Project site, has ensured "broader engagement" with Tribes.

Indeed, the CEC has apparently failed to follow its own timelines for finalization of the CRMMP. Condition of Certification CUL-5 clearly states that "[p]rior to the start of ground disturbance, the project owner shall submit to the CPM for review and approval draft and final versions of a Cultural Resources Monitoring and Mitigation Plan (CRMMP)" and "[n]o ground disturbance shall occur prior to CMP approval of the CRMMP, unless such activities are specifically approved by the CPM." Yet, rather than finalizing the CRMMP prior to allowing any ground disturbance, or specifically approving certain activities before the CRMMP's finalization, CPM Mary Dyas provided NextEra Blythe Solar (NextEra) with a carte blanche approval of all construction activities with a March 19, 2015 Notice to Proceed – roughly six months before the

CEC issued the final CRMMP. Indeed, the Notice to Proceed blatantly flaunted the CRMMP's draft status, stating that NextEra should "comply with the current draft [CRMMP]" and acknowledging that the timeline for approving the final CRMMP was "subject to change." CEC, Dkt. No. 09-AFC-06C, TN # 203919 (Notice to Proceed, Mar. 19, 2015). The purpose of monitoring and treatment plans is to ensure that appropriate procedures and protections are in place to mitigate cultural resource impacts from construction. These plans have little meaning if they are not finalized until months after construction has begun. Also, the CEC's failure to follow the timelines in CUL-5 is indicative of a double standard, namely, that the Tribes were to provide timely comments on draft versions of the CRMMP but yet the CEC could choose when to provide a written response and final version of the CRMMP to the Tribes, even waiting until months after construction had started.

Lastly, while the Tribes appreciate the CEC's analysis and explanation of its reasoning, we continue to disagree on issues, especially the appropriateness of in-situ reburial as a mitigation measure under CEQA. We support language in the CRMMP providing for onsite reburial of isolates; however, reburial should not be limited to isolates.¹ Data recovery and excavation of non-isolates are contrary to our cultural and spiritual beliefs. Where construction activities at the Project site will displace artifacts from their physical contexts, in-situ reburial offers some mitigation of cultural harms. Data recovery, in contrast, requires artifacts to be relocated offsite to be studied, thereby disrupting the artifacts' physical context *and* erasing the Tribes' ancestral footprint.

Thank you for your time in reading this correspondence. Please copy Rebecca A. Loudbear, CRIT Attorney General, at rloudbear@critdoj.com, and Nancy H. Jasculca, CRIT Deputy Attorney General, at njasculca@critdoj.com, on any written correspondence to the Tribes.

Sincerely,



Chairman Dennis Patch
Colorado River Indian Tribes

Cc: Tribal Council of the Colorado River Indian Tribes
Rebecca A. Loudbear, Attorney General for the Colorado River Indian Tribes
Nancy H. Jasculca, Deputy Attorney General for the Colorado River Indian Tribes
Wilene Fisher-Holt, Director, Colorado River Indian Tribes Museum
David Harper, Chairman/Spokesperson, Mohave Elders Committee

¹ We note that the CRMMP references the BLM's January 16, 2015 McCoy Solar Energy Project isolate reburial protocol. To be consistent, the CRMMP should also recognize the reburial procedures articulated in the BLM's Final Blythe Archeological Monitoring and Discovery Plan.