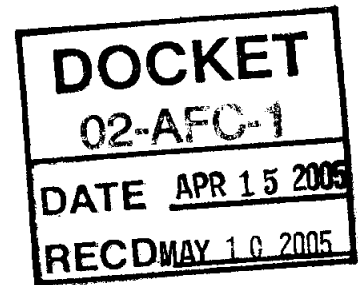




Department of Energy
Western Area Power Administration
Desert Southwest Customer Service Region
P.O. Box 6457
Phoenix, AZ 85005-6457

APR 15 2005



Mr. Milford Wayne Donaldson
State Historic Preservation Officer
ATTN: Mr. Mike McGuirt
Associate State Archaeologist
Office of Historic Preservation
California Department of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296-0001

SUBJECT: Blythe I Memorandum of Agreement-Amendment for Blythe II.

Dear Mr. Donaldson:

The Western Area Power Administration (Western) is proposing an amendment to include Caithness Blythe II, LLC (Caithness) as an additional signatory to the existing **Memorandum of Agreement between the Western Area Power Administration and the California State Historic Preservation Officer Concerning the Blythe Power Plant Site Expansion Riverside County, California (MOA)**. Per the MOA Stipulation III E *"Amendment: Any party to this Agreement may propose to Western or Western may propose, that the Agreement be amended, whereupon Western shall consult with the other parties to this Agreement to consider such an amendment. 36 CFR 800.6(c)(1) shall govern the execution of any such amendment."*

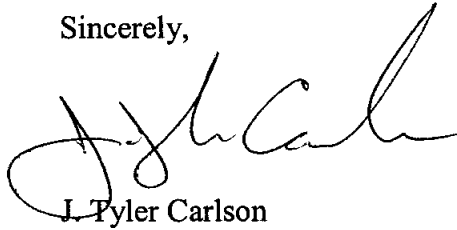
The MOA was for the expansion of the Blythe I Power Plant Site, which included an additional 10-acre lay-down area and another adjacent 66-acre area to the initial 76-acre project area for the Blythe I power plant. This additional area will now be utilized by Caithness Blythe II, LLC for the construction of a second power plant (Blythe II). This proposed second power plant would be located southwest of the existing Blythe I power plant. This acreage was previously surveyed and consulted on with your office for the Blythe I Energy Project. Caithness, the applicant for the second power plant, would appreciate using the existing MOA to address their concerns with the historic trash site. Western believes that Caithness needs to be added as a signatory since they will be responsible for the construction and maintenance of Blythe II, which is adjacent to the historic site, CA-Riv-6370H.

Western is also consulting with all the other signatories of the MOA and soliciting their comments to this amendment.

Please provide your comments regarding this amendment to Western, by May 16, 2005. Otherwise, Western will assume you agree with the amendment to add Caithness as a signatory to the MOA and will move forward with completing the action for this amendment.

If you have any questions, or need additional information please contact Ms. Alison Jarrett at (602) 605-2434 or Ms. Mary Barger at (720) 962-7253.

Sincerely,



J. Tyler Carlson
Regional Manager

Enclosure

cc:

Mr. Don L. Klima
Director
Western Office
Advisory Council on Historic Preservation
12136 Bayaud Avenue
Suite 330
Lakewood, CO 80228-2115

Mr. Gary Reinoehl
Archaeologist
California Energy Commission
1516 Ninth Street
MS-15
Sacramento, CA 95814-5512

Mr. Bill Pfanner
Siting Project Manager
California Energy Commission
1516 Ninth Street
MS-16
Sacramento, CA 95814-5512

Mr. James Pagano
Caithness/Riverside County Power
565 Fifth Avenue
28th and 29th Floors
New York, NY 10017-2413

Mr. Robert Looper
Vice President
Summit Energy Group
1100 Harcourt Drive
Boise, ID 83702-1836

Mr. Scott Galati
Galati and Blek, LLP
Plaza Towers
555 Capitol Mall
Suite 600
Sacramento, CA 95814-4581

Mr. Tom Cameron
Caithness
10601 Gum Tree Court
Las Vegas, NV 89144-1442

Mr. Chris Allen
Plant Manager
Blythe Energy Project
P.O. Box 1210
Blythe, CA 92226-1210

Mr. Kenny Stein
Environmental Specialist
Florida Power and Light
P.O. Box 14000
Juno Beach, FL 33408-0420
(w/cy of encl.)

**MEMORANDUM OF AGREEMENT
BETWEEN THE WESTERN AREA POWER ADMINISTRATION,
AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
CONCERNING THE BLYTHE POWER PLANT SITE EXPANSION
RIVERSIDE COUNTY, CALIFORNIA**

Whereas, the Western Area Power Administration (Western) is considering the proposal of Blythe Energy, LLC and Riverside County Power (the project proponents) to expand the Blythe I Power Plant site (expansion) onto a sixty-six (66) acre parcel immediately west of its present site, as described in the *Petition for Amendment 1-B*, submitted to the California Energy Commission (CEC) in November, 2001, and as part of this expansion to use a ten-acre site now permitted for use for construction equipment laydown (laydown area), as described in the approved *Petition for Amendment 1-A*, submitted to the CEC in October, 2001, and

Whereas, the project site embracing both the 66-acre expansion site and the ten-acre laydown area is as shown in the attached map (Attachment 1); and

Whereas, the laydown area was previously graded by a private landowner (SunWorld International); and

Whereas, Western has determined that the proposed Blythe I expansion and use of the laydown area (collectively, the undertaking) may have adverse effects upon archaeological site CA-RIV-6370H, a refuse dump which lies on the north edge of the project site and is apparently associated with the World War II-era Morton Air Academy; and

Whereas, in order to mitigate certain impacts on fire and safety services provided by the City of Blythe, California (City) the project proponents have provided funds to the City which the City has used to improve Riverside Drive along the northern border of the project site, through CA-RIV-6370H; and

Whereas, archeological testing of CA-RIV-6370H has produced a substantial collection of artifacts and other dump refuse, and related historical research has yielded documents and photographs pertaining to such material (hereinafter, the collection); and

Whereas, CA-RIV-6370H, as documented in the Preliminary Draft Archaeological Testing and Evaluation Report for the Blythe Energy Project, Riverside County, California, dated January 2002, and as noted in field inspection by Western, has two parts: a northern part comprising mounds of dirt containing artifacts (hereinafter, the northern part), and a southern part containing primarily bulldozer scars and mounds but no discernible evidence of significant artifact concentrations (hereinafter, the southern part); and

1 Whereas, pursuant to 36 CFR 800.4(c)(2) Western and the California State Historic
2 Preservation Officer (SHPO) have agreed to treat CA-RIV-6370H as eligible for
3 inclusion in the National Register of Historic Places for purposes of their consultation
4 under Section 106 and its implementing regulations (36 CFR 800) for the undertaking,
5 until and unless CA-RIV-6370 is shown by further study to be not eligible; and

6
7 Whereas, Western has consulted with the SHPO, the California Energy Commission
8 (CEC), and the project proponents to determine ways to resolve any adverse effects of the
9 undertaking on CA-RIV-6370H, and Western has notified the Advisory Council on
10 Historic Preservation (Council) of the effect finding pursuant to 36 CFR § 800.6(a)(1);
11 and

12
13 Whereas, pursuant to 36 CFR 800.2(c)(2)(ii), the American Indian Religious Freedom
14 Act (AIRFA), and Executive Order 13175, Western has conducted and is continuing to
15 conduct an ongoing program of consultation with Indian tribes to identify and resolve
16 concerns they may have about actions in the area that falls under Western's jurisdiction,
17 including but not limited to the undertaking; and

18
19 Whereas, as of the date of execution of this Memorandum of Agreement (Agreement)
20 such consultation with tribes has revealed no tribal concerns that are specific to the 76-
21 acre Blythe 1 site, 10-acre laydown area, or 66-acre Blythe expansion area; and

22
23 Whereas, the project proponents participated in the consultation and have been invited to
24 concur in this Agreement;

25
26 NOW, THEREFORE, Western and the SHPO agree that upon Western's decision to
27 permit the project proponents to proceed with the undertaking, Western shall ensure that
28 the following stipulations are implemented in order to take into account the effects of the
29 undertaking on CA-RIV-6370H, and that these stipulations shall govern the undertaking
30 and all of its parts until this Agreement expires or is terminated.

31
32 **Stipulations**

33
34 *Western will ensure that the following stipulations are implemented:*

35
36 *1. The project proponents will:*

- 37
38 A. Construct a six-foot steel-post, chain-link fence around the northern area south of
39 Riverside Drive. That portion of the fence constructed between the northern area
40 of CA-RIV-6370H (the portion with mounds containing artifacts) and the
41 southern area (the portion with bulldozer tracks and mounds but no discernable
42 evidence of significant artifact concentrations) shall be constructed in a manner
43 consistent with the temporary desert-tortoise design as prescribed and built for the
44 Blythe 1 project site. The remainder of the fence need not be constructed in
45 accordance with such design, but shall be designed and constructed to clearly

1 delineate the site as an area that may not be encroached upon by heavy equipment
2 or unauthorized personnel, and to minimize impacts on cultural material;

3
4 B. Ensure that construction of the chain link fence and temporary desert tortoise
5 fence and the removal of the desert tortoise fence are monitored by the CEC's
6 approved Cultural Resources Specialist, who will document any artifacts or other
7 sources of archeological data encountered during such construction, adding any
8 artifacts recovered and documents produced to the collection;

9
10 C. Allow no construction work or other ground disturbance to occur on those
11 portions of CA-RIV-6370H property that lie inside the fence and that are under
12 the project proponents' jurisdiction, or north of Riverside Drive, without the
13 explicit written permission of Western, which shall consider the potential effects
14 of granting such permission in accordance with 36 CFR 800;

15
16 D. Ensure that archeologists map and photograph all mounds, bulldozer tracks, and
17 other landform modifications on the southern part of CA-RIV-6370H, and
18 monitor grading and other ground disturbance carried out there, documenting any
19 artifacts or other sources of archeological data encountered during such ground
20 disturbance and adding any artifacts recovered and documents produced to the
21 collection;

22
23 E. Ensure that the collection is analyzed by an archeologist or archeologists
24 experienced in the analysis of twentieth-century cultural material and made the
25 basis for a written report prepared with the assistance of a historian or historians
26 conversant with the time period and the historical activity to which collection
27 appears to pertain. This report will:

- 28
29 1. Address relevant historical contexts in determining whether there are
30 significant historical, anthropological, sociological, or other research
31 questions, as appropriate, to which the collection pertains.
32
33 2. Discuss explicitly why any research questions recommended as significant
34 are important with reference to the historic context presented in the report.
35
36 3. Demonstrate explicitly which items in the collection, if any, and how many
37 of these items will yield information that directly and usefully answers
38 research questions deemed in the report to be significant.
39
40 4. Based on the above analysis, include a justified recommendation as to
41 whether CA-RIV-6370H meets or does not meet the National Register
42 Criteria (36 CFR 60.4).

43
44 F. Provide the report prepared pursuant to paragraph E., above, to Western and CEC
45 within 90 days after surface grading and subsequent placement of fill in the
46 southern area is complete;

1
2
3 G. If CA-RIV-6370H is determined to be eligible for the National Register of
4 Historic Places, make every reasonable effort to donate the collection, or those
5 parts of the collection, if any, that are determined by Western in consultation with
6 the SHPO to have research or exhibition values, to an appropriate museum or
7 other artifact repository approved by Western;

8
9 H. Assist Western in carrying out its responsibilities under this Agreement.

10
11 **II. Western will:**

- 12
13 A. Upon its receipt and acceptance of the report prepared by the project
14 proponents pursuant to Stipulation I.E., above, consult further with the SHPO,
15 and if necessary with the Keeper of the National Register pursuant to 36 CFR
16 800.4(c), to determine definitively whether CA-RIV-6370H is or is not
17 eligible for inclusion in the National Register of Historic Places, and advise
18 the parties to this Agreement and other interested parties, including the City of
19 Blythe and the County of Riverside, of the results of such determination; and
20
21 B. Continue its ongoing program of tribal consultation, and advise the project
22 proponents, CEC, and the SHPO of any issues identified through this
23 program.
24

25 **III. Administrative Provisions**

- 26 A. *Personnel qualifications:* Western and the project proponents will ensure that
27 all documentation, monitoring, analysis, and report preparation pertinent to
28 CA-RIV-6370H are carried out by or under the direct supervision of a person
29 or persons meeting the Secretary of the Interior's Personnel Qualifications
30 standards for historical archeology, as set forth at 36 CFR 61.11.
31
32 B. *Ownership of collection:* The collection shall remain the property of the
33 project proponents, unless and until donated to a museum or other institution,
with the following provisions:

- 34 1. If required pursuant to Stipulation I.G., above, the project proponents
35 will make every reasonable effort to donate the collection to a suitable
36 museum or other repository;
37
38 2. The project proponents will not permit documents and records that are
39 parts of or pertinent to the collection to be destroyed, and shall make
40 such documents and records, or accurate copies thereof, available to
the appropriate records center as identified by the SHPO;
41
42 3. Should the project proponents be unable to find a repository willing to
43 receive all or part of the collection, the project proponents will not
permit destruction or dispersal of the collection, or of that part of the

1 collection not received by a repository, without first notifying
2 Western, CEC, and the SHPO and affording them at least thirty (30)
3 days to find a suitable repository that will receive the collection or
4 such part of the collection as the project proponents have not been able
5 to lodge with a repository.

6 *C. Resolving objections:*

- 7 1. Should any party to this Agreement object in writing to Western
8 regarding any action carried out or proposed with respect to the
9 undertaking or implementation of this Agreement, Western shall
10 consult with the objecting party to resolve the objection. If the
11 objection is resolved through such consultation, the action in dispute
12 may be carried out in accordance with the terms of such resolution. If
13 after initiating such consultation Western determines that the objection
14 cannot be resolved through consultation, Western shall forward all
15 documentation relevant to the objection to the Council, including
16 Western's proposed response to the objection, with the expectation that
17 the Council will within thirty (30) days after receipt of such
18 documentation:
- 19 a. Advise Western that the Council concurs in Western's
20 proposed response to the objection, whereupon Western will
21 respond to the objection accordingly;
- 22 b. Provide Western with recommendations, which Western will
23 take into account in reaching a final decision regarding its
24 response to the objection; or
- 25 c. Notify Western that the objection will be referred for comment
26 pursuant to 36 CFR 800.7(a)(4), and proceed to refer the
27 objection and comment. Western shall take the resulting
28 comment into account in accordance with 36 CFR 800.7(c)(4)
29 and Section 110(l) of NHPA.
- 30 2. Should the Council not exercise one of the above options within 30
31 days after receipt of all pertinent documentation, Western may assume
32 the Council's concurrence in its proposed response to the objection:
- 33 3. Western shall take into account any Council recommendation or
34 comment provided in accordance with this stipulation with reference
35 only to the subject of the objection; Western's responsibility to carry
36 out all actions under this Agreement that are not the subjects of the
37 objection shall remain unchanged.
- 38 4. At any time during implementation of the measures stipulated in this
39 Agreement, should an objection pertaining to this Agreement or the
40 effect of the undertaking on historic properties be raised by a member
41 of the public, Western shall notify the parties to this Agreement and

1 take the objection into account, consulting with the objector and,
2 should the objector so request, with any of the parties to this
3 Agreement to resolve the objection.

- 4 5. Western shall provide all parties to this Agreement with a copy of its
5 final written decision regarding any objection addressed pursuant to
6 this Stipulation.

7
8 D. *Sunsetting*: If the terms of this Agreement have not been implemented by
9 January 1, 2008, this Agreement shall be considered null and void. In such
10 event, Western shall so notify the parties to this Agreement, and if the project
11 proponents then or in the future choose to continue with the undertaking,
12 Western shall re-initiate review of the undertaking in accordance with 36 CFR
13 Part 800.

14 E. *Amendment*: Any party to this Agreement may propose to Western, or
15 Western may propose, that the Agreement be amended, whereupon Western
16 shall consult with the other parties to this Agreement to consider such an
17 amendment. 36 CFR 800.6(c)(1) shall govern the execution of any such
18 amendment.

19 F. *Termination*:

- 20 1. If Western or the project proponents determines that either cannot
21 implement the terms of this Agreement, or if any party to this
22 Agreement determines that the Agreement is not being properly
23 implemented, such party may propose to the other parties to this
24 Agreement that it be terminated.
- 25 2. The party proposing to terminate this Agreement shall so notify all
26 other parties to this Agreement, explaining the reasons for seeking
27 termination and affording them at least 30 days to consult and seek
28 alternatives to termination. The parties shall then consult.
- 29 3. Should such consultation fail, only Western or the SHPO may
30 terminate the Agreement by so notifying all other parties.
- 31 4. Should this Agreement be terminated, Western shall either:
32 a. Consult in accordance with 36 CFR 800.6 to develop a new
33 Agreement; or
34 b. Request the comments of the Council pursuant to 36 CFR
35 800.
- 36 5. Should CA-RIV-6370H be determined to be not eligible for inclusion
37 in the National Register of Historic Places, this Agreement shall be
38 terminated and neither Western nor the project proponents shall be

required to exercise further responsibility for the integrity of the site or collection.

G. Terms binding on successors in interest: Unless it is terminated or otherwise becomes null and void, this Agreement shall be binding on any successors in interest to the project proponents.

Execution of this Agreement by Western and the SHPO, and its submission by Western to the Council in accordance with 36 CFR 800.6(b)(1)(iv), shall evidence, pursuant to 36 CFR 800.6(e), that this Agreement is considered to be an agreement with the Council for the purposes of Section 110(I) of the National Historic Preservation Act. Execution and submission of this Agreement, and implementation of its terms evidence that Western has afforded the Council an opportunity to comment on the undertaking and its effects on historic properties, and that Western has taken into account the effects of the undertaking on historic properties.

SIGNATORY PARTIES:

WESTERN AREA POWER ADMINISTRATION

By: [Signature] Date: 6/13/02

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: [Signature] Date: 6/14/02

CONCURRING PARTIES:

BLYTHE ENERGY, LLC

By: [Signature] Date: 7/8/02

RIVERSIDE COUNTY POWER

By: _____ Date: _____

required to exercise further responsibility for the integrity of the site or collection.

G. *Terms binding on successors in interest:* Unless it is terminated or otherwise becomes null and void, this Agreement shall be binding on any successors in interest to the project proponents.

Execution of this Agreement by Western and the SHPO, and its submission by Western to the Council in accordance with 36 CFR 800.6(b)(1)(iv), shall evidence, pursuant to 36 CFR 800.6(c), that this Agreement is considered to be an agreement with the Council for the purposes of Section 110(I) of the National Historic Preservation Act. Execution and submission of this Agreement, and implementation of its terms evidence that Western has afforded the Council an opportunity to comment on the undertaking and its effects on historic properties, and that Western has taken into account the effects of the undertaking on historic properties.

SIGNATORY PARTIES:

WESTERN AREA POWER ADMINISTRATION

By: [Signature] Date: 6/13/02

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____

CONCURRING PARTIES:

BLYTHE ENERGY, LLC

By: _____ Date: _____

RIVERSIDE COUNTY POWER

By: [Signature] Date: 8-5-02