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STATE OF CALIFORNIA
Energy Resources
Conservation and Development Commission

In the matter of:

Amendment for the **PALEN SOLAR
ELECTRIC GENERATING SYSTEM**

DOCKET NO. 09-ACF-7C

COLORADO RIVER INDIAN TRIBES

**Opening Testimony of Rebecca Loudbear, Winter King and Sara Clark regarding
Comments on Cultural Resources, Visual Resources, Environmental Justice, Biological
Resources, and Alternatives**

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INTRODUCTION

The Colorado River Indian Tribes (CRIT or Tribes) is seriously concerned about the significant and irreparable adverse effects on cultural resources sacred to CRIT members that will result from approval and construction of the Palen Solar Electric Generating System (the Project). On behalf of the Tribes, and as counsel for CRIT, we have reviewed the Final Staff Assessment (FSA) for the Project to determine whether the CEC has adequately addressed these adverse effects in compliance with the California Environmental Quality Act and other applicable laws. While in some instances the FSA correctly acknowledges the significant and unmitigable impacts of the proposed Project, it is our opinion that the FSA also downplays certain impacts, condones the deferral of necessary analysis, and proposes Conditions of Certification that either do not adequately protect resources or result in additional harms. We do not believe that the Project is ready for evidentiary hearings. We, on behalf of CRIT, urge the California Energy Commission (CEC) to deny the application to amend the Project given the significant adverse harm that will result.

The overview testimony contained in this document is supported by additional testimony provided by CRIT members and staff. Where appropriate, we provide cross-references to such testimony.

QUALIFICATIONS

Rebecca A. Loudbear is the Attorney General for the Colorado River Indian Tribes. She advises CRIT on all legal matters affecting CRIT's government and its enterprises. In recent years Ms. Loudbear has assisted CRIT in assessing and monitoring the impacts of development within the ancestral homelands of CRIT members, both on and off the reservation. Ms. Loudbear also assists CRIT in implementing and enforcing its Human and Cultural Resources Code for the protection of CRIT members, their culture and traditions. Ms. Loudbear has represented Tribal governments and entities for approximately nine years which has included work with another Tribe and its elders in the drafting and implementation of their language and culture code. Ms. Loudbear received her JD from the University of Wisconsin-Madison and her BS in Social Work from Brigham Young University.

Winter King is a partner at Shute, Mihaly & Weinberger, LLP. She has represented the Colorado River Indian Tribes on a variety of land use, environmental, and cultural resource matters for the last seven years, including representing the Tribes in litigation against the Bureau of Land Management following the discovery of substantial buried cultural resources at the site of the Genesis Solar Energy Project. Ms. King has also worked with CRIT to assess the cultural resource impacts resulting from the development of utility-scale renewable projects in the ancestral homeland of CRIT members. Ms. King's experience includes representing tribes, non-profit organizations, community groups and local governments on matters relating to the California Environmental Quality Act, the National Environmental Policy Act, Federal Indian law, and State Planning and Zoning law. Ms. King received her JD from the Yale Law School and her BA from St. John's College.

Sara A. Clark is an associate attorney with Shute, Mihaly & Weinberger, LLP. She has worked with CRIT to assess the cultural resource impacts resulting from the development of utility-scale renewable projects in the ancestral homeland of CRIT members and to participate in administrative and judicial proceedings to encourage long-term protection of such resources for the past two and half years. Ms. Clark's experience also includes representing organizations, tribes, and local governments on matters relating to the California Environmental Quality Act, the National Environmental Policy Act, Federal Indian law, and energy contracts. Ms. Clark received her JD from the University of Berkeley, School of Law and her BA in Environmental Science and Public Policy from Harvard University.

STATEMENT

The Project, if approved, would result in the construction of two 750 foot power towers and the installation of 170,000 heliostat pedestals across 3,794-acres of relatively pristine desert habitat located precisely within the ancestral homeland of many CRIT members. FSA 3-3. Benefits of this Project—including the provision of domestic energy and a reduction in greenhouse gas emissions¹—would flow, albeit moderately, to residents of southern California and the world as a whole, while the adverse impacts of the Project would be concentrated on those individuals with cultural connections to the landscape and the plants and animals that have relied on this habitat since time immemorial. As a result of this inequity, CRIT urges the Commission to deny the Project. *See* Testimony of Wayne Patch, Sr. regarding Impacts of Renewable Energy Projects on the Colorado River Indian Tribes.

If the Commission chooses to move this Project to approval, we note that the burden falls on BrightSource, the Project Owner, to prove that the Project complies with all requirements for citing power plants in California. The Applicant has provided relatively little information regarding cultural resources, however, and has repeatedly refused to comply with requests from CEC Staff to provide the information necessary for them to complete their analysis. Such a recalcitrant and dismissive attitude should not be rewarded with the quick approval now sought.

As a result of this paltry information from BrightSource, the significant information regarding cultural resources comes from the two CEC Staff Assessments. We note that the Preliminary Staff Assessment (PSA), released in July 2013, contained relatively little information about Cultural Resources. CRIT nevertheless raised its then-known concerns in a comment letter, provided as Exhibit 8001. Similar concerns were also raised by other area tribes and Native American groups, including the Quechan Indian Tribe, Agua Caliente Band Cahuilla Indians, and the Soboba Band of Luiseno Indians, and La Cuna de Aztlan Sacred Sites Protection Circle. Their comment letters are also provided as Exhibits 8001-8005. The Cultural Resource section of the FSA, released only two weeks ago, is over 200 pages long and complex. While it is clear that the CEC Staff have attempted to make a good-faith effort to provide adequate

¹ We note that while BrightSource touts this Project as a “green” alternative, the Project still requires significant quantities of natural gas to increase efficiency of its proprietary technology. FSA 3-6.

analysis, they have been hamstrung in part by a perceived need to rush the Project approval and the dearth of information resulting from BrightSource's decisions and the tight timeline. This testimony focuses on the numerous errors and omissions that still mar this document. We urge the Commission to find that BrightSource has failed to meet its burden in requesting the proposed amendment.

Cultural Resources

Impacts to the Chuckwalla Valley Landscape and Traditional Cultural Properties

The FSA focuses its attention on the landscape level impacts of the proposed Project. In particular, the CEC Staff identifies the massive Pacific to Rio Grande Trail Landscape (PRGTL), and attempts to situate the known traditional cultural properties, trails, individual archaeological sites, and places between within this cultural and historic landscape. In our opinion and experience, this approach better addresses the cultural resource concerns raised by CRIT members than the individual resource approach frequently taken in considering utility-scale solar projects. *See Sustainable Preservation: California's Statewide Historic Preservation Plan, 2013-2017, Exhibit 8006* (advocating for a landscape level of assessment to ensure the avoidance, minimization and mitigation of impacts from renewable energy projects on public land with rich archaeological deposits).

The FSA then rightly asserts that “the amended configuration of the [Project] in combination with the basic physiographic structure of the Chuckwalla Valley combine to amplify the reach of the amended project's visual presence in the valley.” FSA 4.3-4. The two solar towers will be massive, dwarfing everything else—natural or man-made—in the vicinity. CRIT members have observed the steady transformation of their ancestral homeland into an industrial landscape, and the approach selected by the CEC Staff presents an honest assessment of the concerns raised by this transformation. CRIT concurs that if the Project were constructed, “the landscape would no longer retain the integrity of [setting, feeling, and association] to convey [] unique historic events and high artistic values.” FSA 4.3-154 to 156. There is no “feasible way to mask the visual presence of the towers or the solar receiver steam generators,” and there are no “mitigation measures that would reduce the loss of an entire landscape or a significant portion of one to a less than significant level.” FSA 4.3-159.² CRIT members attest to the interruption in cultural and spiritual experiences resulting from the construction of utility-scale solar plants. *See Exhibit 8017.*

While we concur with the FSA's ultimate conclusion regarding landscape-level impacts, the analysis nevertheless errs in certain respects. For example, the FSA relies on a 15-mile radius in considering visual impacts on cultural and ethnographic resources. FSA 4.3-3, 59. However,

² We note that while the body of the FSA makes clear that construction of the proposed Project will result in a project-specific significant impact to the Chuckwalla Valley portion of the PRGTL (FSA 4.3-158 to 161), the conclusion section appears to inadvertently omit this information. FSA 4.3-174.

the FSA also acknowledges that the Project will be visible for up to 30 miles. FSA Visual Resources Figure 2; *see also* FSA 4.3-42 (“Staff has observed in the field that the project will be plainly visible from *at least* 15 miles away.”) (emphasis added). No explanation is provided to support the artificial geographic restriction on the cultural resource analysis. Given that significant cultural resources are found within the wider viewshed of the Project (*e.g.*, the western flanks of the McCoy and Mule Mountains), it is our opinion that the analysis must be revised to incorporate this wider radius.

In addition, the FSA concludes, without support, that the period of significance for certain traditional cultural properties and the Chuckwalla Portion of the PRGTL ended in 1936. FSA 4.3-104 (Palen Dunes/Palen Lake TCP), 107 (Ford Dry Lake TCP), 118 (North Chuckwalla Prehistoric Quarry District TCP), 119 (Long Tank TCP), 121 (Alligator Rock TCP), 125 (San Pascual Well TCP), and 149 (Chuckwalla Valley portion of the PRGTL). Given the ongoing use of these traditional cultural properties and the cultural landscape more broadly—as noted in the FSA itself (*e.g.*, FSA 4.3-103, 106, 117)—the period of significance must be revised to include the present day.

Impacts to Trails

One of CRIT’s primary concerns is the impact of the Project on area trails. Trails not only connect areas of critical cultural importance, such as springs, mountains, and sacred places, but trails are themselves of critical cultural importance. For example, for CRIT’s Chemehuevi members, the Salt Songs provide a unique mechanism for understanding and connecting to the landscape surrounding the Project. Traditional practitioners regularly travel through this landscape—both in the western sense and in the supernatural sense—using these songs as their guide. *See* Exhibits 8015, 8018; Testimony of Wilene Fisher-Holt regarding Impacts of the Palen Project on Cultural Resources. Mohave oral history and song also make reference to the trail system in the area. *See* Exhibit 8017; Testimony of Wilene Fisher-Holt regarding Impacts of the Palen Project on Cultural Resources. Interruption of these trail circuits by construction of the Project and the fencing of the entire Project site (FSA 3-3) would impede cultural practices in this area.

The FSA notes that some prehistoric trails (such as the Halchidhoma or Coco-Maricopa Trail) “may run directly through the [Project] facility site” or just outside of the site boundaries. FSA 4.3-22; *see also* FSA 4.3-143 (“We can see a vast network of trails in the Chuckwalla Valley, several of which pass directly through the [] Project area footprint.”); *id.* (“Movement corridors associated with oral traditions in the vicinity of the Chuckwalla Valley include the Xam Kwatcam Trail along the Colorado River, a trail associated with the Yuman speaker’s oral tradition, and the Salt Song of the Chemehuevi Tribe.”). Astoundingly, nowhere does the FSA consider the significance of direct impacts to these trails—which presumably include their ultimate closure—some of which are recorded historic sites. In our opinion, this lack of analysis violates CEQA (and hence the CEC’s certified regulatory proceeding), which requires disclosure of and development of mitigation for all potentially significant impacts. It also results in an incomplete LORS analysis, as numerous federal laws, including the National Historic Preservation Act, the National Environmental Quality Act, the American Indian Religious

Freedom Act, and Executive Order 13007 on Indian Sacred Sites, serve to protect access to sacred sites.

Deferral of Analysis

The FSA is unfortunately rife with instances where analysis of cultural resource impacts will be deferred to some future time or simply left incomplete. Based on information gleaned from CRIT's participation in the proceedings thus far and on the information contained in the FSA, it appears that a significant portion of this deferred or incomplete analysis results directly from BrightSource's refusal to complete necessary studies (or to complete such studies in a timely fashion). For example, the FSA notes that "the project owner ultimately declined to conduct [fieldwork on cultural resources impacts] on a schedule that would have made the resultant data available to staff in time to incorporate in the present analysis." FSA 4.3-4; *See also* FSA 4.3-62. BrightSource has also undertaken "no substantive consideration of the amended project's visual effect on these mountain resource areas or on the individual cultural resources that are probably present within them." FSA 4.3-87. Similarly, BrightSource's late development and submission of a trail study resulted in underutilization of the information it contained (FSA 4.3-62), and its "apparently incomplete prehistoric archaeological record search data," has called the accuracy of the FSA into question. FSA 4.3-89. As expressed above, it is inappropriate to reward BrightSource with a quick approval when it has failed to meet such basic requirements.

While CEC Staff has attempted to devise mechanisms to work around this missing information, its resort to after-the-fact studies is insufficient. The FSA proposes CUL-1, which requires completion of field work as *mitigation* for the Project's impacts. FSA 4.3-178 to 181. But analysis of a project's impacts is intended to provide information to help decisionmakers assess the proposal, not to serve as a post-hoc verification of a presumed significant impact. This type of activity is particularly inappropriate where the known information indicates that the Project is likely to cause unique and significant impacts. Such is the case here. Limited field work conducted by CEC Staff confirmed that the requested analysis "was warranted." FSA 4.3-62; *see also* FSA 4.3-85 ("The results of the reconnaissance were both definitive and imprecise; definitive in that the reconnaissance produced positive and intriguing cultural resource findings, and imprecise in that the reconnaissance was conducted with limited staff resources and was a very limited sample of the project area of analysis."). In our opinion, this tactic—of assuming that the Project will result in significant impacts, but of delaying actual analysis of those impacts to after Project approval—is a clear-cut violation of CEQA's prohibition on deferred analysis.

CRIT is also concerned about the Commission's potential reliance on an incomplete ethnographic study. CEC Staff partially completed an ethnographic study "to identify Native American concerns" and used this study "as a basis for determining the significance of related resources and potential mitigation . . ." FSA 4.3-24. The FSA identifies this ethnographic study

as “final.” FSA 4.3-53. However, CRIT members have not yet had the opportunity to contribute to this ethnographic study, resulting in an analysis that is incomplete. FSA 4.-3-61.³

The FSA inaccurately concludes that omission of CRIT interviews is irrelevant “because the cultures represented within the CRIT tribal membership are also represented by other tribes consulted for this project.” FSA 4.3-61. CRIT finds this explanation offensive: tribes and their members are not interchangeable. For example, the Mohave groups living near Blythe have different histories of and cultural connections to the land at the Palen site than those living farther north and closer to Needles.

As detailed in the Testimony of Doug Bonamici regarding Consultation and the Ethnographic Study for the Palen Project, CRIT has developed protocol to ensure that interviews with Tribal members regarding cultural and ethnographic resources are conducted in a manner that ensures confidentiality of sacred information and respect for tribal members. Working through the necessary conditions and requirements can take time, and in this case, the required documents were not completed in advance of ethnographic interviews. As a result, CRIT members have been left out of the Ethnographic Study, despite their willingness and desire to provide information about the Project site and express their concerns about the Project impacts. In our opinion, the refusal of the CEC Staff, BrightSource, and the Commission to employ a timeline that can accommodate these necessary steps has resulted in a document that cannot yet serve as the basis for Project approval.

Buried Cultural Resources

As attested to in Exhibits 8007 to 8010 and 8016 to 8017,⁴ disturbance of archaeological resources, burials, and cremation sites associated with the ancestors of CRIT members results in severe cultural harm. Consequently, CRIT attempts to closely review the methods proposed to address discoveries of buried cultural resources during ground disturbance occurring within the ancestral homeland of CRIT members.

The FSA details that in conjunction with the original licensing proceeding, the original project owner excavated just twelve boreholes and eight test pits across a 4,366-acre site, in order to assess the possibility of encountering buried cultural materials. FSA 4.3-53. While no buried cultural materials were found, these excavations provided scant coverage of the area of potential disturbance. The trenching that occurred at the Genesis Solar Energy Project in the

³ Moreover, CRIT has yet to thoroughly review the Ethnographic Study. The Ethnographic Study was not released until one day before this testimony was due to the Docket Unit, and only after we contacted the Public Advisor’s Office. Given this insufficient time for review, CRIT reserves the right to provide additional testimony on the Ethnographic Study with rebuttal testimony.

⁴ Exhibits 8007 to 8010 are declarations originally prepared in support of CRIT’s application for a temporary restraining order to halt construction on the Genesis Solar Energy Project. As these declarations describe the cultural harm that results from the disturbance of buried cultural resources, they are relevant here as well.

name of site evaluation—which revealed few resources in comparison to the thousands of resources eventually uncovered when the entire site was graded—serves as a grave example of the fallacy of this needle-in-a-haystack approach. *See* Testimony of Rebecca Loudbear, Winter King and Sara Clark regarding Lessons Learned from the Unanticipated Discovery of Buried Cultural Material at the Genesis Solar Energy Project. CRIT members also attest to the likelihood of discovering cultural materials in this sacred area. *See* Exhibit 8017.

The FSA then states that the potential for encountering buried cultural material is “highest” in the northeast quadrant of the original archaeological PAA (without describing where this region is in relation to the Project currently under consideration), but unlikely within the remainder of the PAA, due to the depth of buried deposits. FSA 4.3-54. CEC Staff nevertheless suggest a suite of mitigation measure to reduce the otherwise potentially significant impact to less than significant.

In our opinion, the FSA’s conclusion that these mitigation measures reduced the potential impact to “a less than significant level or to the extent feasible” (FSA 4.3-80) is not supported by substantial evidence. First, CUL-5 requires post-approval preparation of a Cultural Resources Mitigation and Monitoring Plan (CRMMP). This crucial document will include protocols to address “newly discovered prehistoric archaeological resource types; artifact collection, retention/disposal and curation policies; use of Native American observers.” FSA 4.3-191. Without information about the specific protocols and estimates of their efficacy, it is impossible to conclude with certainty that the preparation of this document *will* reduce all impacts. Its development should not be delayed until after approval of the Project. Moreover, CUL-5 does not guarantee tribal review and comment on the CRMMP. While the response to comment section of the FSA suggests that such opportunities may be given (*e.g.*, FSA 4.3-169, 171), it is not currently required of BrightSource. Consequently, tribes are given no assurance that concerns about the later-developed document will even be considered.

Second, implementation of the CRMMP is left to BrightSource and its hired consultants. FSA 4.190 (“Implementation of the CRMMP shall be the responsibility of the [Cultural Resource Specialist] and the project owner.”). As described in our testimony detailing the difficulties CRIT encountered with respect to buried cultural material at the Genesis Solar Energy Project, it is crucial that responsible agencies retain control over project implementation. *See* Testimony of Rebecca Loudbear, Winter King, and Sara Clark regarding Lessons Learned from the Unanticipated Discovery of Buried Cultural Material at the Genesis Solar Energy Project. Unless it is clear that the measures to be included in the CRMMP will be enforceable, it is our opinion that impacts to unanticipated buried cultural resources cannot be reduced to a less than significant level.

Third, the use of Native American Monitors (NAMs) is not clearly described. CUL-8 requires BrightSource to higher NAMs “in areas where Native American artifacts may be discovered.” Given the location of the Project and the concentration of cultural resource materials in this area, it is our opinion that Native American artifacts may be discovered across the entire Project site. Consequently, this geographic modification to the requirement is unnecessary and potentially confusing. In addition, NAMs must be given the authority to halt

construction in the event of a resource discovery—otherwise, their inclusion in monitoring activities is largely for show.

Fourth, communication between affected tribes and the CEC Compliance Project Manager (CPM) regarding discoveries must be strengthened. Monitoring logs must be timely provided to affected tribes, in accordance with the language in CUL-8. FSA 4.3-202. Notification regarding prehistoric resource discoveries must be given to tribes within 24 hours, and the CEC—not just BrightSource—must be accountable in the event this activity does not occur. FSA 4.3-203. Finally, tribes must be given a clear contact person within CEC staff in the event they have concerns related to construction of the Project.

Finally, but perhaps most importantly, the Conditions of Certification must be revised such that *avoidance* of any newly discovered cultural resource is given adequate consideration. Currently, CUL-9 states that any unanticipated discovery will receive a “proposed data recovery plan.” FSA 4.3-203. But *avoidance* of buried archaeological materials is the preferred mitigation measure under CEQA, unless such avoidance is infeasible, and such language must be inserted into the Conditions of Certification accordingly. Moreover, as CRIT learned with the Genesis Project, a mere statement of preference can be insufficient. Consequently, we urge the CEC to require written findings of infeasibility in the event that a significant unanticipated discovery is made during construction and truly cannot be avoided. *See* Testimony of Rebecca Loudbear, Winter King and Sara Clark regarding Lessons Learned from the Unanticipated Discovery of Buried Cultural Material at the Genesis Solar Energy Project

To assist the Commission's consideration of these concerns, we intend to provide proposed revisions to the Conditions of Certification as a later Exhibit.

The problems associated with buried cultural resources that we identify above result in part because the FSA focuses primarily on the impacts from the proposed change in technology (FSA 1-1, 4-3.60), rather than on the impacts that will result from the Project as a whole. However, as the unanticipated discoveries at the Genesis Solar Energy Project constitute “new information of substantial importance” relating to both the likelihood of discovering buried cultural material and the resulting harm (CEQA Guidelines § 15162(a)(3)), the CEC must newly consider these potential impacts. It is not sufficient to rely exclusively on the analysis and mitigation approved for the original project to address these issues.

CRIT does acknowledge that the proposed amendment offers some potential benefit related to buried cultural resources. In particular, the reduction in the amount of grading required to construct the Project significantly reduces the likelihood that artifacts will be disturbed. However, CRIT rejects the implied belief of both CEC Staff and BrightSource that installing heliostat pedestals will not result in harm to buried cultural materials, simply because the direct harm will remain unknown. Damage or disruption to buried resources does not disappear simply because it cannot be immediately seen. *See* Testimony of Wilene Fisher-Holt regarding Impacts of the Palen Project on Cultural Resources.

Impacts to Individual Sites

The FSA states that the Project will result in direct impacts to three prehistoric archaeological sites containing lithic scatters and fire-affected rocks. FSA 4.3-82. Despite the fact that Project construction will necessitate the removal and curation of these artifacts from the landscape, the FSA nevertheless concludes that impacts to such resources will be less than significant. FSA 4.3-2, 4-3-175. It is our opinion that this conclusion is not supported by substantial evidence.

As outlined in Exhibits 8007 to 8010 and in Exhibit 8015, for CRIT's Mohave members, the removal of such artifacts—even in the name of “data recovery”—will result in significant cultural harm. *See also* Exhibit 8015 (CRIT member expressing concern that data recovery often results in loss of access to such resources by the Tribes). Such artifacts provide direct linkages to their ancestors and verification of a traditional oral history. *See* Exhibit 2010.

The Commission should consider modifications to the Conditions of Certification that avoid or reduce this significant impact. In particular, the Commission should consider requiring BrightSource to avoid these three sites. We understand that one benefit of the proposed technology is that individual heliostat pedestals can be moved or removed without significant impacts to the output of the Project. To the extent these sites are contained within the heliostat fields, placement of heliostat pedestals should be modified to avoid these sites.

Even if such modifications are truly infeasible, the CEC should still consider modifications to CUL-11 and CUL-12, which require data recovery efforts at the three prehistoric sites. FSA 4.3-204 to 209. While data recovery techniques can be used to mitigate for the loss of *scientific value* associated within these sites, such techniques result in significant cultural harm. Instead, the CEC should require in-situ reburial of these materials, completed in conjunction with affected area tribes.

Cumulative Impacts

CRIT agrees with the FSA's conclusion that “the already cumulatively considerable impact from the originally proposed project will be an even greater cumulatively considerable [cultural resource] impact with the amended project.” FSA 4.3-164. Despite this accurate conclusion, the FSA fails to adequately consider the cumulative impacts resulting from the transformation of CRIT's ancestral homeland into an industrial landscape intended to generate electricity for the American Southwest. For example, the FSA states that “construction of the Chuckwalla Valley and Ironwood State prisons probably caused the most disturbance in the I-10 corridor,” totaling 1,720 acres of disturbance. FSA 4.3-164. Construction of utility-scale renewable energy projects, however, has dwarfed this earlier disturbance. According to our latest calculations, the CEC and BLM have approved renewable energy projects on close to 19,000 acres within the I-10 corridor alone. *But see* FSA 4.3-165 (claiming that only 7,898 total acres have been disturbed in this corridor). The cumulative impact section must be revised to accurately describe and analyze the impacts of these similar, and similarly destructive, projects.

The FSA proposes using a monetary contribution to mitigate for cumulative cultural resource harms, a strategy approved on prior projects. FSA 4.3-182. For prior iterations of Palen and Blythe, and for the Genesis Solar Energy Project, which is now under construction, the CEC imposed specific contributions on a per-acre basis. But the FSA provides no information on how the money already collected has been spent, and how the contributions will be used now that the CEC staff is recommending moving away from the Prehistoric Trails Network Cultural Landscape (FSA 4.3-83 to 84) or from nominating any landscape-level resource at all (FSA 4.3-150). Without this additional information, it is impossible to tell whether this mitigation measure is at all effective. The FSA must be revised to provide this additional information.

LORS

One of the primary purposes of the FSA is to determine whether a proposed project complies with all applicable local, state, and federal laws, ordinances, regulations and standards (LORS). The Commission cannot approve a project that does not conform with all LORS unless it determines that the project is required for public convenience and necessity. Consequently, identification of all applicable LORS is a crucial step in the siting process.

Unfortunately, the FSA offers little guidance on compliance with LORS related to cultural resource protection. The sole federal LORS considered is BLM-Cal SHPO-Project Owner Programmatic Agreement. FSA 4.3-8. The Programmatic Agreement, however, is the mechanism for implementing Section 106 for the *prior* project. Given that BLM is embarking on a new federal undertaking in considering the Project (particularly as BLM never approved the *prior* project), BLM must comply with the full suite of applicable federal LORS. Consequently, the Commission must consider whether the Project conforms to the National Environmental Policy Act, the National Historic Preservation Act, the American Indian Religious Freedom Act, and Executive Order 13007, among other regulations and standards.

The FSA offers reason to doubt conformity with this panoply of federal laws. In particular, the FSA reveals numerous additional impacts on eligible historic resources resulting from the Project's increase visual impacts, including traditional cultural properties, sacred sites, and archaeological resources. As described above, the Project also impedes access to the prehistoric trails that cross the site, invoking the requirements of federal laws intended to protect sacred places, including the American Indian Religious Freedom Act and Executive Order 13007. Consequently, adequate consideration of all applicable LORS will likely reveal a lack of conformity. CRIT contends that the public convenience and necessity override standards cannot be met in such circumstances.

Consultation

CEC Staff met with CRIT Staff on two occasions: on March 22, 2013 and during the week of August 12, 2013. FSA 2-4 to 5; 4-3.56 to 57. The purpose of both meetings was for CEC Staff to convey information about the Project to CRIT staff. While CEC Staff has been cordial and professional, neither meetings were anything more than informational presentations. Testimony of Doug Bonamici regarding Consultation and the Ethnographic Study for the Palen

Project. Neither of these informational meetings provided the kind of government-to-government consultation intended or required by applicable California law.

Compensatory Mitigation

The FSA proposes a suite of compensatory mitigation to “ameliorate” the loss of the cultural landscape. FSA 4.3-159. Included in this suite of measures is funding for “initiatives to directly, albeit partially, compensate Native American communities . . . for degradation of the associative and emic ethnographic values of their ancestral homelands.” FSA 4.3-182, 185. Such initiatives will be developed in the future by a “steering committee” selected to represent the interests of Native American stakeholders. *Id.* The steering committee’s selection of initiatives is required to occur within nine months of their original selection. FSA 4.3-185.

CRIT members are typically uncomfortable with the idea of receiving monetary compensation as mitigation for disturbance and destruction of cultural resources. In no circumstances can cultural resources be assigned a monetary value, and in no circumstance would CRIT voluntarily allow such cultural harm in exchange for funding. However, in the event that projects are approved within CRIT’s ancestral homeland, over CRIT’s stringent objection, CRIT does not oppose measures designed to fund further preservation of tribal culture. However, it is important to note that receipt of such funding is a sensitive issue for affected tribes and consequently, the CEC must be realistic about the amount of time a “steering committee” will likely need to develop appropriate initiatives. Nine months is simply unrealistic. There is no reason why the CEC cannot permit a much longer time frame for such a process.

Environmental Justice

CRIT supports CEC Staff’s consideration of the Environmental Justice implications of impacts to cultural resources. FSA 4.3-51. In particular, CRIT agrees that “the Indian tribes affiliated to the Chuckwalla Valley (through ancestral or traditional use claims) [] constitute environmental justice populations.” *Id.*

However, CRIT notes that an adequate environmental justice analysis includes not only identification of areas potentially affected by impacts and identification of environmental justice populations within those areas, but also “a determination of whether there may be a significant adverse impact on a population of minority persons . . . caused by the proposed project alone, or in combination with other existing and/or planned projects in the area.” FSA 1-4. While a significant adverse environmental justice impact is implied by the conclusions of the Cultural Resource section of the FSA, this determination must be made explicitly by the Commission. CRIT also contends that approval of the Project is inappropriate in the event such a determination is made. *See also* Testimony of Doug Bonamici regarding Consultation and the Ethnographic Study for the Palen Project.

Visual Resources

In considering the Project’s conformance with visual resource LORS, the FSA states that “the project was found to be in compliance with the information disclosure requirements of the

California Desert Conservation Area (CDCA) Plan through the visual impact analysis presented here and in the BLM DEIS for the project.” FSA 4.12-35. The CDCA Plan and the Federal Lands Policy and Management Act (FLPMA), under which the CDCA Plan was created, however, impose more than “information disclosures requirements.” Importantly, the Commission must consider whether the Project conforms with the Plan’s requirements for Visual Resource Management classes. In our opinion, the Project does not.

The FSA is correct to point out that “the CDCA Plan did not include [a] Visual Resource Management (VRM) inventory or management classes.” FSA 4.12-36. However, the CDCA Plan imposed a requirement that BLM consider compliance with VRM classes on a project-by-project basis. Palen Solar Electric Generating System Draft SEIS, at 3.19-3 (Exhibit 8012) (“BLM land managers must establish ‘Interim VRM Classes’ for individual projects on a case-by-case basis.”). Consequently, BLM establishes VRM classes for areas within the CDCA Plan when Projects are proposed, and any subsequent projects must comply with the VRM class requirements.

On the Project site, BLM established a VRM Class III designation in its approval of the Devers-Palo Verde 2 Transmission Line. Draft SEIS, at 3.19-3. VRM Class III designations require that any level of change to the characteristic landscape must be “moderate,” and that management activities “should not dominate the view of the casual observer.” Draft SEIS, at 3.19-4. As noted in the Draft SEIS, this Project *does not conform* with the applicable Class III designations. Draft SEIS at 4.18-15 to 17. Consequently, the Project does not comply with all applicable federal LORS.

BLM’s treatment of interim VRM designations within the California Desert Conservation Area Plan is currently the subject of litigation brought by the Quechan Indian Tribe challenging the Ocotillo Wind Energy Facility. *Quechan Tribe of the Fort Yuma Indian Reservation v. U.S. Department of the Interior*, Case No. 13-55740 (9th Cir.). Contrary to the requirements of FLPMA and the CDCA Plan, BLM has repeatedly changed VRM designations just prior to project approval specifically in order to ensure conformity or has approved projects despite an acknowledged lack of conformity. CRIT submitted an amicus brief supporting Quechan’s position in this litigation, which is provided as Exhibit 2013. For the reasons outlined in the attached brief, the Commission should not condone any attempt by BrightSource to assert that VRM classifications can be ignored.

Biological Resources

CRIT members are particularly concerned about the impacts of the Project on avian species. The redtail hawk and golden eagle are both culturally significant species: hawks are used for guidance on spiritual runs, feathers are used in ceremonies, and birds are incorporated into clan names. *See* Exhibit 8016. CRIT members are also concerned about the impacts of the Project on plant species, including creosote and ash brush, both of which are used in ceremonies. *See* Exhibit 8016. The FSA concludes that the Project will result in a “total loss” of the function and value of vegetation on the 3,794 acre site. FSA 1-6. Moreover, the FSA notes that the Project will likely attract avian species to the Project site (due to the “mirage” like effect of the heliostats), only to cause injury or death from solar flux. *Id.*; *see also* Exhibits 8015 (referencing

bird deaths at Ivanpah), 8019 (referencing bird deaths at Genesis); TN# 200531 (BLM raising concerns that BrightSource has failed to provide the information necessary to assess impacts to Golden Eagles). In our opinion, the Commission must consider the *cultural* harm resulting from these impacts along with the biological harm, particularly in considering whether to grant the Project the necessary override.

When the Quechan Indian Tribe asked the CEC to further analyze impacts to biological resources through a cultural lens, CEC staff stated that “staff assessment of impacts to culturally sensitive plant and animal species is not required.” FSA 4.3-171. However, the FSA notes that the Chuckwalla Valley portion of the PRGTL is composed of *natural* and cultural elements, including culturally important plants and animals. FSA 4.3-15; *see also* FSA 4.3-151. Given the importance of natural elements to cultural practices, we urge the Commission to reconsider staff’s position on this topic.

Alternatives

An alternatives analysis is the heart of the CEQA process. It allows the decisionmaker to determine whether other options can achieve the same public goals while reducing significant environmental impacts. As such, a robust alternatives analysis is particularly important where, as here, the environmental review reveals significant and unmitigable impacts associated with the proposed project.

Our review of the alternatives section of the FSA reveals two fundamental concerns that must be addressed by the Commission. First, the FSA rejects both distributed generation and energy efficiency alternatives as infeasible. FSA 6.1-20 to 25. In particular, the FSA discards these alternatives because BrightSource cannot *require* landowners to employ distributed generation (DG) or energy efficiency technologies. However, the FSA fails to consider the possibility of using financial incentives to encourage this kind of activity, or any existing business models that capitalize on the growing DG market. *See, e.g.*, <http://www.bloomberg.com/news/print/2013-03-24/nrg-skirts-utilities-taking-solar-panels-to-u-s-rooftop.html>. The proposed Project will cost approximately \$2 billion to construct. Exhibit 8014. Surely, this is a sufficient amount of money to encourage the construction of between 100 and 500 small-scale distributed generation sites.

Second, the FSA reveals that all alternatives are environmentally superior to the proposed Project. In particular, both the no-Project alternative (i.e., the original project) and the Solar PV alternative offer significant cultural resource benefits when compared to the proposed Project. FSA Alternatives Appendix-2. Under CEQA, a lead agency cannot approve a Project where a feasible and environmentally superior alternative exists. Yet the FSA offers no findings of infeasibility with respect to these two alternatives, nor could it—both options offer clear mechanisms for developing utility-scale renewable energy on-site with reduced cultural impacts.

**Declaration of Rebecca Loudbear
regarding Comments on Cultural Resources, Visual Resources, Environmental Justice,
Biological Resources, and Alternatives**

I, Rebecca Loudbear, declare as follows:

1. I am currently the Attorney General for the Colorado River Indian Tribes. I have worked with CRIT for three years.
2. My relevant professional qualifications and experience are set forth in the attached resume and testimony.
3. I prepared in part the attached testimony relating to the proposed Amendment to the Palen Solar Electric Generating System.
4. It is my professional opinion that the attached testimony is true and accurate with respect to the issues that are addressed.
5. I am personally familiar with the facts and conclusions described within the attached testimony and if called as a witness, I could testify competently thereto.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED: October 16, 2013
AT: Parker, AZ



Rebecca Loudbear

**Declaration of Winter King
regarding Comments on Cultural Resources, Visual Resources, Environmental Justice,
Biological Resources, and Alternatives**

I, Winter King, declare as follows:

1. I am a Partner at Shute, Mihaly and Weinberger LLP, outside counsel to the Colorado River Indian Tribes. I have worked with CRIT on cultural resource protection issues and other matters for 7 years.

2. My relevant professional qualifications and experience are set forth in the attached resume and testimony.

3. I prepared in part the attached testimony relating to the proposed Amendment to the Palen Solar Electric Generating System.

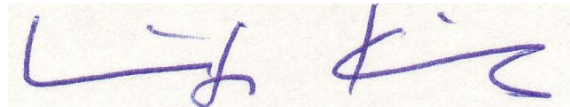
4. It is my professional opinion that the attached testimony is true and accurate with respect to the issues that are addressed.

5. I am personally familiar with the facts and conclusions described within the attached testimony and if called as a witness, I could testify competently thereto.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED: October 16, 2013
AT: San Francisco, CA

By:



Winter King

Declaration of Sara Clark
regarding Comments on Cultural Resources, Visual Resources, Environmental Justice,
Biological Resources, and Alternatives

I, Sara Clark, declare as follows:

1. I am currently an Associate Attorney at Shute, Mihaly and Weinberger, LLP, outside counsel to the Colorado River Indian Tribes. I have worked with CRIT on cultural resource protection issues for two and a half years.

2. My relevant professional qualifications and experience are set forth in the attached resume and testimony.

3. I prepared in part the attached testimony relating to the proposed Amendment to the Palen Solar Electric Generating System.

4. It is my professional opinion that the attached testimony is true and accurate with respect to the issues that are addressed.

5. I am personally familiar with the facts and conclusions described within the attached testimony and if called as a witness, I could testify competently thereto.

6. In addition to this written testimony, I am sponsoring Exhibits 8000 to 8013 in this proceeding. These Exhibits are listed in Opening Testimony document submitted together with this specific testimony.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED: October 16, 2013

AT: San Francisco, CA

By: 

Sara A. Clark

REBECCA A. LOUDBEAR

EDUCATION

1997 - 2000 UW-Madison Law School Madison, WI
J.D. awarded in May 2000
Graduated cum laude (top one-third of class)
Dean's list Fall 1997 and 1998

1992-1996 Brigham Young University Provo, UT
B.S. awarded in Social Work in December 1996

PROFESSIONAL EXPERIENCE

May 2012 to Present Colorado River Indian Tribes Parker, AZ
and
Feb. 2009-July 2011
Attorney General and Deputy Attorney General
26600 Mohave Rd., Parker, AZ 85344; (928) 669-1271
Supervisor: Tribal Council and Eric N. Shepard
Supervise and direct five criminal and civil attorneys and support staff of eleven.
Advise Tribal Council and research Tribal, Federal, and State law and policy and draft opinions and memorandum regarding legal issues and disputes.
Advise numerous departments and enterprises, including casino, tribal gaming agency, airport, realty services, law enforcement, revolving credit, human resources, and others as needed.
Draft and amend tribal ordinances and attend public hearings.
Represent the Tribe in Tribal Court and draft pleadings and briefs for criminal cases and civil suits including contract disputes, eviction, foreclosure, juvenile delinquency, and adult guardianships.
Successfully appealed two criminal cases in the Tribal Appellate Court on behalf of the Tribe.
Advise and consult with outside counsel on litigation involving land disputes, trust resources, conflict cases, environmental law disputes, collections, and tax matters.
Advocate for Tribe with federal agencies and federal Congressional leaders.
Draft and review contracts, memorandums of agreement and resolutions.
Provide back-up assistance for prosecutor.

Dec. 2007-Jan. 2009 Menominee Indian Tribe of Wisconsin Keshena, WI
Assistant Tribal Attorney
P.O. Box 910, Keshena, WI 54135; (715) 799-5194

Supervisor: William F. Kussel, Jr.

Drafted tribal ordinances and attend government committee and legislative meetings regarding proposed ordinances and amendments.

Represented the Tribe in Tribal Court in civil suits.

Advised numerous departments including housing, community development and land use, human resources, tribal police and many others.

Drafted and reviewed contracts, memorandums of agreement, and resolutions.

Researched Tribal, Federal, and State law and policy and draft memorandum regarding legal issues and disputes.

Provided back-up for social services/child support attorney.

Mar. 2007-Dec. 2007 Menominee Indian Tribe of Wisconsin Keshena, WI
Social Services/Child Support Attorney

P.O. Box 910, Keshena, WI 54135; (715) 799-5194

Supervisor: William F. Kussel, Jr.

Appeared in state court actions concerning Menominee children to preserve rights and ensure compliance with Indian Child Welfare Act.

Represented the Tribe in Tribal Court for all child support matters.

Assisted child support specialists in the drafting of summons, petitions, motions, orders, and paternity judgments.

Participated in the Indian Child Welfare Act Codification workgroup to codify ICWA into Wisconsin State Law.

Participated in management team meetings working to revise child support policy and procedures.

Advised as to issues related to minor's and incompetent's trust accounts.

Sept. 2006-Mar. 2007 Lode Star Casino Fort Thompson, SD
Human Resources Manager

P.O. Box 140, Ft. Thompson, SD 57339; (605) 245-6000

Supervisor: Barry Knippling

Coordinated with Tribal Gaming Commission Executive Secretary regarding employee licensing issues and status.

Maintained personnel files and ensured complete preparation of all hiring, discipline, and other required paperwork.

Assisted department managers in hiring, evaluation, and discipline matters.

Facilitated company drug-testing procedures.

Ensured compliance with personnel policy and procedure.

Dec. 2005-Sept. 2006 Menominee Indian Tribe of Wisconsin Keshena, WI
Domestic Violence Prosecutor

P.O. Box 429, Keshena, WI 54135; (715) 799-4444

Supervisor: William F. Kussel, Jr.
Prosecuted all domestic violence cases in Menominee Tribal Court.
Participated in the Coordinated Community Response Team and Domestic Violence Team meetings to ensure an appropriate community-wide response to domestic violence.
Reviewed and revised policies and ordinances relating to the prosecution of domestic violence cases.
Compiled statistics for grant reporting.

Mar. 2003 – Dec. 2005 Menominee Tribal Enterprises Neopit, WI
General Counsel

P.O. Box 10, Neopit, WI 54150; (715) 756-2311

Supervisor: Board of Directors

Guided MTE through several OSHA investigations while protecting sovereignty and resulting in minimal penalties.

Guided MTE effectively through legal issues and disputes with the tribal government and Bureau of Indian Affairs.

Drafted, negotiated, and examined enterprise documents, including sensitive correspondence, policies and procedures, resolutions, contracts, sales and purchase agreements.

Drafted legal opinions interpreting tribal law, federal law, internal policy, and contracts for Board of Directors and management team.

Monitored, prevented, and resolved contract compliance issues under forest management, forest development, and roads maintenance PL 93-638 self-determination sub-contracts and agreements.

Counseled, strategized, and problem-solved with the management team on legal, financial, staff, and other business matters through participation in management team meetings.

Conducted internal investigations.

Updated MTE Board and management and advised on changes in Federal, State, and Tribal law and policy on forestry practices to assist in compliance.

Monitored outside counsel fees and activities and assist in litigation.

Successfully litigated employment and collections matters in tribal and state court.

Attended and participated in Board of Director and Committee meetings.

Sept. 2002-Mar. 2003 Menominee Tribal Child Support Keshena, WI
Paternity Specialist

P.O. Box 910, Keshena, WI 54135; (715) 799-5280

Supervisor: Carol Nunway-Tyler

Drafted petitions, motions, stipulations, and other tribal court documents to establish paternity and child support.

Negotiated settlements in paternity cases.

2001-2002 Derr, Doyle & Villarreal, LLC Beaver Dam, WI

Associate Attorney

200 Front St., Suite 2E, Beaver Dam, WI 53916; (920) 885-5549

Supervisor: Lisa Derr

Litigated divorce, post-judgment, paternity and child support cases.

Drafted correspondence, stipulations, and other court documents.

Negotiated settlements of financial and custody/placement disputes.

Developed skills to lead clients through crisis and difficult issues.

Collected accounts receivables and managed caseload.

2000-2001 Dane County Circuit Court Madison, WI

Prisoner Civil Litigation Staff Attorney

215 S. Hamilton St., Madison, WI 53703; (608) 266-4311

Supervisor: Judge Maryann Sumi

Processed court filings brought by prisoners of the Wisconsin State
Corrections System.

Drafted opinions for Judges regarding sufficiency of prisoner actions.

PROFESSIONAL MEMBERSHIPS

State Bar of Wisconsin member since June 2000 (may be verified at
www.wisbar.org)

Member of the Bar of the Eastern and Western U.S. District Courts of
Wisconsin

Member of the Bar of the Menominee Indian Tribe of Wisconsin Tribal
Court

Member of United State Court of Appeals for the Ninth Circuit

Admitted Pro Hac Vice in Pennsylvania for Indian Child Welfare Act case

WINTER KING

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396 Hayes Street San Francisco, CA 94102
(415) 552-7272 · king@smwlaw.com

EDUCATION

YALE LAW SCHOOL, New Haven, CT
J.D., June 2002

ST. JOHN'S COLLEGE, Santa Fe, NM, and Annapolis, MD
B.A., Liberal Arts, May 1999

PUBLICATIONS

VAWA's New Tribal Court Jurisdictional Provision, Indian Country Today (May 1, 2013) (co-author).

Bridging the Divide: Water Wheel's New Tribal Jurisdiction Paradigm, 47 Gonzaga Law Review 723 (2011/12).

Women, Slums and Urbanisation: Examining the Causes and Consequences, COHRE (2008) (contributing author).

Smart Growth Meets the Neighbors: A Review Essay of Zoned Out: Regulation, Markets, and Choices in Transportation and Metropolitan Land-Use, by Jonathan Levine (RFF Press, 2006), 34 Ecol. L.Q. 1349 (2007).

Trail Planning for California Communities, Solano Press (2006) (contributing author).

Illegal Settlements and the Impact of Titling Programs, 44 HARV. INT'L L.J. 433 (2003), winner of the Connecticut Attorneys' Title Insurance Company Prize, awarded annually at Yale Law School for the best paper in the field of Real Property.

EXPERIENCE

SHUTE, MIHALY & WEINBERGER LLP, San Francisco, CA
Partner, January 2010 to Present; *Associate*, September 2004 to December 2010

Represents Indian Tribes as outside counsel on a variety of matters, including enforcement of lease agreements, tribal sovereignty and jurisdictional issues, land use, cultural resource protection, and

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environmental issues. Appears regularly in tribal court. Assists in developing tribal codes. Also represents community groups and public agencies on environmental and land use matters. Appears regularly in state and federal courts.

HON. MARSHA S. BERZON, San Francisco, CA
U.S. Court of Appeals for the Ninth Circuit
Law Clerk, August 2003 to August 2004

Researched and wrote memoranda analyzing a wide array of legal issues, including environmental law, federal court jurisdiction, immigration, criminal law, constitutional law, and civil and criminal procedure. Assisted Judge Berzon in drafting opinions and preparing for oral argument.

CAHILL GORDON & REINDEL LLP, New York, NY
Associate, September 2002 to July 2003; *Summer Associate*, 2001

Researched legal issues, wrote memoranda, and drafted and revised briefs and pleadings. Assisted in obtaining and producing discovery. Contributed to the development of litigation strategies through discussions with partners and associates.

COKER FELLOW (TEACHING ASSISTANT), Yale Law School, 2001

Instructed students in basic legal research and writing. Developed writing projects for students in their first semester Contracts course. Conducted mock oral arguments, questioning students on their memoranda and briefs. Edited students' work and provided detailed feedback on writing style and content.

RESEARCH ASSISTANT, Yale Law School, 2000-2002

Assisted Professors Ian Ayres and Bruce Ackerman with research for

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their book on campaign finance reform, entitled “Voting with Dollars.” Presented results of legal, historical and political research to Professors Ayres and Ackerman and fellow research assistants at biweekly meetings. Assisted Professors Ayres and Ackerman in editing the manuscript.

Conducted historical and legal research for Professor Lea Brilmayer, Legal Advisor to the Office of the President of Eritrea, in preparation for the arbitration of Eritrea’s border dispute with Ethiopia. Assisted in discovering and organizing documentary support for Eritrea’s submission to the Ethiopia-Eritrea Boundary Commission.

PUBLIC DEFENDER OF ISLAND & SAN JUAN COUNTIES,
Coupeville, WA

Legal Intern, Summer 2000

Researched issues of criminal and constitutional law. Investigated cases and interviewed potential witnesses. Assisted in development of trial strategies. Negotiated with prosecutors for alternative sentences.

BAR ADMISSION *Licensed to practice in New York State since 2003, and in California since 2005.*

Sara A. Clark

485 Tehama St. Unit 2, San Francisco, CA 94103 • (617) 872-9430 • clark@smwlaw.com

Experience

- Shute, Mihaly and Weinberger, LLP San Francisco, CA** Summer 2009, October 2010 - present
Associate Attorney in environmental, federal Indian, energy, and local government law. Litigate CEQA, NEPA, tribal land rights, and sacred site protection cases in state, federal, and tribal court; advocate before administrative agencies; advise local governments, state agencies, and land conservation organizations to help implement programmatic goals; draft conservation easements, settlement agreements, and comment letters.
- Natural Resources Defense Council San Francisco, CA** Academic Year 2008-09
Legal Intern for NRDC's litigation team. Researched and wrote sections of briefs, discovery documents, and internal memoranda for cases involving RCRA, fisheries management, and the Clean Water Act.
- United States Court of Appeals for the Ninth Circuit San Francisco, CA** Summer 2008
Judicial Extern for the Honorable John T. Noonan. Researched and wrote memoranda for cases involving asylum, pension benefits, and property division following quasi-marital relationships.
- Open Space Institute New York, NY** March 2007 - August 2007
Graduate Research Intern for the Conservation Institute. Managed symposium on the role of real estate investment trusts in residential development; researched the intersection of land use regulation and conservation.
- Peninsula Open Space Trust Menlo Park, CA** February 2005 - June 2006
Land Specialist at highly effective regional land trust. Assessed potential land acquisition projects for feasibility and conservation values; supervised Department Assistant; prepared \$45 million land acquisition budget.

Education

University of California, Berkeley, School of Law

J.D., Environmental Law Certificate, May 2010

Honors: Order of the Coif; John Stauffer Memorial Merit Scholarship; Jurisprudence Award (Water Law, Energy Regulation and the Environment); Prosser Award (Environmental Law and Policy)

Activities: ECOLOGY LAW QUARTERLY (Editor in Chief, 2009-10; Publishing Editor, 2008-09); Environmental Law Society (Symposium Steering Committee); Community Legal Outreach

Publications: *Taking a Hard Look at Agency Science: Can the Courts Ever Succeed?*, 36 ECOLOGY L.Q. 317 (2009); *In Brief, In the Shadow of the Fourth Circuit*, 35 ECOLOGY L.Q. 72 (2008)

Research: Assistant to Professors Holly Doremus and Rick Frank (2009-10); Professor Eric Biber (2008)

New York University, Robert F. Wagner School of Public Service

Graduate studies in Urban Planning, 2006-07

Honors: NYU Robert F. Wagner Public Service Scholarship

Publications: *From Diamond International to Plum Creek: The Era of Large Landscape Scale Conservation*, MAINE POLICY REVIEW, Winter 2007 at 56 (with Peter Howell)

Harvard University

B.A., *magna cum laude*, Environmental Science and Public Policy, June 2004

Honors thesis analyzed federal fire and land use policies in the western United States

Honors: Collegiate Rowing Coaches Association National Scholar-Athlete; Kirkland House Public Service Award

Activities: Radcliffe Varsity Crew (National Champion 2003); Let's Go Publications (Research-Writer)

Additional Information

Bar Admissions: Admitted to the California Bar (2010), the Ninth Circuit Court of Appeals (2011), and the Courts of the Colorado River Indian Tribes (2011)

Volunteer Activities: Board of Directors, Programs Committee Chair, Bay Area Wilderness Training; Volunteer Attorney, Consumer Debt Defense and Education Clinic

Interests: Hiking and backpacking, baking (<http://baking-jds.blogspot.com>), and yoga