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Docket Number:	09-AFC-06C
Project Title:	Blythe Solar Power Project - Compliance
TN #:	201174
Document Title:	Intervenor CRIT Ex. 4005
Description:	SUPPLEMENTAL DECLARATION OF LYLE BALENQUAH IN SUPPORT OF PLAINTIFF'S APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE
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Submission Date:	11/13/2013 10:13:36 AM
Docketed Date:	11/13/2013

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 13 COLORADO RIVER INDIAN TRIBES

14 UNITED STATES DISTRICT COURT
 15 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

17 COLORADO RIVER INDIAN TRIBES, a
 18 federally recognized Indian Tribe,

19 Plaintiff,

20 v.

21 UNITED STATES DEPARTMENT OF THE
 22 INTERIOR, et al.,

23 Defendants.

24 GENESIS SOLAR LLC

25 Intervenor-Defendants.
 26

Case No. CV 12-04291 GW (SSx)

**SUPPLEMENTAL
 DECLARATION OF LYLE
 BALENQUAH IN SUPPORT OF
 PLAINTIFF'S APPLICATION
 FOR TEMPORARY
 RESTRAINING ORDER AND
 ORDER TO SHOW CAUSE**

DECLARATION OF LYLE BALENQUAH

I, Lyle Balenquah, declare as follows:

1. I am an archaeologist and cultural resources consultant to Plaintiff Colorado River Indian Tribes (“CRIT”). I received my bachelor’s and master’s degrees in archaeology from Northern Arizona University, and have been working as an archaeologist and consultant for the past ten years. I am very familiar with the requirements of the National Historic Preservation Act and implementing regulations as they apply to tribal cultural resources. I am also a member of CRIT.

2. I have reviewed the Programmatic Agreement and Historic Properties Treatment Plan (“HPTP”) for the Genesis Solar Energy Project (“Project”). According to those documents, “cultural resources” are defined to include “object[s] . . . of human activity, occupation, use, or significance identifiable through field inventory, historical documentation, or oral evidence. Cultural resources are prehistoric, historic, archaeological, or architectural sites, . . . places or objects and locations of traditional cultural or religious importance to specified social and/or culture groups. Cultural resources include the entire spectrum of objects and places, from artifacts to cultural landscapes, without regard to eligibility for inclusion in the National Register of Historic Places (NRHP) or California Register of Historical Resources (CRHR).” In my experience, this is a standard definition of “cultural resources.”

3. I have also reviewed the results from the “Controlled Grading Plan” and have discussed the finds at the Genesis site with BLM archaeologists and archaeologists from AECOM, a consulting firm hired that I am informed and believe was hired by the Project developer. The cultural resources found within the Site, both during the initial discovery and in the Controlled Grading Plan, include the following types:

a. Manos and Metates (Grinding Implements/Daily Use Items): Used to process various food items such as seeds, plant materials and possibly minerals (for food or non-food uses, such as pigments).

1 b. Hammerstones/Flakes/Cores: Lithic (stone) material used to process
2 various food items such as plant materials, animal butchering and production of daily use
3 items such as textiles and animal skins. Hammerstones are the blunt instrument used to
4 reduce (shape) the desired lithic material into a useable product, such as a projectile point
5 or other cutting implement. Flakes and Cores are the “waste” material resulting from the
6 production of these cutting implements. Preferred materials for the production of these
7 cutting implements include various types of stone including, Chert, Quartz, Chalcedony
8 and Obsidian as they produce a very fine cutting edge.

9 c. Fire-Affected Rock: The result of cooking/roasting pits/heating
10 hearths found in association with habitation structures and other daily communal
11 gathering areas. In some cases they are the only indications of possible habitation
12 structures as they remain present long after the natural, organic materials used in the
13 construction of these structures have deteriorated.

14 d. Pendant: Jewelry item. May possibly indicate status symbol/religious,
15 ceremonial use.

16 4. All of the buried objects described in paragraphs 3(a)-(d), above, are
17 “cultural resources,” as defined in the Programmatic Agreement and HPTP.

18 5. These types of cultural resources provide valuable information about the
19 past lifeways of prehistoric peoples. They illustrate subsistence patterns that the people
20 were following and the types of plant, animal and mineral resources they were using. The
21 artifact density and diversity of these cultural resources may indicate the presence of, or
22 be interpreted as representing, more stable occupations, since longer periods of
23 occupation tend to result in more artifacts being discarded. Such occupations tend to have
24 a higher diversity of artifacts as well, reflecting the wider range of activities at longer-
25 term settlements. The specific types of cultural resources found within the Site (listed
26 above) indicate that the area served as a habitation area where prehistoric peoples
27 gathered to collect, process and use the various plant, animal and mineral resources found
28 along the shoreline of the Ford Dry Lake region.

1 6. Taken as a whole, the *cultural* significance of the artifacts cannot be
2 understated. From the CRIT perspective, the value of the artifacts lies in their ability to
3 convey a history that is not documented in the written form. The artifacts in question can
4 best be viewed as metaphorical “footprints” of CRIT ancestors that provide one form of
5 documentation and verification of the oral history of CRIT people. That is, the artifacts
6 serve as tangible reminders of past lifeways and contain information that is not always
7 obtainable through traditional scientific, archeological analyses. The cultural knowledge
8 of how CRIT ancestors lived, traveled and survived in the Ford Dry Lake region is
9 contained within the artifacts found there today. While *mano* or *metates* maybe defined
10 (according to strict archaeological definitions) as simply being “utilitarian” items, these
11 items hold different meanings for CRIT peoples.

12 7. Like many Indigenous tribes, CRIT people rely on the oral tradition in the
13 process of re-telling historical events, persons or places. Oral histories from CRIT people
14 tell of how their ancestors once lived in areas well outside of modern reservation
15 boundaries, including the Ford Dry Lake region. These oral histories contain specific
16 details for how the CRIT people came to be, how they were to live according to an
17 established life plan, and ultimately how they were to survive into the future. This latter
18 idea reminds modern day CRIT people to always remember their history, as it is
19 embedded in the ancestral landscapes. Part of these landscapes also includes the artifacts
20 left behind by their ancestors. In today’s world, these artifacts are viewed as physical
21 proof that the events, persons or places described in CRIT oral histories indeed did exist,
22 and still do. The artifacts found within the Site and throughout the Ford Dry Lake region
23 attest to cultural knowledge that was learned in the ancestral past, and still carries through
24 to the modern day descendants.

25 8. A general concept of this idea can be expressed through the statement; *the*
26 *meaning of the past is what it contributes to life in the present.* This belief underlies the
27 inherent connection that CRIT people have with the landscapes of their ancestors. How
28 this connection manifests itself, often daily, is in the cultural knowledge and traditional

1 know-how a CRIT person maintains. This knowledge is evident in many forms within
2 traditional CRIT culture; the art they create, the ceremonies they enact and the languages
3 they speak. All of which is really an accumulation of ancestral CRIT experiences, learned
4 over countless generations.

5 9. Within the Ford Dry Lake region are thousands of areas both natural and
6 human-made that are imbued with a powerful sense of meaning and connection for
7 modern CRIT people. Today, when a CRIT person visits such places, they don't simply
8 see the remnants of a by-gone era, they see reflections of who their people once were and
9 what they have now become. They witness the artistic and technical accomplishments of
10 CRIT ancestors, and recall the spiritual accomplishments of those ancestors as well.

11 10. Thus, the artifacts found in the "Exclusion Zone" during project grading and
12 subsequent implementation of the Controlled Grading Plan at the Site, all contribute to a
13 definition of *culture* that enables CRIT peoples to remember and learn from their
14 ancestral lifeways. The ability to recount traditional oral histories, with the physical proof
15 of artifacts to verify that history, is paramount to the maintenance of CRIT culture, now
16 and into the future.

17 11. Based on the previously identified cultural resources of the Site, in addition
18 to the location of the Site (along the edge/shoreline of the Ford Dry Lake), it is my
19 professional opinion that similar types of cultural resources would be encountered within
20 the Site boundaries, as well as throughout the entire Ford Dry Lake region. It is known
21 from traditional oral histories, as well as previous archaeological research done in similar
22 landscapes (i.e. dry lakes) that these areas were visited and used by various Indigenous
23 groups over thousands of years. *See* Lowell Bean, "Ethnographic Overview of the
24 Historic Trails Network Cultural Landscape," included as Appendix H to the Historic
25 Properties Treatment Plan-Genesis Solar Energy Project (09-AFC-08), Prepared by Tetra
26 Tech EC, Inc. (May 2011). Therefore, it should be expected that sites similar to the one
27 discovered in Block 2 of Unit 1 would be encountered with further ground disturbance
28 activities. It is difficult, however, to speculate on the densities of any un-identified, still-

1 buried, artifacts that maybe discovered within the existing, undisturbed boundaries of the
2 site. This is due to the fact that any sites that are located along the shoreline area of Ford
3 Dry Lake most likely remain buried under accumulated sand/silt deposits.

4 12. Based on my professional experience, the trenching activities proposed in
5 the GSEP Unit 1 Buried Resource Phase I and Phase II Mitigation Plan, and the
6 subsequent proposed Project construction on the "Exclusion Zone," will almost certainly
7 damage and/or destroy buried cultural resources there.

8 I declare under penalty of perjury under the laws of the United States of America
9 that the foregoing is true and correct.

10 Executed May 19, 2012, at Flagstaff, Arizona.

11 
12 _____
13 Lyle Balenquah

Responses, Replies and Other Motion Related Documents

[2:12-cv-04291-GW-SS Colorado River Indian Tribes v. United States Department of the Interior et al \(SSx\), DISCOVERY, RELATED-G](#)

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered by King, Winter on 5/23/2012 at 11:56 AM PDT and filed on 5/23/2012

Case Name: Colorado River Indian Tribes v. United States Department of the Interior et al

Case Number: [2:12-cv-04291-GW-SS](#)

Filer: Colorado River Indian Tribes

Document Number: [52](#)

Docket Text:

DECLARATION of Lyle Balenquah in opposition EX PARTE APPLICATION for Preliminary Injunction re ground-disturbing activities. Ex Parte Application EX PARTE APPLICATION for Temporary Restraining Order as to ground-disturbing activities Ex Parte Application[3] SUPPLEMENTAL filed by Plaintiff Colorado River Indian Tribes. (King, Winter)

2:12-cv-04291-GW-SS Notice has been electronically mailed to:

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2:12-cv-04291-GW-SS Notice has been delivered by First Class U. S. Mail or by other means BY THE FILER to :

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:Balenquah Dec ISO Reply.pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=5/23/2012] [FileNumber=13674573-0] [5b7903f0ea0b43799902e8e855f79bcedcb4b8a1263fc740bf58a5f00b8865a655dcbd3d1d47c927743d43cd6ed23e39a5d0d7700a4c8098a37c63510584146e]]