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STATE OF CALIFORNIA
Energy Resources
Conservation and Development Commission

In the matter of:

Amendment for the **BLYTHER SOLAR
POWER PROJECT**

DOCKET NO. 09-AFC-06C

INTERVENOR COLORADO RIVER INDIAN TRIBES
PREHEARING STATEMENT

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INTRODUCTION

Intervenor Colorado River Indian Tribes (CRIT or Tribes) provides this Pre-Hearing Conference Statement regarding the proposed Amendment to the Blythe Solar Power Project (Project), pursuant to the Notice of Evidentiary Hearing filed November 1, 2013.

Complete Subject Areas

CRIT is preparing to proceed to hearing regarding cultural resources. However, as outlined in CRIT's comment letter on the Staff Assessment (TN# 201149) and described more fully below, the analysis necessary for an adequate evaluation of impacts to cultural resources has not yet been completed. CRIT has not evaluated—and therefore provides no opinion—on the readiness of other subject areas for evidentiary hearing.

Incomplete Subject Areas

CRIT contends that the evaluation of Project impacts on cultural resources is not yet complete and that this subject area is therefore not yet ready to proceed to evidentiary hearings. In particular, the staff assessment has failed to consider the impacts on the project on ethnographic resources and trail corridors located on or in the vicinity of the proposed Project site; the CEC staff has not consulted with CRIT or engaged CRIT members in an ethnographic study; and the Staff Assessment fails to present a clear or cohesive explanation of the Project's impacts on cultural resources or the reduction in impacts resulting from the proposed amendment.

Disputed Subject Areas

At this time, CRIT contends that cultural resources remain disputed and require adjudication. CRIT is concurrently providing written testimony that details CRIT's dispute. In addition, CRIT disputes, as a legal matter, aspects of the following subject areas: Alternatives, Cultural Resources, Land Use, Socioeconomics, Visual Resources, and Overrides. CRIT requests the opportunity to provide opening and reply briefs on these topics. Many of these legal concerns are described in CRIT's comment letter on the Staff Assessment, but other topics may arise as a result of evidentiary hearings.

Witnesses

CRIT intends to sponsor the following witnesses:

- 1) Wilene Fisher-Holt, CRIT Museum Director, Director of Cultural Resources, and Tribal Historic Preservation Officer. Ms. Fisher-Holt will testify about the cultural resource impacts of the proposed Project on CRIT and its members. Ms. Fisher-Holt's qualifications are set forth in her Opening Testimony. Ms. Fisher-Holt will present live testimony; her direct testimony will likely require 20 minutes.

Cross Examination

CRIT requests cross examination of cultural resource experts from both CEC Staff and the Petitioner. CRIT's cross examination will focus on the cultural resource analysis performed, the conclusions reached regarding significance both before and after application of conditions of certification, the effectiveness of proposed conditions of certification, and the extent of consultation with affected Tribes. Cross examination is likely to take no more than 15 minutes.

Exhibits and Declarations

Testimony Submitted

- 1) Testimony of Acting Chairwoman Sylvia Homer regarding Impacts of Renewable Energy Projects on the Colorado River Indian Tribes
- 2) Testimony of Wilene Fisher-Holt regarding Impacts of the Palen Project on Cultural Resources
- 3) Testimony of Winter King regarding Lessons Learned from the Unanticipated Discovery of Buried Cultural Material at the Genesis Solar Energy Project

Exhibit List

Exhibit	TN #	Title of Document	Subject Area
Exhibit 4000	201179	November 5, 2009 Presidential Memoranda on Tribal Consultation	Cultural Resources
Exhibit 4001	201180	Sustainable Preservation: California's Statewide Historic Preservation Plan, 2013-2017	Cultural Resources
Exhibit 4002	201176	Declaration of Priscilla Eswonia in Support of Plaintiff's Application for Temporary Restraining Order and Order to Show Cause, <i>Colorado River Indian Tribes v. U.S. Department of the Interior</i> (Case No. CV 12-04291 GW (SSx))	Cultural Resources
Exhibit 4003	201177	Declaration of Mamie Harper in Support of Plaintiff's Application for Temporary Restraining Order and Order to Show Cause, <i>Colorado River Indian Tribes v. U.S. Department of the Interior</i> (Case No. CV 12-04291 GW (SSx))	Cultural Resources
Exhibit 4004	201178	Declaration of David Harper in Support of Plaintiff's Reply in Support of Application for Temporary Restraining Order and Order to Show Cause, <i>Colorado River Indian Tribes v. U.S. Department of the Interior</i> (Case No. CV 12-04291 GW (SSx))	Cultural Resources
Exhibit 4005	201174	Supplemental Declaration of Lyle Balenquah in Support of Plaintiff's Application for Temporary Restraining Order and Order to Show Cause, <i>Colorado River Indian Tribes v. U.S. Department of the Interior</i> (Case No. CV 12-04291 GW (SSx))	Cultural Resources
Exhibit 4006	201175	Amicus Brief in Support of Appellant Quechan Tribe of the Fort Yuma Indian Reservation by the Colorado River Indian Tribes, <i>Quechan Tribe of the Fort Yuma Indian Reservation v. United States Department of the Interior, et al.</i> , Docket No. 13-55704 (9th Cir.)	Cultural Resources
Exhibit 4007	201188	Proposed Modifications to the Conditions of Certification (Cultural Resources)	Cultural Resources
Exhibit 4008	Pending	Testimony of Acting Chairwoman Sylvia Homer regarding Impacts of Renewable Energy Projects on the Colorado River Indian Tribes	Cultural Resources

Exhibit	TN #	Title of Document	Subject Area
Exhibit 4009	201183	Testimony of Wilene Fisher-Holt regarding Impacts of the Palen Project on Cultural Resources	Cultural Resources
Exhibit 4010	201187	Testimony of Winter King regarding Lessons Learned from the Unanticipated Discovery of Buried Cultural Material at the Genesis Solar Energy Project	Cultural Resources
Exhibit 4011	201149	Comments of CRIT on the Blythe Solar Power Project Staff Assessment	Cultural Resources
Exhibit 4012*	N/A	Statement of Weldon B. Johnson, Sr.	Cultural Resources
Exhibit 4013*	N/A	Statement of Stacia Bailey	Cultural Resources

* These Exhibits have been submitted directly to the Docket Unit with an Application for Confidentiality.

Override

CRIT urges the Commission to consider that cultural resources are both finite and irreplaceable. CRIT members have resided in the Project area since time immemorial and cannot move their ancestral homeland to another location. Consequently, CRIT contends that the Commission cannot make the necessary finding under CEQA that “specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects,” particularly the significant effects on cultural resources.

Scheduling Matters

As noted above, CRIT requests that the Commission allow the filing of briefs to address legal disputes. CRIT requests two weeks to prepare opening briefs following the close of the evidentiary hearings and one week to prepare reply briefs.

Proposed Modifications to the Conditions of Certification

CRIT’s proposed modifications to the Conditions of Certification for Cultural Resources are submitted separately as Exhibit 4007.

DATED: November 13, 2013

COLORADO RIVER INDIAN TRIBES

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DATED: November 13, 2013

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DECLARATION OF SERVICE

I, Sean Mulligan, declare that on November 13, 2013, I served and filed copies of Intervenor Colorado River Indian Tribes Prehearing Statement and Exhibits 4000-4011, dated November 13, 2013. The most recent Proof of Service List, which I copied from the web page for this project at: <http://www.energy.ca.gov>, is attached to this Declaration.

For service to all other parties and filing with the Docket Unit at the Energy Commission:

X I successfully uploaded the document to the Energy Commission’s e-filing system and I personally delivered the document or deposited it in the US mail with first class postage to those persons for whom a physical mailing address but no e-mail address is shown on the attached Proof of Service List. [The e-filing system will serve the other parties and Committee via e-mail when the document is approved for filing.] **or**

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: November 13, 2013

/s/ Sean Mulligan

[Name]