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BEFORE THE ARIZONA CORPORATION

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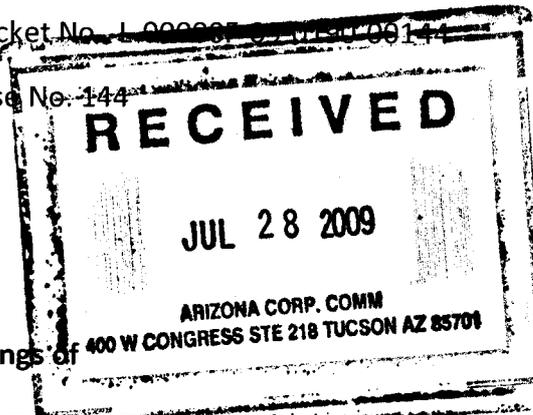
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AZ CORP COMMISSION  
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IN THE MATTER OF THE APPLICATION OF UNS  
ELECTRIC, INC. FOR A CERTIFICATE OF  
ENVIRONMENTAL COMPATIBILITY FOR THE VAIL TO  
VALENCIA 115 KV TO 138 KV TRANSMISSION LINE  
UPGRADE PROJECT, ORIGINATING AT THE EXISTING  
VAIL SUBSTATION IN SEC. 4, T.16S., R.15E., PIMA  
COUNTY, TO THE EXISTING VALENCIA SUBSTATION  
IN SEC. 5, T.24S., R.14E., IN THE CITY OF NOGALES,  
SANTA CRUZ COUNTY, ARIZONA.

Docket No. J-000007-03-V-00144

Case No. 144



Notice of Filings of

**REQUEST FOR REVIEW AND EXCEPTIONS TO THE  
CERTIFICATION OF ENVIRONMENTAL COMPATIBILITY IN ARIZONA POWER PLANT AND  
TRANSMISSION LINE SITING CASE NO. 144**

28 July 2009

This filing consists of a request for review of the Certification of Environmental Compatibility (CEC) and two proposed Exceptions for consideration by the Commission. These Exceptions request to

- (1) Move the proposed 138 kV transmission line 200-feet west for approximately 1.3 miles primarily to avoid a significant old-growth mesquite bosque and
- (2) Ensure those most visually impacted by this project are able to respond to the Pole Finish Plan to the company.

Mailed to all parties this 28th day of July 2009.

Respectfully submitted,

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Arizona Corporation Commission  
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**Request for Review  
and Exceptions**

**to the  
Certificate of Environmental Compatibility  
in the  
Arizona Power Plant and Transmission Line**

**Siting Case No. 144**

**By  
Marshall Magruder**

**28 July 2009**

**In the matter of the Application of UNS Electric, Inc., in  
conformance with the requirements  
of Arizona Revised Statutes §§ 40-360, *et seq*, for a  
Certificate of Environmental Compatibility authorizing the  
construction of the Vail to Valencia 115 kV to 138 kV  
transmission line upgrade project.**

**ACC Docket No. L00000F-09-0190-00144**

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**Request for Review and Exceptions  
to the CEC in Line Siting Case No. 144**

1. **Background.** I intervened in this case because the ACC Staff did not. I believe it is important there be at least a second party to represent the interests and consider the issues of impacted local citizens. As I haven't intervened with the Committee for over seven years, it is a pleasure to observe their excellent attention given to issues during these hearings that greatly reduced my concerns. Further, the company's performance also has greatly improved. During discovery, the inability of the company to provide relevant information became a major concern, however as the hearing progressed this was reduced. There remain two areas that I respectfully request be reviewed by the Commission.

2. **Areas of Remaining Concern.**

- a. On the last days of the hearings, two pieces of significant evidence were received, one from the Santa Cruz County Flood District Administrator, the other from the Rio Rico Properties manager, owner of thousands of platted lots in the Rio Rico community. Both, in my opinion, impacted the Committee's decision in granting the CEC. Subsequently, new information has come to light that should be considered as Exception One proposes moving the CEC-granted Alignment 200-feet west for approximately 1.3 miles, about six to eight monopoles.
- b. After five years of effort, a new attitude exists toward the finish color of monopoles. The company will now consider using dulled-gray galvanized steel poles in areas where lighter sky dominates the background and weatherized dark brown poles in areas where a darker background is observed by a majority of the viewing public. This approach considers the difference in contrast between the foreground (pole) and the natural background. The company has not yet proposed which finish has been selected along the Alignment. Exception Two allows additional impacted landowners to participate in final pole finish selection, a significant ascetic factor in line siting transmission lines.

3. **Rationale for the Exceptions.** The rationale for Exception One and Two is in Attachments A and B.

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**4. Exception One.**

- a. Objective. To move 200-feet west, for approximately 1.3 miles, of the CEC-granted Alignment.
- b. Purpose. The avoidance of an old-growth bosque area and removal a segment of a distribution line is to permit an additional growth area this narrow bosque in the Rio Rico community. Further, a five-year trim would be used for vegetation management, as long as permissible by other regulating authorities. See Attachment A for the rationale for the exception.
- c. Proposed Changes to the CEC:
- i. On page 3 at line 19 change "UPRR right of way" to read "easterly of the UPRR right of way (0.5 miles) until at Kiwi Court where it crosses over the UPRR and continues 50 feet from westerly edge of the UPRR right of way to the Cañez Substation (1.3 miles)."
  - ii. On page 3 at line 20, change "UPRR" to read "easterly edge of the UPRR".
  - iii. On page 9 at line 22, add "The Applicant will use the five-year trim vegetation management process in the bosque area as long as permitted by other regulating authorities."
  - iv. Conforming changes to the CEC Attachment A for mets and bounds.

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**5. Exception Two.**

- a. Objective. To increase local participation in selection of the pole finish color along the Alignment.
- b. Purpose. The Pole Finish Plan requirements in the CEC permits very limited public participation in the selection of the finish to be used on the new monopoles. This exception expand the public's opportunity to participate. See Attachment B for the rationale for Exception Two.
- c. Proposed Changes to the CEC:
- i. On page 9 at line 21, after "regarding" add "pole surface finish color and "
  - ii. On page 9 at lines 21 and 22, delete "or adjacent ..." to end of sentence to read ", adjacent to all the landowners property, or within 500 feet of the centerline of the Alignment."
  - iii. On page 10 at line 12, change "impacted" to read "impacted, and all the landowners within 500 feet of the centerline of the Alignment, ".
  - iv. On page 10 at line 13, change "15" to read "45".

Attachment A

Rationale for Exception One

1. **Objective.** To move 200-feet west, for approximately 1.3 miles, of the CEC-granted Alignment.
2. **Purpose.** The avoidance of an old-growth bosque area and removal a segment of a distribution line is to permit an additional growth area this narrow bosque in the Rio Rico community. Further, a five-year trim would be used for vegetation management, as long as permissible by other regulating authorities.
3. **Scope of this Exception.**
  - a. This Exception involves about 1.3 miles of the entire project, and moves the Project Alignment 200 feet to the west for about six to eight poles as shown in Figure 1 that follows. No other part of the project is impacted.
  - b. In the CEC-granted Alignment will expand an existing 37.5-foot distribution line (under-slung on the new 138-kV transmission line monopoles) in a 100-foot Right of Way (ROW) adjacent and East of the Union Pacific Rail Road (UPRR) 100-foot ROW. See Figure 1 below for a cross-section looking north.

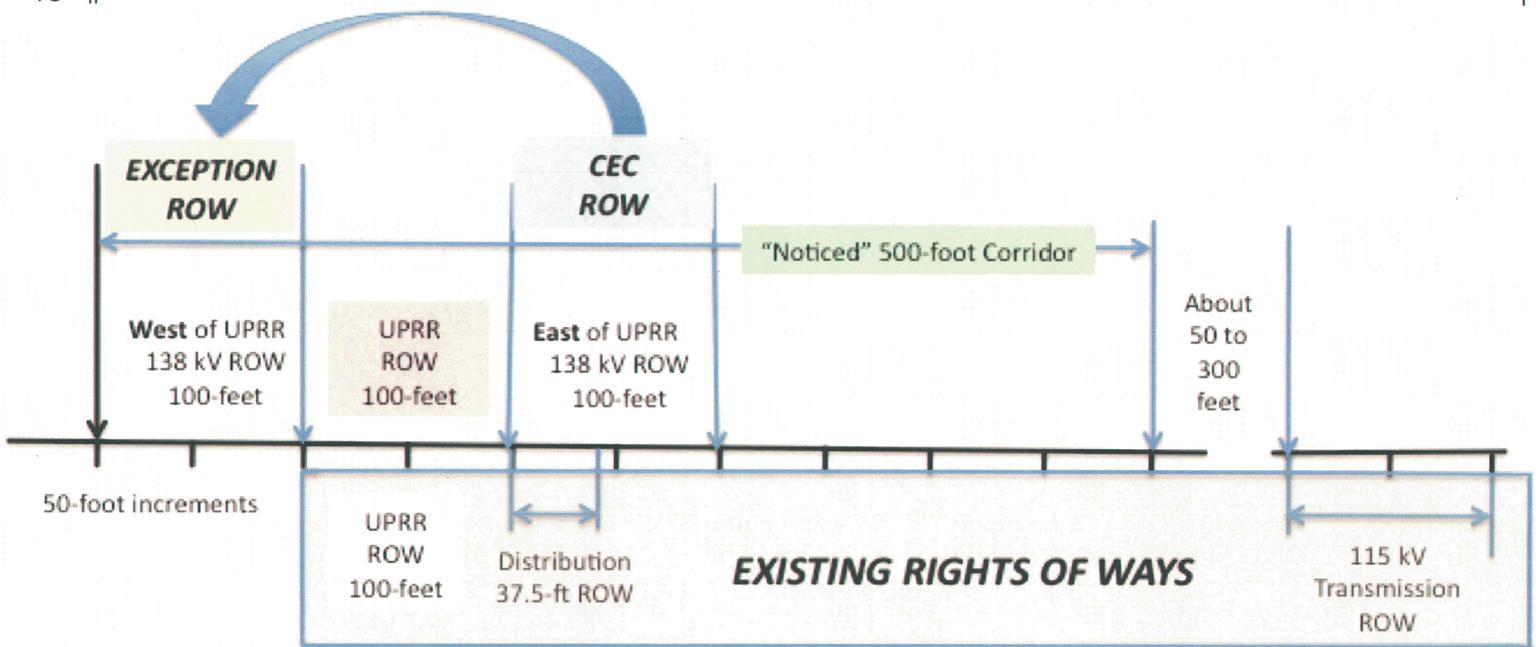
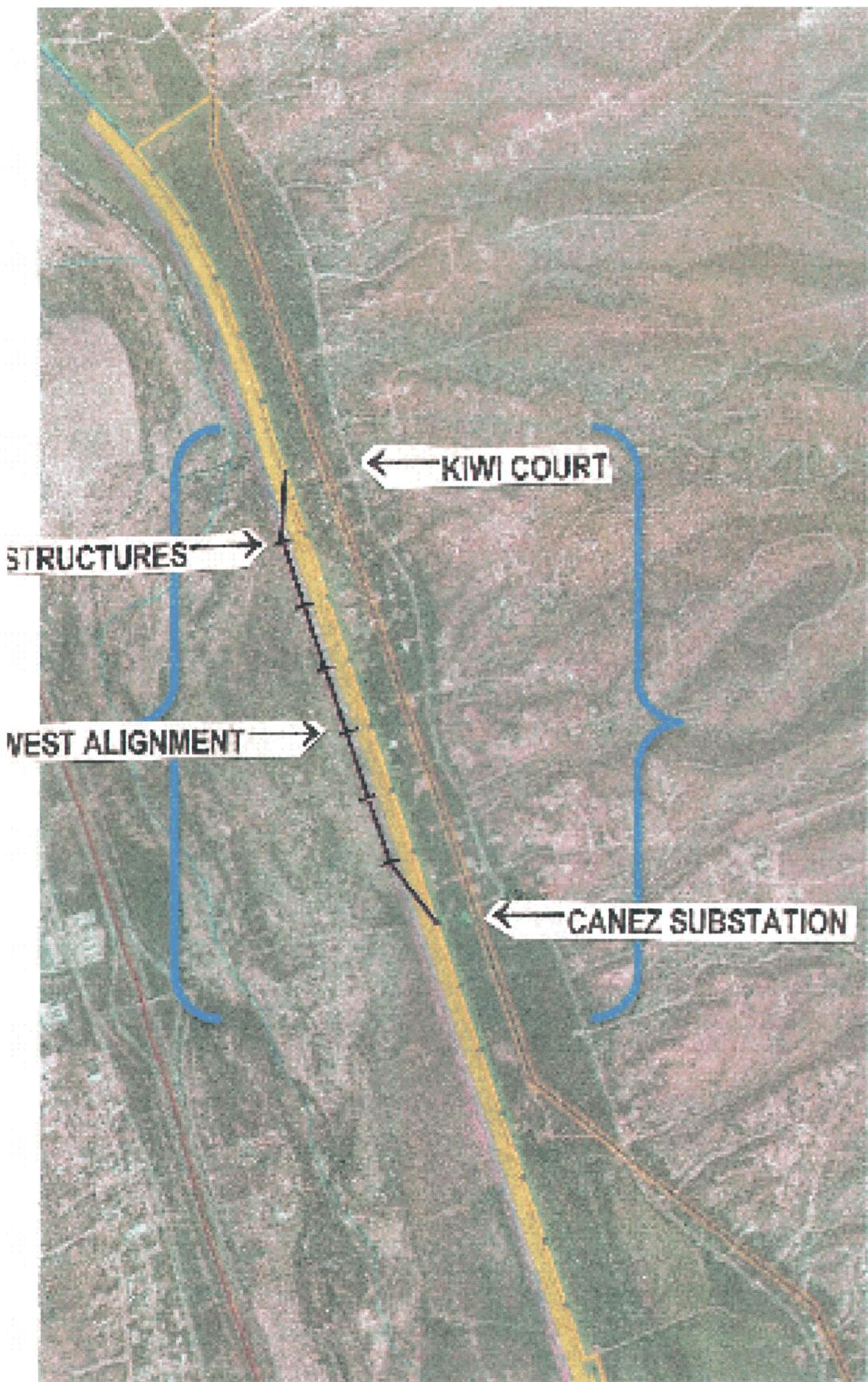
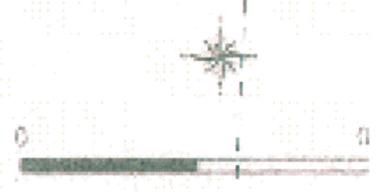


Figure 1. Cross-Section of Existing Rights of Way, the CEC-Granted ROW, and the ROW in this Exception.

- c. The CEC –granted alignment crosses some 25 homeowners properties, many of which also include the existing 115 kV transmission line 100-foot ROW and the 37.5-foot distribution ROW.

Legend

- Proposed Structures
- Existing 115kV Transmis
- Alternative Alignments
- Preferred Alignment
- 100' Proposed ROW (Exi
- 100' Existing 115kV Tran
- Union Pacific Railroad R
- 100' Proposed ROW Wis
- ▲ Substations



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**Map 1. The Area of Concern for this Exception is in the blue brackets from Kiwi Court to the Cañez Substation shown in the purple ROW, west of the UPRR**

1 Enclosure 3 for the magnitude of this down to earth swath through this unique old-growth  
2 mesquite bosque. The Existing 115-kV line ROW, to be abandoned under the CEC and, is without  
3 change, by this Exception.

- 4 d. The CEC-granted Alignment is adjacent and east of a 100-foot ROW owned by UPRR.  
5 e. To the West of the UPRR is permanent ranch land, due to its agriculture water rights being essential  
6 for the Rio Rico homeowners. Along the west boundary of the UPRR ROW, a ranch road exists the  
7 length of this boundary.  
8 f. This Exception proposes to move the centerline of CEC-granted Alignment 200-feet west, so the  
9 new boundary is adjacent to the western UPRR ROW boundary.  
10 g. This option was discussed at length by the Committee, however, based primarily on evidence  
11 received in the final hours of the hearing, the Committee, in my opinion, rejected the “west of  
12 UPRR” and approved the “east of the UPRR” based on a hasty review, incomplete facts and some  
13 misleading comments. This is the basis for this Exception as presented in detail below.

14  
15 **4. Evidence Received in the Final Hours of the Hearing and a Rebuttal.**<sup>1</sup>

- 16 a. Letter (via email) from the Santa Cruz County Flood Administrator in Enclosure (1).  
17 i. Background. Based on evidence submitted by the Company, both the Existing and proposed  
18 Alignment East of the UPRR are within the 100-year and 500-year floodplains. The floodway,  
19 always within the floodplain, is where destructive hydrodynamic forces are present, extends to  
20 and includes part of the UPRR tracks, which have been washed out in prior foods and are  
21 expected to in future major floods. Segments of a 100-foot wide easement west of the UPRR  
22 ROW are in the floodway and 100- and 500-year floodplains. See Map 2 shows the 100-year and  
23 500-year floodplains and the floodway. Map 2 below is presently in final FEMA reviews to  
24 replace the existing flood maps. Its validity was not questioned or disputed by any party during  
25 this hearing.

26  
27 <sup>1</sup> During the Closing Comments by the Applicant, he was quoted “You know, yesterday, Mr. Chairman, you looked at the fact  
28 that evidence appeared to be being created on the fly, and that in all your years of sitting as a judge hadn’t had that  
experience. I would say that and other aspects of this case are unique. Certainly my experience in this case and others is  
that this is not what we would typically see in court, at trial, and in a jury trial.” (Tr856:5-12)

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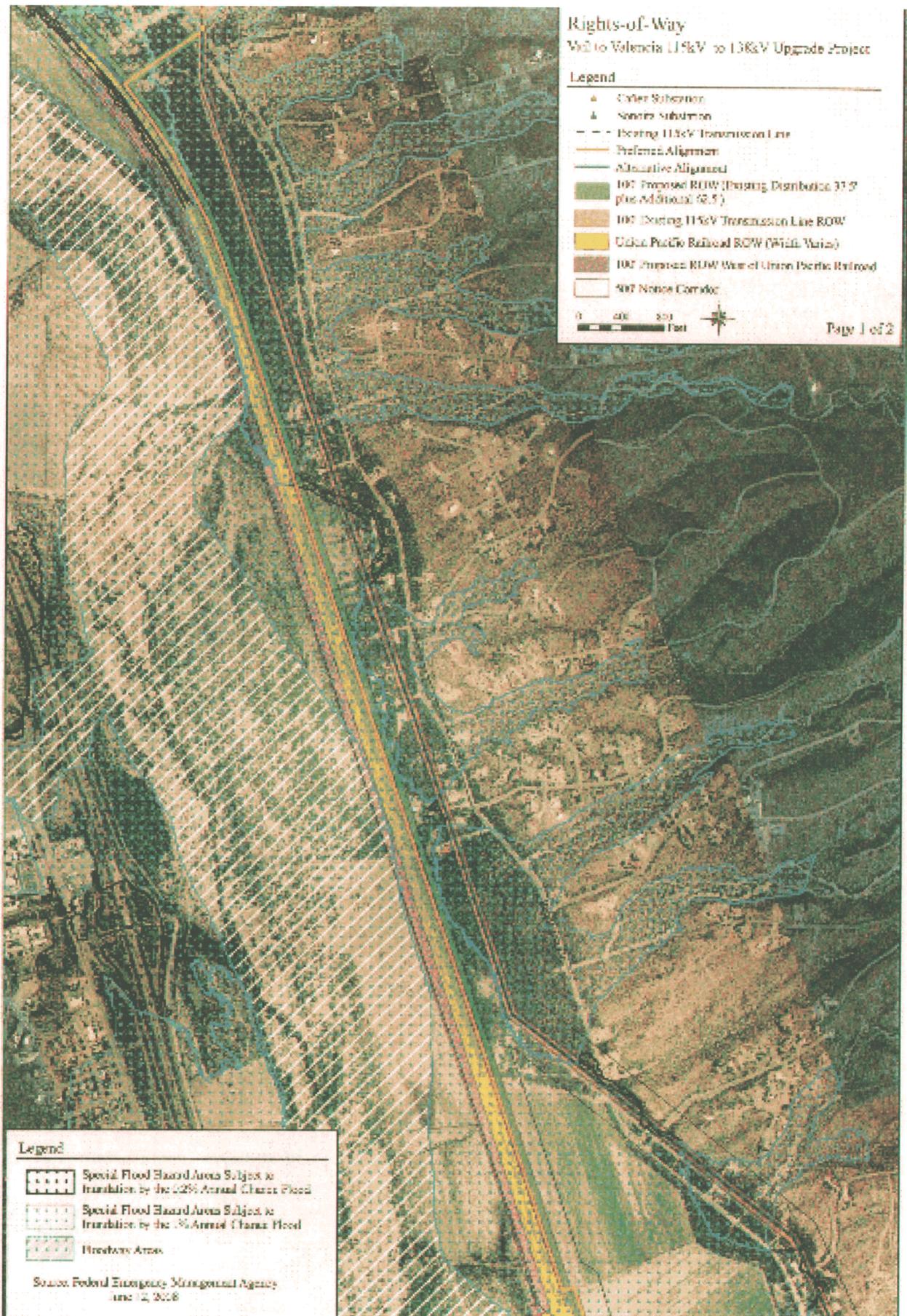
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Map 2. The 100-year and 500-year floodplains and floodway for the area of interest.

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ii. The "Letter" (Exhibits EW-22/UNS-25) dated 8 July 2009 (enclosure 1). This Letter was received via email during the morning hearing on 8 July and provided to all parties during testimony of Mrs. Webb. There are important points in this letter that mislead the Committee discussed below:

(a). Exception Area compared to that in the Letter. The first paragraph of the Letter in Enclosure 1 stated the "particular area of review for this correspondence is from Avenida Ostion to the Sonoita Substation." It should be noted that the Magruder rebuttal cross-examination of Mr. Beck was for only a portion of this "area of review" (Tr789, 4-7) and this Exception is for even a smaller part of that used by Mr. Magruder when cross examining Mr. Beck on 8 July. In Map 1, we can see the SCC Flood Administrator's letter referring to two pages of maps in Enclosure (1) about 10 miles. Mr. Magruder referred to the area from Avenida Ostion to just south of the Cañez Substation about 2.3 miles (*Ibid*). This portion of the Alignment in this Exception in Map 1, shows, is shown in large "brackets" the Exception Area, about 1.3 miles, from Kiwi Court to the Cañez Substation. Many of the Transcript comments in paragraph 5.b below do not concern the Exception area.

Conclusion. This Exception considers a smaller area than considered and discussed by the Committee.

(b). Jurisdiction of the County Flood District (first bullet in the Letter). The Santa Cruz County Flood Plain and Erosion Hazard Management Ordinance #2001-03 in ¶3.7A and A.R.S. §48-360.9(H) statutorily exclude CECs from the Flood District's jurisdiction.(Tr904:9-13) The Ordinance in ¶3.7B and A.R.S. §48-3601 exempt utility lines and poles from requiring a Floodplain use permit for construction. Access roads and other construction in a floodplain usually will require a County permit. (Tr800:22-801:3, 802:1-13)

Conclusion. This County has no direct jurisdiction over the project. Access roads may.

(c). Transmission Line Designated as a Critical Facility by Flood Control (second bullet). The designation of "critical" means it a significant infrastructure element that must satisfy the 500-year floodplain rules instead of the 100-year floodplain rules. (Exhibit EW-19K); As shown in my cross examination of Mr. Beck on this issue, even the loss of this line in, and north and

1 south of the area of concern, there are backup power facilities to supply power for all UNS  
2 Electric customers. (Tr805:15-807:24, 903:14-20) Further, the existing Cañez, Sonoita and  
3 Valencia substations are located within the 100-year floodplain, therefore having a higher  
4 degree of protection for this transmission line appears not warranted compared to, in my  
5 opinion, facilities with higher criticality than this transmission line. (Tr805:20-806:6, 814:23-  
6 815:5)

7 Conclusion. This transmission line should not, in my opinion, be designated as a “critical  
8 facility”.

9 (d). Meandering Santa Cruz River into the Railroad Right of Way (third bullet). The Letter contains  
10 two maps provided by UNS Electric to the County Flood District in Enclosure 1. Two areas  
11 circled are where there are concerns because the river floodway may cross the UPRR. During  
12 Mr. Magruder’s cross-examination of Mr. Beck, it was obvious that one of these two areas of  
13 concern was south of the area being discussed. (Tr800:7-16) Now, the area contained in this  
14 Exclusion, which is smaller, is south of the second area in the Exclusion. Further, the area  
15 contained in this Exclusion is well over 500 feet from the river channel, not within the 200 to  
16 500 feet in the Letter where the river might meander. (Tr903:10-13)

17 Conclusion. Neither the two areas of river meander are in the area of the Exclusion.

18 (e). Transmission Poles in the Floodway (fourth bullet). As shown in Map 2, none of the  
19 approximately six poles in the area contained in this Exclusion are in the Floodway even  
20 though some poles were in the earlier area discussed during Mr. Magruder’s cross  
21 examination of Mr. Beck. No fill or placement of fill will be in the floodway.

22 Conclusion. None of the proposed poles in this Exclusion are in the floodway thus reducing  
23 erosion potential.

24 (f). Damage to Riparian Habitat (fifth bullet). In the smaller area considered by this Exclusion, by  
25 using “five-year trim” and minimal tree removal (Tr589:8-22), reestablishment of the natural  
26 habitat will continue to make progress with minimal disturbance west of the UPRR. Very few,  
27 if any, trees will be removed that are necessary to prevent channelization. This should  
28 continue to prevent channelization in the area considered in this Exclusion. Further, a new

1 access road is not required, as only minor changes, if any, to the existing ranch road maybe  
2 required for construction and servicing these lines. (Tr794:14-18) Mr. Beck, under cross  
3 examination, stated that servicing this line will average about once each five years using  
4 larger "bucket" type trucks, as routine observations can be made from foot, horse, ATV, truck  
5 or helicopter with minimal additional traffic on the ranch road after construction. (Tr795:20-  
6 25, 796:17-24)

7 Conclusion. Minimal, if any, riparian habitat impacts will result during construction or  
8 operation.

9 (g). Flood District's Recommendation (sixth bullet). As expected, placement of any structure in  
10 the floodplain should be avoided, and this party agrees. However, flooding in the floodplain  
11 has very little impact on these poles (Tr811:1-8) that are designed to be "flood proof".  
12 (Tr903:1-6) In the area considered by this Exclusion, erosion is not a concern since the  
13 floodway is avoided.

14 Conclusion. This recommendation is consistent, and expected, as all Flood District managers  
15 do not want any construction in the floodway or in the floodplain.

16 iii. Additional Meeting with the Santa Cruz County Flood District Manager. On 15 July, with Rio Rico  
17 residents Mr. and Mrs. Campana, we met with Mr. Hays, Flood District Administrator. We  
18 discussed the Committee's granted CEC, and the area considered by this Exclusion. He  
19 acknowledged his letter was in response to UNS Electric's requested area, not that discussed in  
20 (a) above for this Exclusion. He also agreed with (b), that the county Flood District has no  
21 statutory jurisdiction for a CEC and that utility poles were exempt from requiring a permit from  
22 his office. He said he would need more information to determine if a Critical Facility designation,  
23 in (c) above, would still apply, however, both the new FEMA 100- and 500-year flood water  
24 elevations are now public information and should be used as minimal design criteria by UNS  
25 Electric. He agreed the area considered by the Exclusion is outside those of concern in (d) and  
26 outside the floodway in (e) above. The recent "clear cut" ROW is obvious to everyone in Rio  
27 Rico, and was a key reason for his concern to protect the riparian growth to the west of the  
28 UPRR. As the new growth trees will remain and using a 5-year trim, the concerns in (f) above are

1 now minimal. And, of course, he prefers no construction in any floodway or flood plain, as  
2 expected in (g) above.

3 iv. Summary. Based on the above, it appears no significant flood concerns remain and those that do  
4 are within normal construction practices for transmission line poles.

5 b. Email from Rio Rico Properties in Enclosure (2).

6 i. Background. Rio Rico Properties manages the Rio Rico development that has been ongoing since  
7 the 1950s that encompasses over 45,000 platted lots, is the largest landholder in the county,  
8 and has been improving its holdings in the last few years. A unique characteristic of this  
9 community is water resource management. Due to decades-ago series of judicial and other  
10 rulings, adequate long-term water resources for this community are dependent on a large  
11 agriculture water allotment used for cattle and horse ranchers. These agriculture water rights  
12 are critical for sustaining this community. The mostly flat fields between Interstate 19 and UPRR,  
13 where the Santa Cruz River flows, are used for this purpose. This area will not be converted to  
14 residential use. From a practical sense, Rio Rico Properties (Avatar) is the single landholder to  
15 the west of UPRR and over 25 landowners to the east of the UPRR in CEC-granted ROW. Further,  
16 there are about 20 additional platted "higher-priced horse" lots just to the north of the area  
17 considered by this Exclusion. (Tr791:8-9) The existing 115 kV transmission line goes through  
18 both these additional lots to the north and the existing residential lots in the area considered by  
19 this Exclusion. The removal of the existing 115 kV line from this 100-foot right of way and to the  
20 East of the UPRR to the area considered by this Exclusion, then west of the UPRR, and returning  
21 to the east of the UPRR south of the area considered by this Exclusion, is of high interest to both  
22 Rio Rico Properties and abandonment of the exiting utility ROW will benefit all these  
23 landowners. This area is shown on all maps due to the recent UNS Electric clear cut (see  
24 Attachment A, Enclosure 3). An existing distribution line easement adjacent to the East of the  
25 UPRR is 37.5-feet wide. The CEC grants to UNS Electric an increase from 37.5-feet to 100-feet for  
26 the 138 kV transmission line ROW. Upon my cross-examination of Mr. Beck on 8 July, this  
27 distribution line is primarily for water pump houses for the fields west of the UPRR (Tr792:2-21).  
28 Another distribution line goes along Pendleton Road to the East of the Existing 115 kV ROW that

1 is used only for residential customers. (Tr791:24-792:4) For this Exception, moving the UNS  
2 Electric distribution line from east to west of UPRR and under-hung on the 138 kV poles also  
3 frees up that distribution ROW in this critical area.

4  
5 ii. Benefits to Rio Rico Properties if the 138 kV line is West of the UPRR in the area of this Exclusion.

6 (a). Removal of the transmission line right of way and the distribution line easements through  
7 residential properties to agriculture land benefits existing landowners.

8 (b). The value of unsold platted lots between Kiwi Court and Cañez Substation will increase  
9 because there is no 100-foot wide transmission line and 37.5-foot distribution easements in  
10 this area.

11 iii. The Rio Rico Properties (Avatar) Email dated 8 July 2009, Exhibit UNS-26) enclosure 2.

12 (a). Transmission Line Crossing Grazing Land. The company's 8 July email request to for a status  
13 response stated, "You indicated that it [the line west of UPRR] was compatible with the  
14 current use as leased grazing land." Rio Rico Properties responded with "It might be  
15 compatible with the current use, however, we hesitate to have the transmission line go  
16 across the leased grazing land due to the possible future State Park." The fact are that the  
17 few poles west of the UPRR are not "going across the leased grazing land" but along the  
18 edge. In the area considered for this Exception, about six to eight poles will go adjacent to  
19 the UPRR ROW and not across grazing land. At present there are at least three distribution  
20 lines that already "cross" east-west the grazing land, all within the floodway.

21 Comment. The area for this Exception is along the western boundary of the UPRR will not  
22 "cross" the grazing land.

23 (b). Possible Future State Park. Using same quote as (a) above, The response from Rio Rico  
24 Properties sated "we hesitate to have the transmission line go across the leased grazing  
25 land due to the possible future State Park." It is understandable that a state park might not  
26 want transmission lines going across it, but in the area considered for this Exception, about  
27 six poles will be at the edge of the UPRR ROW and not across grazing land. Rio Rico  
28 Properties has tried to have Arizona Parks make this a state park for decades without  
success.

1 Comment. Most do not believe this grazing land can or will be developed into a state park  
2 due to the criticality of the water rights associated with agricultural land.

3 (c). Preference for Line Alignment. The email stated, "in my recollection of the meeting we had,  
4 I stated that Avatar [Rio Rico Properties] would prefer the transmission line east of the  
5 UPRR which was preferred alignment by Unisource." This is a recollection and not a  
6 statement of opposing west of the UPRR. Further, the substance of this "meeting" with  
7 Avatar s unknown. There was only one meeting with Rio Rico Properties and UNS Electric  
8 prior to these hearings. (Tr824:6-10) The emails sent to and the one received from Rio Rico  
9 Properties were both before noon on 8 July 2008. (Enclosure 2)

10 Comment. There was no opposition to west of the UPRR, only that Avatar would go along  
11 with the preferred UNS Electric's alignment.

12 lv. Summary. This email did not oppose having poles placed along the western boundary of the  
13 UPRR right of way.

14 c. Other Factors involving the Old-Growth Bosque. The natural habitat in this bosque area is suitable  
15 for at least seven special species as shown in the Application. Unfortunately, using the "clear cut"  
16 vegetation management process destroys and divides the habitat into smaller and possibly not  
17 sustainable segments for some of these species. (Tr901:14-902:1) The company has agreed to use  
18 the five-year trim process, as long as permitted by regulating authorities, in this bosque area.  
19 (Tr789:8-790:15)

20  
21 **5. Rationale for the Proposed Change.**

22 a. The evidence considered of emails from the Santa Cruz County Flood District Coordinator and from  
23 the manager of the Rio Rico Properties was rapidly inserted into these proceedings. In my opinion,  
24 the Applicant inadvertently misled the Committee with a hasty interpretation of these two emails  
25 based on this party's investigations since the hearings.

26 b. From the transcripts, some of these misinterpretations include:

27 i. Liability for Poles in Floodway. One Committee member was concerned about the liabilities from  
28 placing a pole west of the railroad would "in certain sections" increase the potential for the Santa

1 Cruz River channel to migrate and possibly damage the railroad or the power line.” (TR826:1-15)  
2 Further, “has it been your experience ... diversion of the water or other items coming down the  
3 floodway, that causes damage to other portions of the floodway or channel?” (TR826:5-10, )

4 Response: This concern is removed based on paragraphs 4.a.ii(e) and (f) above. No construction  
5 will occur in the floodway based on this Exclusion.

- 6 ii. Put the Poles in the River. The counsel for the Applicant in his Closing Comments stated that “all  
7 of those folks have come together and said boy, that would take this line that has been on our  
8 property from the time we bought it into the river and away from us... that putting this line in the  
9 floodway creates risks” (Tr878:1-5, 10-11)

10 Response: The area in this Exception is not in the river or the floodway.

- 11 iii. Split among the Residents. The Applicant’s Closing Comments stated that “in light of the split  
12 among the residents. I think our preference is to build in the existing alignment because it has less  
13 cost.” The company never offered anything but the Existing and Preferred Alignments to these  
14 residents, no other option was considered. An Alignment West of UPRR never discussed with  
15 landowners. (Tr902:23-25) Based on public comment and evidence presented, a Petition was  
16 presented with 17 of the 18 (one was not available) homeowners between Kiwi Court and Cañez  
17 Substation to have that segment (this Exception) moved west of the railroad in the area in the  
18 Exception. (Tr902:12-22) There appears to be no disagreements or “split” among these  
19 landowners when offered an option for West of the UPRR. (Tr902:23-25)

20 Response: The counsel’s comment about a “split among the residents” was greatly overstated.

- 21 iv. Independent Archaeologist and Biologist. The company stated “having archaeologist on-site  
22 during all aspects of construction, having a biologist on-site during all aspects of construction are  
23 increased costs.” (Tr 955:14-18). The aim for having an independent archaeologist and an  
24 independent biologist was to have them conduct a pre-construction survey, determine sensitive  
25 areas, be on-site when working in pre-determined sensitive areas, and available to participate if  
26 archaeological or historic resources are uncovered or if special species are located. (Tr911:11-23,  
27 912:21-913:2, 913:11-20)



1 rough enough as it is, with the natural habitat, keeping that area of the river maintained. So, I  
2 can't support the west side, though I know the residents were interested in it, but I don't think  
3 they had all the information that we have at this point." (Tr984:3-17)

4 Response: As discussed in paragraph 4.a above, and specifically 4.a.ii(d) for the two area  
5 discussed in the County's Flood District letter, all these issues have been resolved.

- 6 (4) "I have similar feelings... in that particularly for west of the railroad, I think the Committee is on,  
7 would be on shaky ground notice-wise to adopt that alignment. I don't think there is any support  
8 for that. It seemed like a good idea at first, but the devil is in the details, I don't think it works."  
9 (Tr987:13-20) "So I have been leaning all along towards just west of the railroad, but I am open  
10 to in the front yard, too, if that works. So that's where I'm at." (Tr987:25-988:3)

11 Response: As discussed in paragraph 4.a above, all these issues have been resolved.

- 12 (5) "I also can't support the west of the railroad route, although that looked very attractive to me  
13 before, for the reasons that we have concern and potential flood damage liability." (Tr988:6-10)

14 Response: As discussed in paragraph 4.a above, all these issues have been resolved.

- 15 (6) "I just wanted to state for the record that I also had earlier entertained the possibility of  
16 location this segment along the river west of the railroad tracks and along the floodplain as Mr.  
17 Magruder had requested and outlined earlier. But after further discussion and additional  
18 questions to the applicant about the standard and company's policy, industry standards, the  
19 actual foods that have occurred, for example in Tucson, the Rillito Creek ..." (Tr987:16-25) "So  
20 if that's the case, that this could also potentially erode the bed of the railroad and could cause  
21 some quite severe damage that is unanticipated by is likely if there was such a flood, so  
22 therefore, I think it is a more prudent approach we move forward with the safeguarding of this  
23 route in the east side of the railroad tracks ..." (Tr998:6-12)

24 Response: As discussed in paragraph 4.a above, all these issues have been resolved.

1 Enclosure 1

2 Letter via Email from the  
3 Santa Cruz County Flood Control District and Floodplain Administrator (dated 8 July 2009)  
4 (Exhibit EW-22 and UNS-25)

5 S Scott J. Altherr, P.E., CFM  
6 General Manager

FLOOD CONTROL DISTRICT  
AND  
FLOODPLAIN ADMINISTRATION  
SANTA CRUZ COUNTY

7 July 8, 2009

8 Unisource Electric  
9 C/O Mr. Kevin Heller, P.E.  
TEP CO.  
10 Mail Stop OH220  
P.O. Box 711  
11 Tucson, AZ 85702



12 RE: Comments on Unisource Electric Line Proposal.

13 Dear Mr. Heller,

14 I am in receipt the map left with me regarding the proposed routes for a new electric line main to  
15 replace the existing line from Tucson to Nogales. The particular area of review for this  
16 correspondence is from Avenida Ostion to the Sonoita Substation as that is the area covered by  
17 the map provided. However, the comments, in general, should work for the entire set of  
18 proposed alignments with Santa Cruz County.

19 In reviewing the proposed alignments, the district has the following comments:

- 20 • Section 3.7 of the Santa Cruz County Floodplain and Erosion Hazard Management Ordinance #2001-03, and A.R.S. §48-3601 exempts the line and poles from requiring a Floodplain Use Permit for construction; however, construction of a following road, especially if culverts or other improvements are to be constructed, will require a Floodplain Use Permit.
- 21 • As the line is the only transmission line for the area, it is recommended the line be considered a Critical Facility/Critical Service under the District's Critical Facility/Critical Service Standards and be protected from the 500-year flood event if placed within the 500-year floodplain of any watershed.
- 22 • In at least two locations, the channel of the Santa Cruz River is already meandering into the railroad right-of-way. As there is a history of the Santa Cruz River meandering during flood events and taking out portions of the railroad tracks, any alignment that is adjacent to the tracks is subject to the possibility of lateral channel migration damaging the power line and poles. In the two noted locations (see returned map) the proposed alignments would be within 100 to 200 feet of the channel bank of the Santa Cruz River, which has the potential of moving up to 500 feet in a single event.
- 23 • Verbally, the District was made aware of a proposal to place the line to the west of the railroad tracks. As this would place the line, in certain locations, within the actual channel of the Santa Cruz River, the District would protest such a decision. Furthermore, such an alignment would place the power line and its poles into the floodway of the Santa Cruz River. Section 5.8 of the Ordinance prohibits construction and placement of fill within the floodway.
- 24 • Placement to the west of the railroad tracks would also damage what riparian habitat remains or is reestablishing itself along the west side of the tracks, between the river and the tracks. Historically, it has been noted that the well established areas of riparian habitat along the Santa Cruz River have made the channel more stable and less prone to

FOR YOUR REFERENCE:

Top page of exhibit only.

25 P.O. Box 1150 Nogales, Arizona 85628 (520) 375-7830 Fax (520) 375-7846 TDD (520) 761-7816

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Mr. Heller  
Powerline Alignment  
7/8/2009

lateral migration, while areas of disturbance enhance channel instability and channel migration. Therefore, it is the opinion of the District that placing the line to the west of the railroad runs the risk, in certain sections, of increasing the potential for the Santa Cruz River channel to migrate and possibly damage the railroad or the power line.

- Generally speaking, the District sees the existing alignment as the best alternative from the standpoint of protecting the line from flooding and erosion hazards, especially those associated with the Santa Cruz River.

Thank you for your consideration and cooperation in regards to this matter. Should there be any questions regarding this or any other floodplain concern, please feel free to contact me at (520) 375-7830 or by email at [jhays@co.santa-cruz.az.us](mailto:jhays@co.santa-cruz.az.us).

Sincerely



John E. Hays, E.I.T., CFM  
Floodplain Coordinator

- C: Scott Altherr, P.E., General Manager  
Mary Dahl, Community Development Director  
Robert Banzhof, Building Official  
Jesus Valdez, P.E., County Engineer

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# Proposed Structure Vail to Valencia 115kV to 138kV Uj

## Legend

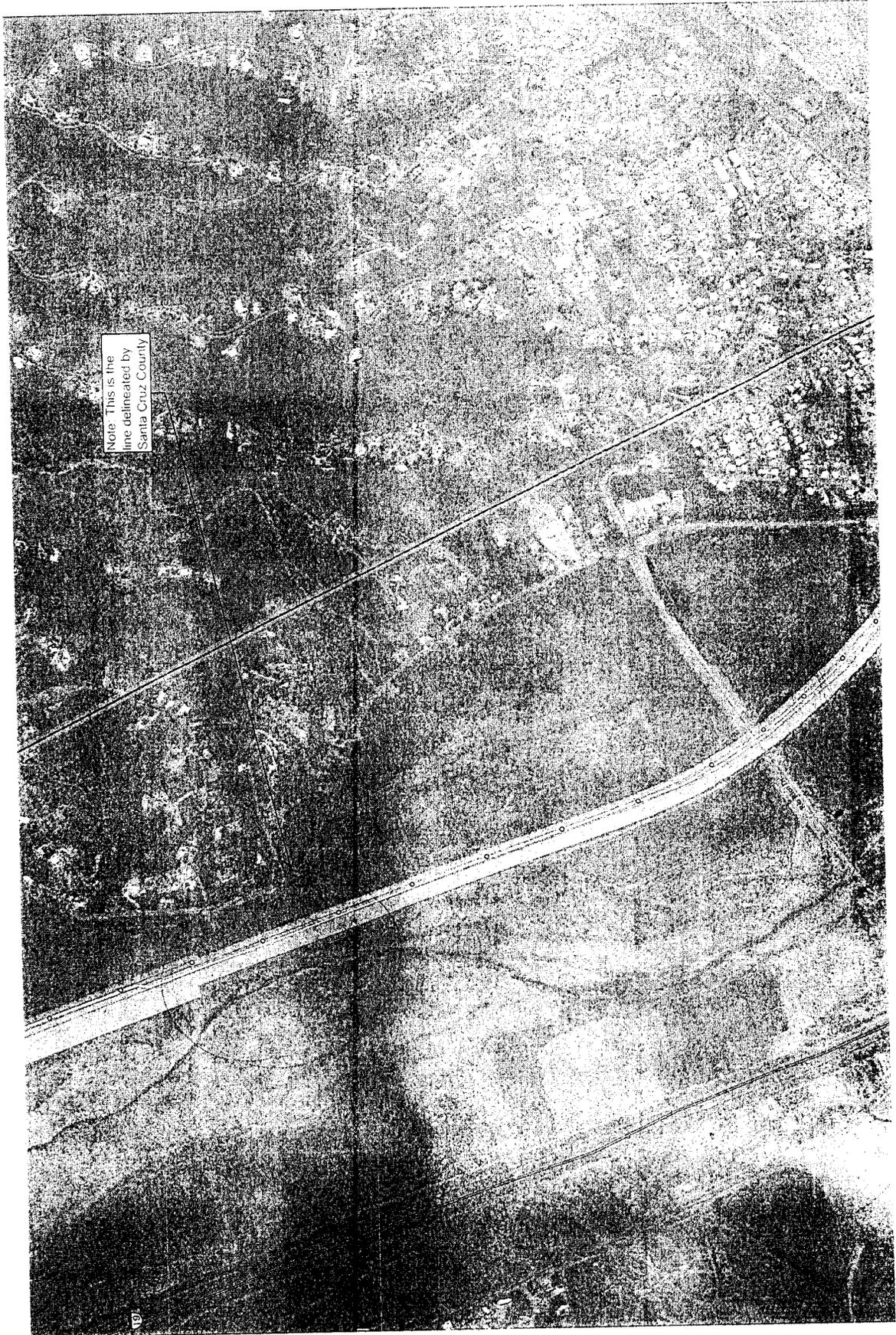
- Proposed Structures
- - - Existing 115kV Transmission Line
- Alternative Alignments
- ▬ Preferred Alignment
- ▨ 100' Proposed ROW (Existing Dis
- ▩ 100' Existing 115kV Transmission
- ▧ Union Pacific Railroad ROW (Wic
- ▦ 100' Proposed ROW West of Union
- △ Substations



Note: This is the  
line delineated by  
Santa Cruz County



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**Enclosure 2**

**Email in Response to a Request for  
Update to Line Siting and Rio Rico's Position (dated 8 July 2009)  
(Exhibit UNS-26)**

Email from Avatar

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**Enclosure 3**

**Picture Showing Clear Cut in the Existing 115 kV Transmission Line  
in the Old Mesquite Bosque**

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1 **Attachment B**

2 **Rationale for Exception Two**

3 1. **Objective.** To increase local participation in selection of the pole finish color along the Alignment.

4 2. **Purpose.** The Pole Finish Plan (PFP) requirements in the CEC permit limited public participation in the  
5 selection of the finish to be used on the new monopoles and this exception expands the public's  
6 opportunity to participate.

7 **3. Scope of this Exception.**

8 a. This Exception implements the decision process with those most concerned with seeing these poles  
9 for the next five decades or so. The company acknowledges the decision process is complex.

10 (Tr890:22-892:17, 893:8-23)

11 b. The company stated it would not object to giving the Parties 15 days to object to the pole finish.

12 (Tr896:20-23)

13 **4. Rationale for the Proposed Change.**

14 a. As granted, the CEC Pole Finish Plan (PFP) will be provided only to landowners where a pole is to  
15 be constructed and these landholders will have 15-days in which to file a statement to the  
16 company and the Commission.

17 b. There are many others significantly impacted by the visual appearance of these poles. The  
18 objective of the PLP is to reduce this visual impact by choosing the lowest difference in contrast  
19 between the foreground dull gray or dark brown pole finish color with the background. This visual  
20 impact will extend far beyond most landowners' viewscape. To limit the number to those within  
21 500-feet of the pole's location, then those most closely impacted should be informed about the  
22 PFP and be able to file a statement with the company and the Commission.

23 c. Further, time will be needed to develop consensus between neighboring landowners, which may  
24 involve several weeks of local discussions. Therefore, adding 30-days for such discussions should  
25 be in the public interest and is recommended by this Exception.