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16 December 2003

Arizona Corporation Commission

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VIA HAND DELIVERY

Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Re: APS' West Valley – South Transmission Line Siting Application
Docket No. L-00000D-03-0122

Dear Commissioners:

On behalf of our clients, Cactus Lane Ranch. ("CLR") and Fulton Homes Corporation ("Fulton"), we submit for the record in the referenced matter the following comments.

CLR is the owner of more than 4,000 acres of land located generally north of Olive Avenue and both east and west of the Loop 303 alignment, as shown on Exhibit "A" attached hereto. CLR and Fulton, as the master developer, are currently in the process of master planning these properties. For the reasons set forth below, CLR and Fulton respectfully request that the Commission remove the TS2 substation from the Arizona Power Plant and Transmission Line Siting Committee's recommended Certificate of Environmental Compatibility ("CEC") in this matter so that the TS2 substation may be sited as part of APS' upcoming West Valley-North application.

In short, the Committee's decision recommending approval of the CEC does not comply with the statutory requirements and should not, therefore, be approved in its current form. Under Arizona law:

If the committee subsequently proposes to condition the certificate on the use of a site other than the site or alternative sites generally described in the notice and considered at the hearing, a further hearing shall be held thereon after public notice.

A.R.S. § 40-360.04.A; *see also* A.A.C. § R14-3-208.G.

Here, the notice of hearing describes the proposed site of the TS2 substation as being located in "Section 28, Township 3 North, Range 2 West." *See*, Notice of Hearing at 1:14-15, 2:25-26 (June 17, 2003). This was the only notice of hearing provided by the Committee on APS' application. Further, both the proposed and alternative transmission line routes contained in APS' application contemplate only that the TS2 substation will be located within Section 28. *See e.g.* Application at IN-1, 2-7, Figure 1, and Exhibits B-2 through B-4 (June 16, 2003). While APS did consider four possible sites for the TS2 substation, all were located within a one-mile radius within Section 28. *See e.g.* Environmental Report Vol. I § 7, Volume II Figure ES-1, ES-2, ES-3; Figure 1-1, 2-6, 2-8, 2-9, 2-11, 2-14, 7-2 through 7-4, 8-2, and 8-3 (July 2003). In short, in neither the notice of hearing nor the applicant's materials submitted to the Committee, are any locations for the TS2 substation contemplated other than in Section 28.

Nonetheless, the Committee has recommended that the Commission approve a CEC that locates the TS2 substation on the northeast corner of Olive Avenue and the Loop 303 alignment, which is in *Section 25 and nearly three miles from any of the proposed or alternative locations contemplated for the TS2 substation*. Because the recommended location of the TS2 substation was not "generally described" in the notice of hearing, the Committee was required to hold a further public hearing after public notice thereof. A.R.S. § 40-360.04.A. As the Committee did not comply with this statutory mandate, it would be improper for the Commission to approve the CEC in its current form.

To be sure, CLR and Fulton understand the need for additional transmission capability in the West Valley and are not seeking to impede APS' effort in that regard. Accordingly, CLR and Fulton are not requesting that the Commission deny the CEC. Rather, CLR and Fulton are requesting only that the TS2 substation be removed from the proposed CEC so that substation may be sited as part of APS' West Valley-North application. This would adequately address the defect in the Committee's decision and still allow the West Valley-South project to proceed. Further, CLR and Fulton are committed to building consensus among property owners that will be affected by the West Valley-North application and have already conducted meetings with the Maricopa County Parks and Recreation Department to further their efforts in that regard.

In addition to the procedural issues discussed above, there are other reasons that counsel against leaving the proposed CEC in its current form simply to reconsider the location of the TS2 substation as part of APS' West Valley-North application. Namely, if the current proposed location for the TS2 substation is allowed to remain a part of this CEC there will be a natural disinclination to changing that location in the future. This will be compounded by the fact that APS will begin its planning efforts for the continuation of the transmission line based on the sited location of the TS2 substation. *See* Transcript of Hearing and Deliberations Volume V at 1050:12 – 1051:10, 1059:11-16 (October 28, 2003). Simply put, it will be more efficient to consider the proper location for the TS2 substation as part of the West Valley-North application, rather than later trying to undo something the Commission approves now.

Thank you in advance for your time and consideration in this matter.

Very Truly Yours

BEUS GILBERT PLLC

Paul Gilbert by ~~MSB~~

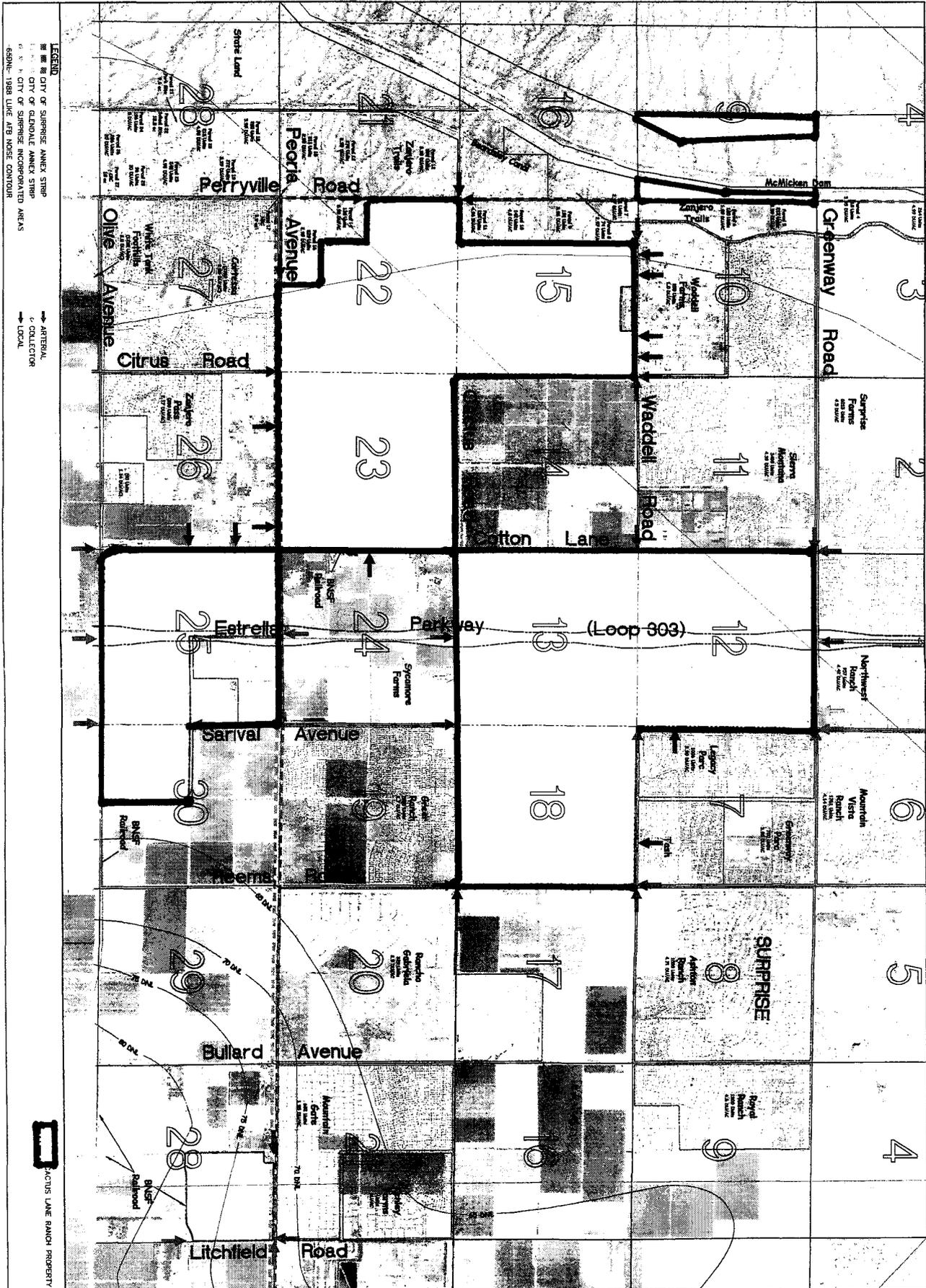
Paul E. Gilbert

Enclosure

cc: Steve Trammell
Norm Nichols
Mark S. Boswell
Felipe A. Zubia

Exhibit

A



DWG. NO.	CMX PROJ: 6889	DATE: 08/05/03	SCALE: 1"=1200'
REV.	DESIGNED: CMX	DRAWN: AJS	APPROVED: DB
SHT. 1 OF 1			

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