



0000162578

ORIGINAL

**BEFORE THE ARIZONA POWER PLANT
AND TRANSMISSION LINE SITING COMMITTEE**

IN THE MATTER OF THE APPLICATION
OF SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT AND
POWER DISTRICT, IN CONFORMANCE
WITH THE REQUIREMENTS OF
ARIZONA REVISED STATUTES,
SECTIONS 40-360, et seq., FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AUTHORIZING THE
PRICE ROAD CORRIDOR PROJECT,
NON-GILA RIVER INDIAN COMMUNITY
PORTION LOCATED IN THE CITY OF
CHANDLER, ARIZONA OR WITHIN
MARICOPA COUNTY.

Docket No. L-00000B-15-0059-00170

Case No. 170

**APPLICANT'S MEMORANDUM ON
JURISDICTION OVER GILA RIVER
INDIAN COMMUNITY FACILITIES**

Arizona Corporation Commission

DOCKETED

MAR 25 2015

DOCKETED BY **RC**

ARIZONA CORPORATION COMMISSION
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RECEIVED

Paragraph 26 of the Procedural Order for Case No. 170 solicits briefs from the Applicant and other potential parties to address the following issue:

May the Committee consider the proposed placement of the transmission lines on that portion of the project that is on the Gila River Indian Community, which is not part of the Application, in considering whether to grant authority to build that portion of the project that is not on the Gila River Indian Community but is contained in the Application?

In response to the Chairman's request, Applicant files this memorandum.

We reach the conclusion that the Committee may not consider the environmental impact of tribal facilities built on the Gila River Indian Community, directly or indirectly.

Specifically:

1 1. The Siting Committee does not have administrative police power. Rather it
2 sits as an adjudicatory body to consider facilities brought before it by way of application.
3 It does not have the jurisdiction to consider the impact of facilities that are not before it.

4 2. There is no "connected action" concept in the siting statutes. If this were so
5 there would be no end to the issues that could be raised in a siting case.

6 3. The Committee itself, in past cases, has ignored facilities that were not part
7 of the application, including Tribal Facilities. Current applicants have the right to rely on
8 prior decisions and practices of the Committee.

9 4. The facilities in question will be co-owned by the Gila River Indian
10 Community and will be built entirely on tribal lands. The facilities have been fully
11 permitted under tribal and federal processes. Any attempt to assert jurisdiction over
12 these facilities (whether directly or indirectly) would violate federal law and tribal
13 sovereignty.

14 **A Description of the Tribal Facilities**

15 For the past four years the Gila River Indian Community and SRP have planned
16 jointly owned electric facilities to serve the needs of the Tribe and SRP. These facilities
17 are divided into three transmission voltages: 230kV, 69kV and 12kV. The 230kV lines
18 and the 69kV lines will be co-located on the same structures. The 12kV facilities will be
19 stand alone, sharing the same right-of-way.

20 Nominally SRP will own the 230kV circuits. The Tribe will own the 69kV and
21 12kV circuits, which circuits will be operated by the Tribal utility, the Gila River Indian
22 Community Utility Authority (GRICUA). It is, of course, possible in the future that all of
23 the facilities might serve to benefit both GRICUA customers and SRP customers.

24 The facilities were fully planned and permitted by the Tribe, in cooperation with
25 the Bureau of Indian Affairs and in compliance with federal law.
26

1 In the planning and development of the transmission line route and facility
2 locations on Tribal land (the Tribal Project), SRP has acted in coordination with the
3 Tribal leadership and counsel, the GRICUA, District Four, and the Bureau of Indian
4 Affairs (BIA). The GRICUA has publically expressed its support as the Project will
5 “provide redundancy and increased reliability for not only those residents and businesses
6 located in District 4, but for the entire GRICUA electric system.” *See Exhibit A.*

7 The Project was presented and discussed before the District Four Community
8 officers at the April 15, 2013 and the June 3, 2013 meetings. At the June 3, 2013
9 meeting, a motion was made for the District Four Community to approve and support the
10 Project, which passed unanimously. *See Exhibit B.* On June 19, 2013, the Gila River
11 Indian Community Council also discussed the Project and unanimously approved a
12 motion to support the Project. *See Exhibit C.*

13 In connection with the Tribal Project, SRP has conducted extensive work with the
14 BIA and the U.S. Department of the Interior’s Office of Appraisal Services to obtain land
15 surveys and land appraisals. An environmental assessment was performed in 2013-14.
16 Based upon the environmental assessment, the BIA issued a Public Notice that the
17 Project “will not have a significant impact on the quality of the human environment.”
18 *See Exhibit D.* The BIA’s Finding of No Significant Impact (FONSI) was issued on July
19 15, 2014. *See Exhibit E.*

20 Argument

21 **1. The Committee does not have jurisdiction to consider the Tribal Facilities, as** 22 **a matter of state law.**

23 We begin by pointing out the facilities that are a part of the Application. These
24 are limited to the site for the RS-27 substation, the site for the RS-28 substation, and two
25 relatively short transmission line segments. Importantly, the Tribal Facilities are **not** part
26

1 of the Application. The scope of the facilities brought before the Committee is the
2 measure of its jurisdiction.

3 We first point out that the Committee does not have police power, nor does it have
4 *sua sponte* jurisdiction. In other words, it acts in a judicial capacity, only with respect to
5 applications that are brought before it. It meets on an *ad hoc* basis only for the purpose
6 of considering applications. A.R.S. §§40-360.01 and 40-360.03.

7 Throughout the §§40-360 series of statutes, these terms are used throughout:
8 *facilities, site, transmission, plant, plans*, all in reference to the content of the application.
9 Clearly the scope of the inquiry is triggered by the plans to construct “a plant,
10 transmission line or both.” A.R.S. § 40-360.03.

11 Note particularly the interplay between the subsections of § 40-360.03:

12 Every utility **planning to construct a plant, transmission line** or both in
13 this state shall first file with the commission an application for a certificate
14 of environmental compatibility.

15 The committee may approve or deny an application and may impose
16 reasonable conditions on the issuance of a certificate of environmental
17 compatibility and in so doing shall consider the following factors as a basis
18 for its action **with respect to the suitability of either plant or
19 transmission line siting plans.**

20 (Emphasis supplied.) Importantly, there is no suggestion at all in the statute that the
21 Committee has general jurisdiction, or the ability to consider the impact of facilities that
22 are not part of the application.

23 This conclusion is logical. Power plants and transmission lines serve the entire
24 state. Every transmission line is connected with every other line. Every power plant is
25 interconnected to transmission. And every electricity use in the state is interconnected to
26 the system of transmission lines and power plants.

If the inquiry is not limited to the facilities in the application, then there is no end
to the Committee’s jurisdiction. It could look at any transmission line, power plant or

1 end use, as each transmission line or plant impacts every other one and each use impacts
2 the entire system. This, of course, is not the intent of the statutes.

3 A similar issue arose in a Tucson Electric Power application, Case Number 164.
4 There, environmental interests argued that the Rosemont mine, connected to the
5 transmission line in the application, should be considered by the Committee and the
6 Commission in determining the environmental effect of the line.

7 This contention was rejected by both the Committee and the Commission. At the
8 Prehearing Conference, the Siting Committee Chairman explained the basis for which
9 this argument would be rejected, stating:

10 The line siting statute is very broad about the types of environmental
11 factors of a project that may be considered. **But it is very precise about**
12 **the project. And 40-360.06(A) says that it has to be with respect to the**
13 **suitability of the transmission line siting plans.** It does not in any way
14 suggest that you would go beyond to with whatever use is being made of
15 the electricity.... So evidence relating solely to the mine is not going to be
16 admissible. And I am also going to advise the other members of the
17 Committee at the hearing that Arizona law does not authorize the
18 Committee to consider the environmental impact of the proposed mine in
19 evaluating the environmental impact of the proposed transmission line.

20 *See Exhibit F* at 14:9-15:16 (emphasis supplied). The same arguments were made before
21 the Corporation Commission, that the impact of the mine should be considered. The
22 Commission rejected the arguments and approved the Certificate of Environmental
23 Compatibility issued by the Siting Committee. *See Exhibit G.*

24 In 2000, a transmission line siting case analogous to the current matter was before
25 the Siting Committee. An application for a Certificate of Environmental Compatibility
26 was submitted by the Dine Power Authority regarding a proposed transmission line
consisting of three segments. Two of the segments were located entirely upon the Navajo
Indian Reservation. The Application clarified that it sought a certificate for "only those
portions of the . . . Project which traverse non-reservation lands located within the State

1 of Arizona.” See **Exhibit H** at ¶ 4. Garlyn N. Bergdale, the principal-in-charge of the
2 Navajo Transmission Project, testified consistently with the Application, stating the
3 “Application is for the Arizona, non-reservation portions of Segment 3.” See **Exhibit I** at
4 p. 3:22. On October 27, 2000, the Siting Committee granted the requested Certificate of
5 Environmental Compatibility for the construction of facilities on non-reservation lands
6 while recognizing the construction of facilities on reservation lands without Siting
7 Committee approval. See **Exhibit J**.

8 Consistent with the Tucson Electric Power and Dine Power Authority decisions,
9 the *limited nature* of an environmental impact consideration was recently confirmed in
10 *Sierra Club v. United States Army Corps of Engineers*, ___ F. Supp. 2d ___, 2014 WL
11 4066256 (D.D.C. Aug. 18, 2014). In *Sierra Club*, environmental advocacy organizations
12 brought suit against various government agencies for allegedly failing to adequately
13 assess environmental impacts arising from the private construction of a 589-mile
14 domestic oil pipeline. *Id.*

15 The pipeline at issue primarily traversed over private lands for which easements
16 were acquired from individual land owners. *Id.* at *2. The pipeline also crossed 27.28
17 miles of federal land and waterways, which included 12.3 total miles of Indian tribe land.
18 *Id.* Federal approval was sought and granted as to the environmental impact of the
19 pipeline from the Army Corps of Engineers (Corps) for the 14.98 miles within its
20 jurisdiction. *Id.* As to the Native American land, approval was also sought and granted
21 from the Bureau of Indian Affairs (BIA) after the completion of an Environmental
22 Assessment (EA) and a Finding of No Significant Impact (FONSI). *Id.*

23 Plaintiffs, however, contended the environmental studies performed by the Corps
24 and the BIA were insufficient and that an agency should undertake a comprehensive
25 review of the potential environmental impacts of the entire route of the pipeline,
26 including the portions over private land. *Id.* at *9. The court disagreed, recognizing that

1 even under the National Environmental Policy Act, which directs consideration of certain
2 connected actions, an agency is not required to expand its environmental study beyond
3 the extent of its control and responsibility. *Id.* at *18. Further, the court clarified that to
4 conclude otherwise would “fly in the face of the well-established rule that an agency
5 responsible for only a small part of a larger project need not consider aspects of that
6 project outside of its jurisdiction.” *Id.*

7 Similar to the pipeline in *Sierra Club*, the facilities upon Tribal lands are outside
8 of the Siting Committee’s control and jurisdiction.

9 **2. The Committee does not have the authority to consider the Tribal Facilities as**
10 **a matter of federal law.**

11 Even if state law could be interpreted to give the Siting Committee jurisdiction to
12 consider the environmental impact of Tribal Facilities, such a state law would be
13 unenforceable under federal law. This is clear whether the action purports to directly
14 regulate the facilities on the sovereign Indian nation, or whether the action attempts to do
15 so by some indirect means.

16 **a. The Gila River Indian Community is a Sovereign Nation**

17 It is basic that the Gila River Indian Community is a sovereign nation within the
18 meaning of federal law. The United States recognizes tribal land constitutes a “domestic
19 dependent nation.” *Michigan v. Bay Mills Indian Cmty.*, 134 S. Ct. 2024, 2030 (2014).
20 Tribal lands are considered to be parallel sovereignties subject to authorities delegated to
21 the United States, much like the status of the fifty states. As sovereign nations, Indian
22 tribes are subordinate only to federal government. *Texas v. U.S.*, 497 F.3d 491 (5th Cir.
23 2007). Although Congress possesses plenary power to limit their sovereignty, Indian
24 nations retain the powers of self-government that are necessary to control their own
25 internal relations and to preserve their own unique customs and social order. *Duro v.*
26 *Reina*, 495 U.S. 676, 685-86 (1990).

1 The federal government, not individual states, enters treaties with Indian tribes.
2 Under the U.S. Constitution, “Congress shall have the power to regulate Commerce with
3 foreign nations and among the several states, and with the Indian tribes.” U.S. Const. art.
4 1, § 8. This determination establishes that Indian tribes are separate from the federal or
5 state governments, and that the states do not have power to regulate commerce with the
6 tribes, much less regulate the tribes.

7 For example, a conflict arose between the Menominee Indian Tribe and the State
8 of Wisconsin as to whether the state had a right to regulate fishing on a particular Indian
9 reservation. The Indian tribe contended that the treaties between their ancestors and the
10 United States government protected their fishing rights, while the State of Wisconsin
11 believed such rights were regulated by the state. *Menominee Tribe of Indians v. United*
12 *States*, 391 U.S. 404 (1968). On appeal, the U.S. Supreme Court held that the Indians’
13 treaty with the federal government created an implied right in favor of the Indian tribe,
14 free from interference by the state. *Id.* at 406, 412. Although states have tried to extend
15 their power over the tribes in many other instances, the federal government has
16 consistently ruled in favor of tribal sovereignty. This notion of Indian sovereignty is a
17 foundational principle, as Chief Justice Marshall stated in 1832, Indian nations have
18 always been considered as “distinct, independent political communities.” *Worcester v.*
19 *State of Ga.*, 31 U.S. 515, 519 (1832).

20 In conformity with the understanding that Indian tribes are distinct and
21 independent, tribes have the right to make all laws and regulations for the government
22 and protection of their persons and property, consistent with the Federal Constitution and
23 the laws of the United States. *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 15 (1987).
24 The federal government's long-standing policy of encouraging tribal self-government
25 reflects the fact that Indian tribes retain the attributes of sovereignty over both their
26 members and their territory, to the extent sovereignty has not been withdrawn by federal

1 statute or treaty. *Id.* Further, “the federal policy favoring tribal self-government operates
2 even in areas where state control has not been affirmatively pre-empted by federal
3 statute.” *Id.*

4 The Gila River Indian Community is a sovereign nation with the inherent right to
5 self-govern and regulate their persons and property. This right of self-government
6 necessarily includes decisions as to the utilities on the reservation without interference
7 from state government.

8 **b. The Facilities at issue are part of the Sovereign Nation**

9 This is not a close case and the analysis need go no further. There is no greater
10 attribute of sovereignty than to decide what structures are built in the nation. This is such
11 a basic concept, that we see no litigation over the issue. There is a considerable body of
12 law that draws a line between tribal sovereignty and the ability of a state to regulate the
13 conduct of non-tribal members. But, this body of law is not implicated here. This is not
14 a regulation of conduct; it is the determination of the location of physical facilities.
15 These physical facilities are designed to provide electricity to tribal members on tribal
16 land, in addition to providing a path for power to other lands. This is not the regulation
17 of non-tribal members; it would be regulation of the Tribe itself, with a private partner.

18 A fairly close case, but lacking the element of actually providing service to the
19 tribal lands is *Skull Valley Band of Goshute Indians v. Nielson*, 376 F.3d 1223 (10th Cir.
20 2004). There, an Indian tribe and private company planning to operate a storage facility
21 on reservation lands for spent nuclear fuel brought an action against state officials for
22 declaratory and injunctive relief from state laws restricting such storage activities. The
23 trial court granted summary judgment in favor of the Indian tribe and the private
24 company. The Tenth Circuit affirmed, in part, because the state statutes at issue were
25 preempted by federal law.
26

1 The court noted that federal law has long recognized the Indian tribe's "interests
2 as sovereigns in control over tribal lands." *Id.* at 1236-37; *see also Merrion v. Jicarilla*
3 *Apache Tribe*, 455 U.S. 130, 137 (1982) (recognizing "the tribe's general authority, as
4 sovereign, to control economic activity within its jurisdiction"); *Kerr-McGee Corp. v.*
5 *Farley*, 115 F.3d 1498, 1508 (10th Cir. 1997) (acknowledging tribe's interests as
6 sovereign "in protecting and vindicating the rights of its residents, as well as its interest
7 as lessor of the land").

8 Similar to the land upon which the storage facility was located in *Skull Valley*, the
9 land where the Project transmission facilities are located is Indian tribe land. Moreover,
10 the Committee fails to have jurisdiction over the Project transmission line route and
11 facility locations not only because the Tribe has sovereign control over the land at issue
12 (sufficient in itself), but also because (1) the Tribe jointly owns the Project, and (2) the
13 service provided from the Project serves the utility needs of the Tribal members.
14 Therefore, the Siting Committee clearly has no jurisdiction over the Project.

15 Another analogous case is *Shivwits Band of Paiute Indians v. Utah*, 428 F.3d 966
16 (10th Cir. 2005). In this case, after an Indian tribe purchased land and placed it in trust
17 with the federal government, it leased the land to a marketing company for construction
18 of outdoor billboards. The marketing company, a non-Indian entity, supplied the money
19 for the Indian tribe to purchase the land with the intent to use the land for marketing
20 purposes. After lawsuit threats by the State of Utah and a stop work order issued by the
21 city, the Indian tribe and marketing company sought declarative and injunctive relief.
22 The trial court granted summary judgment to the tribe and marketing company. The
23 Tenth Circuit affirmed, holding, in part, that the State was not entitled to exercise its
24 police power to regulate the use of the tribe's land.

25 The Tenth Circuit held that a "state may exercise its authority over activities of
26 non-tribal members on 'Indian country' only 'under certain circumstances....'" *Id.* at 981

1 (citing *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 331 (1983)). Such an
2 inquiry, however, “is to proceed in light of traditional notions of Indian sovereignty and
3 the congressional goal of Indian self-government, including its overriding goal of
4 encouraging self-sufficiency and economic development.” *Id.* at 981-82 (punctuation and
5 citation omitted).

6 In holding that “allowing the State to exercise control over the land at issue would
7 threaten Congress’ overriding objective of encouraging tribal self-government and
8 economic development,” the Court primarily recognized that the billboard land leases
9 were anticipated to have a beneficial effect on the social and economic condition of the
10 Indian tribe. *Id.* at 983. The Tenth Circuit affirmed the Indian tribe’s sovereign right to
11 regulate, even though the land at issue was not part of the reservation and the anticipated
12 benefit to the tribe was limited to receiving revenue from the billboard usage. Unlike the
13 facts in *Shivwits Band*, in this case the Tribe receives a direct benefit from the utility
14 services provided by the Project as tribal members will utilize the services. Such a
15 benefit for the Tribe, and that the facilities are located on tribal land, further confirms the
16 Tribal right to exercise its own sovereignty and self-governing right without the Siting
17 Committee’s interference.

18 Conclusion

19 No matter what the Committee ultimately decides, if it takes evidence regarding the
20 impact of the Tribal facilities, it will affect the economics, or even the viability of the
21 Tribal facilities. The jurisdiction of the Committee under state law is limited to the
22 facilities brought before it by application. Federal law prohibits interference with the
23
24
25
26

1 Tribal project. There simply is no basis under either state or federal law to consider or
2 take action regarding the Tribal facilities.

3 RESPECTFULLY SUBMITTED this 25th day of March, 2015.

4 JENNINGS, STROUSS & SALMON, P.L.C.

5
6 By 
7 Kenneth C. Sundlof, Jr.
8 One East Washington Street, Suite 1900
9 Phoenix, Arizona 85004-2554

10 AND

11 Robert Taylor
12 Salt River Project Agricultural Improvement
13 And Power District, PAB 221
14 Regulatory Policy
15 P.O. Box 52025
16 Phoenix, AZ 85072-2025

17 ORIGINAL and twenty-five copies
18 of the foregoing filed with this 25th day of
19 March, 2014, with:

20 Arizona Corporation Commission
21 Hearing Division - Docket Control
22 1200 W. Washington Street
23 Phoenix, Arizona 85007

24 COPY of the foregoing sent via email or
25 Federal Express this 25th day of March, 2015, to:

26 John Foreman
Arizona Power Plant and Transmission Line
Siting Committee
Office the Arizona Attorney General
1275 W. Washington Street
Phoenix, Arizona 85007
John.Foreman@azag.gov

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15
16 By Michele Maxer
17
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21
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23
24
25
26

EXHIBIT A



Gila River Indian Community Utility Authority

May 30, 2013

Salt River Project
Thomas A. Novy, SEP007
PO Box 52025
Phoenix, AZ 85072-2025

Re: 230kV Project on the Gila River Indian Community

Dear Mr. Novy,

The Gila River Indian Community Utility Authority ("GRICUA") supports the Salt River Project's ("SRP") 230kV line project located in the Community's District 4 (the "Project"). GRICUA supports the current design of the Project which includes a double 69kV line and double 12kV line for GRICUA's use and benefit. These lines dedicated for GRICUA's use and benefit will provide redundancy and increase reliability for not only those residents and businesses located in District 4, but for the entire GRICUA electric system.

The current SRP design of the Project includes three (3) different options for the location of the 230kV line. The map attached hereto as Schedule A depicts the three (3) different routes being considered by SRP (the "Map"). Based on these three (3) routes, GRICUA recommends SRP use the route labeled as P4C on the Map or an alternative route that minimizes any cultural concerns raised by the Community or Community members. This is a large project and cultural concerns must be taken into consideration, where possible, when deciding on a location for the Project.

GRICUA looks forward to working with SRP and the Community on this Project.

Sincerely,

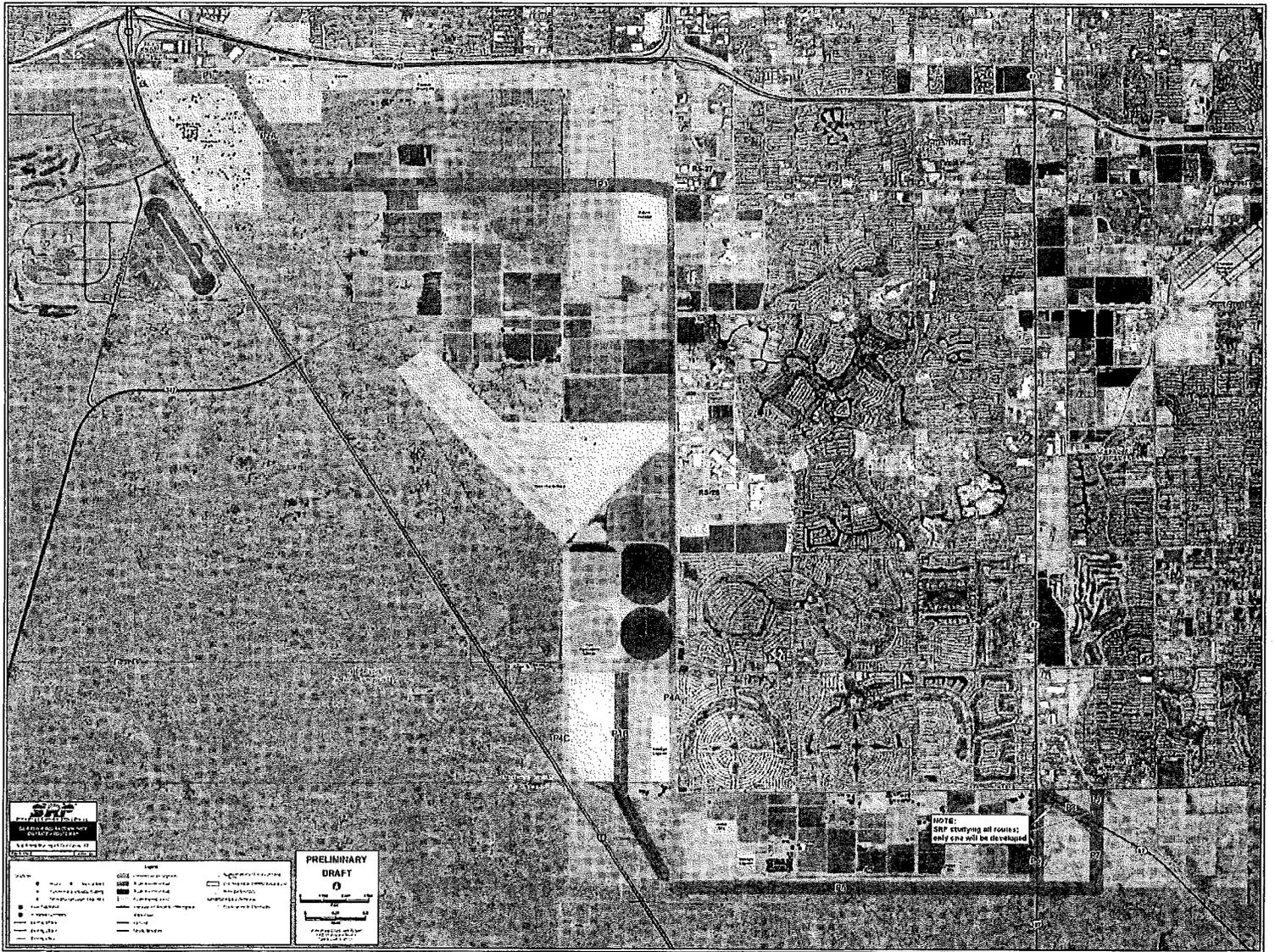
John Lewis
Chairman of the Board
Gila River Indian Community Utility Authority

cc: GRICUA Board
Leonard Gold, General Manager, GRICUA
Linus Everling, General Counsel, GRIC

6640 W. Sundust Rd. · Box 5091 · Chandler, Arizona 85226-4211
Office: 520.796.0600 · Fax: 520.796.0672
E-Mail: GRICUA@gricua.net
Website: www.gricua.net

Schedule A

SRP Design Map



SP
 STATE PLANNING BOARD
 COUNTY OF LOS ANGELES
 12345 Main Street, Los Angeles, CA 90001

Legend	
□	Proposed Project Area
□	Existing Project Area
□	Proposed Access
□	Existing Access
□	Proposed Easement
□	Existing Easement
□	Proposed Right-of-Way
□	Existing Right-of-Way
□	Proposed Utility
□	Existing Utility
□	Proposed Street
□	Existing Street
□	Proposed Lot
□	Existing Lot
□	Proposed Building
□	Existing Building
□	Proposed Parking
□	Existing Parking
□	Proposed Land Use
□	Existing Land Use

**PRELIMINARY
 DRAFT**

Scale: 1" = 100'

North Arrow

NOTE:
 Only existing structures
 only are to be developed

EXHIBIT B

District Four Community
District Four Community Officers
Post Office Box 557
Sacaton, Arizona 85147
Phone: (520) 418-3661
Fax: (520) 418-3665



Community Officers
Deanna Mendoza, Chairwoman
Belinda Nelson, Vice-Chairwoman
Veronica Enos, Secretary
Darlene Burnette, Treasurer
Judy Sepeda, Sergeant-at-Arms
Domingo Quintero, Sergeant-at-Arms

June 7, 2013

Salt River Project
Thomas A. Novy, SEP007
PO Box 52025
Phoenix, AZ 85072-2025

Dear Mr. Novy

At our regular community meeting on June 3, the District Four Community acted on an agenda item: Unfinished Business-SRP Transmission Line Project. The initial meeting regarding this project was first presented and discussed on April 15, 2013. At this meeting, the item was tabled until the concerns of the land owners along the proposed route were discussed further and to look at other alternative routes in consideration of cultural issues.

The agenda item on June 3 was to continue the discussion of the proposed route on Old Price Road for placement of a 230kV transmission line. The benefits of the proposed route for the Gila River Indian Community include allowing the Gila River Indian Community Utility Authority's use of the 230kV transmission line to improve service to the Community, as outlined in your team's presentation: "Price Road Corridor, Gila River Indian Community, District 4 Presentation, 6/3/13", was heard by the community.

A motion was made to approve the Salt River Project Transmission Line Project and to approve the route which would minimize cultural impact to the residents of the District Four Community.

Please accept this letter as official notification of action taken by the District Four Community regarding the Salt River Transmission Line Project. Attached to this letter is the official motion sheet documenting the approval of the proposed Salt River Project and alternate route.

Respectfully,

Deanna Mendoza
District Four Community Chairperson

Cc: GRIC Office of General Counsel
Gila River Utility Authority
District Four Council Representatives

District Four Community
District Four Community Officers
Post Office Box 557
Sacaton, Arizona 85147
Phone: (520) 418-3661
Fax: (520) 418-3665



Community Officers
Deanna Mendoza, Chairwoman
Belinda Nelson, Vice-Chairwoman
Veronica Enos, Secretary
Darlene Burnette, Treasurer
Judy Sepeda, Sergeant-at-Arms
Domingo Quintero, Sergeant-at-Arms

District Four Community Motion Sheet

Meeting Date: **June 3, 2013**

Agenda Item: **Unfinished Business-SRP Transmission Line Project**

Barney Enos, Jr. made a motion to approve and support the Salt River Project Transmission Line Project and the route designated as P4C or an alternative route that may minimize cultural impacts of the residents of Zone 4, District 4 Community.

Jennifer Allison seconded the motion.

The vote was 11 for; 0 opposed; and 0 abstained. Motion carried on this 3rd day of June, 2013.

Veronica Enos _____ Date 6/10/13
Secretary's Signature – Veronica Enos

Deanna Mendoza _____ Date 06/03/13
Chairwoman's Signature – Deanna Mendoza

For Committee use Only

Received by: _____

Date: _____

Transmitted via:

- email
 US Mail
 other

For Service Center use Only

Attachments:

- ____ Voucher or purchase order (# _____)
____ Motion sheet
____ Letter of request
____ Completed application
____ W-9 form
____ New vendor request (if applicable)

Date submitted to finance _____

EXHIBIT C

GILA RIVER INDIAN COMMUNITY COUNCIL

*Post Office Box 2138
Sacaton, Arizona 85147
(520) 562-9720
FAX: (520) 562-9729*

~ OFFICIAL MOTION ~

I, Linda Andrews, Secretary of the Gila River Indian Community Council, hereby attest to the following **Motion** passed by the Gila River Indian Community Council at a **Regular Meeting** held Wednesday, June 19, 2013, in the Community Council Chambers, Governance Center, Sacaton, Arizona.

SUBJECT: UNFINISHED BUSINESS

2. 230K Project On The Gila River Indian Community

MOTION: Councilman Anthony Villareal, Sr. stated, Government & Management forwards to the Community Council with a recommendation of acknowledgement and support of the project as presented, I so move; second by Councilman Terrance B. Evans

Vote: 15 Council Members Present - 15 For; 0 Oppose; 0 Abstain; 2 Absent; 0 Vacancies;
MOTION CARRIED

ATTEST:

Linda Andrews
Linda Andrews
Community Council Secretary



06.19.13: 3:42:15

EXHIBIT D



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
PIMA AGENCY
P.O. Box 8
Sacaton, Arizona 85147



In Reply Refer To:
Office of the Superintendent

PUBLIC NOTICE

Salt River Project (SRP) is proposing to construct new 230-kilovolt (kV) transmission lines and associated substations in direct response to growth in an area known as the Price Road Corridor (PRC), which could include power users located both on and off of the Gila River Indian Community (the Community) lands. The SRP PRC 230kV Project is intended to bring bulk power into the PRC by connecting the existing Kyrene, Knox and Schrader substations with two new substations in the PRC known as Receiving Stations (RS)-27 and RS-28. The preferred route for the portion of the 230kV lines on Allotted and Tribal Lands within District 4 of the Community is an approximately 17-mile route, which crosses Allotted and Tribal Lands, and consists of the following: a new double-circuit 230kV transmission line from the existing Knox Substation to a new 230kV Substation (referred to as RS-27) and on to a new 230kV Substation (referred to as RS-28); and from RS-28, a new single-circuit 230kV transmission line to the boundary of the Community near Hunt Highway.

SRP is seeking approval and conveyance of a right-of-way (R/W) by the Bureau of Indian Affairs (BIA), Pima Agency for a term of 100 years across Allotted and Tribal lands to locate a portion of the SRP PRC 230kV Project (the Proposed Action). Through discussions with the Community and Gila River Indian Community Utility Authority (GRICUA) it was determined that the issuance of a R/W and the development of the 230kV transmission lines on the Community lands could also benefit GRICUA in meeting its power needs by providing accommodations for two underbuilt lower voltage lines. There is also room for future 12kV distribution facilities. In total, SRP is requesting a maximum 90 foot wide R/W for the transmission lines. In addition to the transmission line R/W, there are also a few allotments that require Temporary Construction Easements, which would be in total 100 feet wide by 400 feet long.

Based on the July 2014 *Environmental Assessment for the SRP Price Road 230kV Project (EA)*, it has been determined that the Proposed Action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement is not required. This is a public notice of availability of a Finding of No Significant Impact (FONSI) and the Final EA for review. The FONSI and the Final EA will be publically available for 10 days beginning July 18, 2014 and ending July 28, 2014. To obtain a copy of the FONSI and the Final EA, please contact:

Cecilia Martinez, Superintendent
Bureau of Indian Affairs, Pima Agency
P.O. Box 8
Sacaton, Arizona 85147
Telephone Number: 520.562.3326
Fax: 520.562.3543

Please note: The FONSI is a finding on environmental effects, not a decision to proceed with an action; therefore, it cannot be appealed. Title 25, Code of Federal Regulation, Part 2.7 requires a 30-day appeal period after the decision to proceed with the action is made before the action may be implemented. Appeal information will be posted at Pima Agency if the decision to proceed is made.

EXHIBIT E

Finding of No Significant Impact

SRP Price Road 230kV Project
Gila River Indian Community, Arizona

Bureau of Indian Affairs
Pima Agency

Salt River Project (SRP) is proposing to construct new 230-kilovolt (kV) transmission lines and associated substations in direct response to growth in an area known as the Price Road Corridor (PRC), which could include power users located both on and off of the Gila River Indian Community (the Community) lands. The SRP PRC 230kV Project is intended to bring bulk power into the PRC by connecting the existing Kyrene, Knox and Schrader substations with two new substations in the PRC known as Receiving Stations (RS)-27 and RS-28. The preferred route for the portion of the 230kV lines on Allotted and Tribal Lands within District 4 of the Community is an approximately 18-mile route, which crosses Allotted and Tribal Lands, and consists of the following: a new double-circuit 230kV transmission line from the existing Knox Substation to a new 230kV Substation (referred to as RS-27) and on to a new 230kV Substation (referred to as RS-28); and from RS-28, a new single-circuit 230kV transmission line to the boundary of the Community near Hunt Highway.

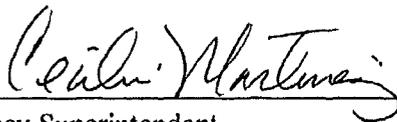
SRP is seeking approval and conveyance of a right-of-way (R/W) by the Bureau of Indian Affairs (BIA), Pima Agency for a term of 100 years across Allotted and Tribal lands to locate a portion of the SRP PRC 230kV Project (the Proposed Action). Through discussions with the Community and Gila River Indian Community Utility Authority (GRICUA) it was determined that the issuance of a R/W and the development of the 230kV transmission lines on the Community lands could also benefit GRICUA in meeting its power needs by providing accommodations for two underbuilt lower voltage lines. There is also room for future 12kV distribution facilities. In total, SRP is requesting a maximum 90 foot wide R/W for the transmission lines. In addition to the transmission line R/W, there are also a few allotments that require Temporary Construction Easements, which would be in total 100 feet wide by 400 feet long.

I have determined that by implementation of the Proposed Action and environmental mitigation measures as specified in the EA, the Project will have no significant impact on the quality of the human environment. In accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, an Environmental Impact Statement will not be required.

This determination is supported by the following findings:

1. The EA identifies and evaluates the potential environmental impacts of the Proposed Action and the No Action alternative
2. All Applicant Incorporated Design Features and Construction Mitigation Measures described in the EA (Section 5.0) will be implemented to mitigate any potential impacts to biological resources; cultural resources; air quality; water resources; geology and soils; visual resources; and public health & safety.
3. The Proposed Action will not have significant impacts on land resources. See Section 4.1 Land Resources.

4. The Proposed Action will not affect Waters of the United States. See Section 4.2 Water Resources.
5. The Proposed Action will not affect floodplains. See Section 4.2 Water Resources.
6. The Proposed Action will not have significant impacts on Air Quality. See Section 4.3 Air Quality.
7. The Proposed Action will not have significant impacts on threatened, endangered, or candidate species in the Project area. See Section 4.4 Living Resources.
8. The Proposed Action will not have significant impacts on cultural resources. See Section 4.5 Cultural Resources.
9. The Proposed Action will benefit the Gila River Indian Community. See sections 4.6.1 Employment and Income, and 4.6.2 Demographic Trends. The Proposed Action will not affect Indian Trust Assets. See Section 4.6.4 Indian Trust Assets.
10. The Proposed Action will not have significant impacts on lifestyle and cultural values. See Section 4.6.5 Lifestyle and Cultural Values.
11. The Proposed Action is consistent with Gila River Indian Community land use plans. See Section 4.7.4.
12. Agency and public involvement was conducted and environmental issues related to the Proposed Action were identified. Alternative courses of action and mitigation measures were developed in response to environmental concerns and issues. Public and agency coordination is addressed in Section 6.0.
13. Temporary construction impacts will not have significant impacts on access to, or use of, the adjacent land and will be minor in duration and intensity.
14. When the impacts of private land connections are considered along with the impacts of the Proposed Action the resulting cumulative effects on physical, biological, cultural and historic and human resources will not result in a significant negative impact. See Section 4.9 Cumulative Effects.



Agency Superintendent
Pima Agency
Bureau of Indian Affairs
U.S. Department of the Interior

JUL 15 2014

Date

EXHIBIT F

1 rule in about 90 seconds.

2 MR. JAMES: Okay. Well, I think we are standing
3 by what is in our briefs. I think the only thing I do
4 want to clear up is Rosemont has not argued preemption.
5 Although we agree with TEP's argument on the preemption,
6 as we explained, we simply don't think importing NEPA
7 concepts into the line siting statutes is appropriate or
8 lawful.

9 CHMN. FOREMAN: Okay. Does the applicant have
10 anything you want to add?

11 MR. GELLMAN: Just that our arguments still
12 stand and we urge the motion in limine.

13 CHMN. FOREMAN: Okay. To me this is a fairly
14 simple legal issue, but a fascinating one and one for
15 which there obviously is no controlling Arizona
16 authority. And I make my ruling, and as I will explain
17 as I go along, in a way that does not encourage you to
18 seek appellate review of it but will anticipate that
19 possibility or eventuality.

20 The Arizona Power Plant and Transmission Line
21 Siting Committee is a creature of the Arizona
22 legislature. It is solely authorized to act by the
23 statutes, the line siting statutes. The Arizona
24 Corporation Commission is authorized by the legislature
25 to review certain decisions of the Committee and to

1 promulgate procedural rules for it that are not
2 inconsistent with the statutes. The Commission has
3 authority granted to it by the constitution to do other
4 things, like, for example, ratemaking, but its line
5 siting authority comes from the very same statutory
6 source as the Committee, A.R.S. Section 40-360 and
7 following statutes.

8 Before I go any further, I didn't ask whether
9 the Nation had anything further you wanted to say.

10 MS. BERGLAN: No, Mr. Chairman. Thank you.

11 CHMN. FOREMAN: Okay. And I apologize. We have
12 too many parties floating around here.

13 CHMN. FOREMAN: But don't be afraid to wave a
14 hand. Ms. Webb certainly is not.

15 MS. WEBB: Now I am.

16 CHMN. FOREMAN: The various potential parties
17 and counsel for the Save the Scenic Santa Ritas or for
18 the Scenic Santa Ritas have argued that the Committee,
19 as a part of the balancing it has to do using the
20 statutory factors and the statutes passed by the
21 legislature, can consider the environmental impact of
22 the mine, which is in essence the use to which
23 electricity is being turned, when it considers the
24 environmental impact of the line, which is the
25 conveyance that conveys the electricity to the load or

1 source of use.

2 And there is a -- Mr. Robertson has made a very
3 creative argument about bringing in federal authority
4 that would certainly support that. I view this
5 decision, however, as strictly an Arizona statutory
6 authority issue. And I find that there is no statutory
7 authority for the Committee to consider the
8 environmental impact of the mine.

9 The line siting statute is very broad about the
10 types of environmental factors of a project that may be
11 considered. But it is very precise about the project.
12 And 40-360.06.A says that it has to be with respect to
13 the suitability of the transmission line siting plans.
14 It does not in any way suggest that you would go beyond
15 to with whatever use is being made of the electricity.

16 In this case it would be a real simple thing
17 because there is only one use to which this electricity
18 has been apparently dedicated or would be dedicated, and
19 that's the mine. But we have other projects that deal
20 with whole cities. Where would you draw the line in a
21 situation like this? I think as a matter of logic, as
22 well as a matter of statutory law, it would be very
23 difficult for this Committee to embrace in its
24 environmental consideration all of the potential
25 environmental impacts from all the potential users of

1 electricity that would go through a particular
2 transmission line.

3 So the decision that I have made is that the
4 various motions to allow evidence of the environmental
5 impact of the Rosemont mine are not material to the
6 application filed. And the line siting statute is
7 pretty clear that the Committee is to, quote, receive
8 material, nonrepetitive evidence. And that's out of
9 A.R.S. Section 40-360.04.C.

10 So evidence relating solely to the mine is not
11 going to be admissible. And I am also going to advise
12 the other members of the Committee at the hearing that
13 Arizona law does not authorize the Committee to consider
14 the environmental impact of the proposed mine in
15 evaluating the environmental impact of the proposed
16 transmission line.

17 Now, it should be clear that I am not a judge
18 instructing a jury when it comes to the other members of
19 the Committee. They are all co-equal members of the
20 Committee and free to make up their own decision, their
21 own mind about the matters that are presented to them.
22 So I am going to go over this, along with my reasoning,
23 with my fellow Committee members at the time of the
24 hearing. And if they have questions, we will talk about
25 them at that time. And you folks will be there and

1 privy to those discussions. That will all be a matter
2 of public record. But I don't view the decision that I
3 am making as being similar to a judge instructing a
4 jury, familiar as that feeling may be to me.

5 I am, however, as I said, sensitive to the fact
6 that, because there is no controlling Arizona authority
7 on this, that the possibility for court review exists.
8 So I am going to allow documentary proof that is
9 nonrepetitive and relevant to the environmental impact
10 of the mine as an offer of proof.

11 Now, I note that the draft environmental impact
12 statement for the Rosemont Copper mine project is
13 pending before the United States Department of
14 Agriculture, Forest Service, Coronado National Forest.
15 And I think the document number is MB-R3-05-3. And it
16 was published, I believe, September 28, 2011. That
17 document, on a DVD, is now Exhibit B-3 to what I am
18 assuming will be TEP's Exhibit No. 1, the application in
19 the case.

20 Am I correct in that assumption?

21 MR. GELLMAN: Correct.

22 CHMN. FOREMAN: All right. If it is offered, I
23 would admit that portion of the document that relates to
24 the environmental impact of the transmission line. And
25 I have not read all nine hundred and however many pages

1 of it, but I have read it enough and those portions that
2 relate to the environmental impact of the transmission
3 line to be able to see that there is potentially
4 material evidence in that exhibit. But I would admit
5 that portion of the exhibit into evidence and the rest
6 of the exhibit I would allow into the record as an offer
7 of proof.

8 Now, I bring this up, and I want to come back to
9 Ms. Magruder -- to Ms. Webb, Mr. Magruder, the Tohono
10 O'odham Nation and to Mr. Robertson and his clients,
11 because I will allow documentary offers of proof that
12 are not repetitive of what is in the draft environmental
13 impact statement.

14 So if you have got something that's not already
15 covered by the environmental impact statement that's in
16 the application, I am willing to accept that as an offer
17 of proof. We are not going to have testimonial evidence
18 on the environmental impact of the mine. And we are not
19 going to have documentary offers with regard to the mine
20 that duplicate what is already in the environmental
21 impact statement.

22 Now, does that make sense to everybody? Does
23 anybody have any question about where I am drawing the
24 line?

25 Mr. Robertson.

1 MR. ROBERTSON: Yes. Actually, Mr. Chairman,
2 Mr. Metli and I had anticipated just by way of
3 participation the nature of the ruling you might make
4 today and we were prepared to make an offer of proof
5 either today or beginning at the hearing on Monday,
6 whichever you would prefer. In fact, I have a
7 memorandum we proposed on the subject of offer of proof.

8 But what I am uncertain about, we filed the
9 prepared testimony of three different witnesses. And
10 they talk about both what is in the draft environmental
11 impact statement and what is not as it relates to the
12 mine. I don't know whether you have actually reviewed
13 it, that prepared testimony or not. I, just per
14 guidance, I want to be sure our offer of proof that we
15 will be making conforms to the parameters you have
16 outlined.

17 Where we talk about what the draft environmental
18 impact statement has found and our witnesses view with
19 respect to that information, would that be suitable for
20 inclusion within an offer of proof under your thinking?

21 CHMN. FOREMAN: I would not allow oral testimony
22 except if they were talking about the environmental
23 impact of the line.

24 I have not had the opportunity to review with
25 care the mountain of documents that I have received in

1 the last couple of days. So what I am going to do is
2 ask you, number one, to make your offer of proof on
3 Monday; number two, between now and Monday, go through
4 your offer and the evidence that you have given notice
5 that you would intend to present and see if there is
6 anything that relates solely to the transmission line.
7 If there is, then I will certainly allow you to present
8 that when the appropriate time comes for you to make an
9 evidentiary presentation at the hearing.

10 If it, if all you have is oral testimony that
11 relates to the environmental impact of the mine that is
12 supplemental to what is in the environmental impact
13 statement, then I would ask you to reduce that to
14 writing and submit it at the appropriate time as an
15 offer of proof that supplements the environmental impact
16 statement.

17 MR. ROBERTSON: Let me restate my question. I
18 may not have been sufficiently clear when I initially
19 posed it.

20 CHMN. FOREMAN: It is also possible I was not
21 sufficiently clear when I answered. Go ahead.

22 MR. ROBERTSON: No, your response was very
23 helpful. Thank you, Mr. Chairman.

24 Mr. Metli worked on the testimony with our
25 witnesses. But to the best of my recollection, the

EXHIBIT G



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BEFORE THE ARIZONA CORPORATION CO

COMMISSIONERS
GARY PIERCE, Chairman
SANDRA D. KENNEDY
PAUL NEWMAN
BOB STUMP
BRENDA BURNS

Arizona Corporation Commission
DOCKETED
JUN 19 2012
DOCKETED BY me

IN THE MATTER OF THE APPLICATION OF TUCSON ELECTRIC POWER COMPANY FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING THE CONSTRUCTION OF A 138KV TRANSMISSION LINE AND ASSOCIATED FACILITIES FROM THE PROPOSED TORO SWITCHYARD, SECTION 29, TOWNSHIP 17 SOUTH, RANGE 14 EAST TO THE ROSEMONT SUBSTATION, AT SECTION 38, TOWNSHIP 18 SOUTH, RANGE 16 EAST, EACH LOCATED WITHIN PIMA COUNTY, ARIZONA.

CASE NO. 164
Docket No. L-60608C-11-6480-60164
DECISION NO. 73232

ORDER GRANTING CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AS MODIFIED BY THE COMMISSION AND VACATING DECISION NO. 73074

Open Meeting
June 19 and 20, 2012
Phoenix, Arizona

BY THE COMMISSION:

Pursuant to A.R.S. § 40-360, et seq, after due consideration of all relevant matters, the Arizona Corporation Commission ("Commission") finds and concludes that the Certificate of Environmental Compatibility ("CEC") issued by the Arizona Power Plant and Transmission Line Siting Committee ("Siting Committee") is hereby approved as modified by this Order.

The Commission, in reaching its decision, has balanced all relevant matters in the broad public interest, including the need for an adequate, economical and reliable supply of electric power with the desire to minimize the effect thereof on the environment and ecology of this state, and finds that the CEC for the above-captioned application for siting approval is in the public interest as modified by this Order.

...
...

Decision No. _____

Page 2 of 7

Docket No. L-00000C-11-0400-00164

1 The Commission modifies the CEC as follows:

2 **1. DELETE Condition 6 and INSERT the following revised Condition 6:**

3 6. This authorization to construct this Project shall expire unless the transmission
4 line is capable of operation within seven (7) years from the date that the CEC is approved by the
5 Commission. However, prior to expiration, the Applicant may request that the Commission extend
6 this time limitation.

7 **2. DELETE Condition 23 and INSERT the following revised Condition 23:**

8 23. Applicant will not commence construction on the Project until the following
9 have occurred:

10 (1) Issuance of a Record of Decision for approval of the Mining Plan of
11 Operations for Rosemont Copper Company and/or Rosemont Copper Project;

12 (2) Issuance of a Section 404 permit pursuant to the Clean Water Act;

13 (3) Certification by the Arizona Department of Environmental Quality pursuant to
14 Section 401 of the Clean Water Act, certifying that issuance of the Section 404 permit would not
15 result in violation of the Arizona Surface Water Quality standards;

16 (4) Issuance of the Air Quality permit pursuant to the Clean Air Act; and

17 (5) Acquisition of right-of-way from the Arizona State Land Department for the
18 construction of the transmission line across the Santa Rita Experimental Range.

19 **3. DELETE the text of Condition 26 (Table E-3 to remain) and INSERT the**
20 **following revised text for Condition 26:**

21 26. Applicant shall engage the services of a Tohono O'odham Cultural Monitor
22 during any construction activities on, or within, one hundred (100) feet of known prehistoric cultural
23 resource sites that are eligible for the National Register of Historic Places, as identified in Table E-3
24 of the Application, with the addition of Huerfano Butte.

25 **4. INSERT the following new conditions:**

26 27. If Tucson Electric Power Company constructs this transmission line, all costs
27 for construction shall be charged to Rosemont Copper Company, its successors, or assigns by
28 Tucson Electric Power Company.

Decision No. 73232

Page 3 of 7

Docket No. L-00000C-11-0400-00164

1 28. Until further order of the Commission, all operations and maintenance costs
2 associated with this line shall be charged to Rosemont Copper Company, its successors, or assignees
3 by Tucson Electric Power Company.

4 29. If Tucson Electric Power Company constructs this transmission line and is
5 subsequently required, for any reason, to remove this transmission line, all costs associated with such
6 removal, including, but not limited to, all environmental remediation, shall be charged to Rosemont
7 Copper Company, its successors, or assignees by Tucson Electric Power Company.

8 30. Applicant shall construct and own the 138 kV transmission line serving the
9 Rosemont Copper Company's mining operations.

10 31. Applicant shall submit proof that all costs regarding removal of the
11 transmission line and environmental remediation shall be covered by one or more mechanisms
12 obtained by Rosemont Copper Company, its successors, or assignees to ensure that funds are
13 available.

14 32. Applicant shall certify annually, until further order of the Commission,
15 whether service is still required by means of this transmission line. Once service is no longer needed,
16 Applicant shall file a plan for removal of the transmission line.

17 33. Applicant will complete cultural resources data recovery and, as part of the
18 recovery efforts, will perform oral histories for the Halvatin townsite for areas that will be disturbed
19 by the transmission line project to the extent this activity is not already part of the treatment plan.
20 The items recovered shall be handled in accordance with state law, and to the extent allowed, will be
21 provided to regional historical organizations. The results will be provided to the Arizona State
22 Museum and to Pima County, subject to restrictions on disclosing information regarding specific
23 cultural resources.

24 34. Before commencing construction of Project facilities located parallel to and
25 within one hundred (100) feet of any existing natural gas or hazardous liquid pipeline, the Applicant
26 or its assignees shall perform the appropriate grounding and cathodic protection studies to show that
27 the Project's location parallel to and within one hundred (100) feet of such a pipeline results in no
28 material adverse impacts to the pipeline or to public safety when both the pipeline and the Project are

Decision No. 73232

Page 4 of 7

Docket No. L-00000C-11-0400-00164

1 in operation. If material adverse impacts are noted in the studies, Applicant shall take appropriate
 2 steps to ensure that such material adverse impacts are mitigated. Applicant shall provide to
 3 Commission Staff and to Docket Control reports of studies performed; Applicant shall also perform a
 4 technical study simulating an outage of the Project that may be caused by the collocation of the
 5 Project parallel to and within one hundred (100) feet of the existing natural gas or hazardous liquid
 6 pipeline. This study should either (a) show that such outage does not result in customer outages or
 7 (b) include operating plans to minimize any resulting customer outages. Applicant shall provide a
 8 copy of this study to Commission Staff and to Docket Control.

9 **FINDINGS OF FACT**

10 The Commission further finds and concludes that in balancing the broad public interest in this
 11 matter:

12 1. The Project is in the public interest because it aids the state in meeting the need for an
 13 adequate, economical and reliable supply of electric power.

14 2. In balancing the need for the Project with its effect on the environment and ecology of
 15 the state, the conditions placed on the CEC as modified by the Commission effectively minimize its
 16 impact on the environment and ecology of the state.

17 3. The conditions placed on the CEC as modified by the Commission resolve matters
 18 concerning the need for the Project and its impact on the environment and ecology of the state raised
 19 during the course of proceedings, and as such, serve as the findings on the matters raised.

20 4. The potential environmental cost of constructing and then dismantling the
 21 transmission line if the Mine is never operated weighs in favor of requiring certain permitting related
 22 to the Mine as set forth in Condition 23 to be concluded prior to construction of the transmission line.

23 5. In light of these conditions, the balancing in the broad public interest results in favor
 24 of granting the CEC as modified by the Commission and vacating Decision No. 73074.

25 6. The Commission values the intervention and participation of members of the public in
 26 the siting process. Such interventions provide a unique perspective to the proceedings, and we value
 27 their input. We appreciate the contributions made by Interveners Elizabeth Webb and Marshall
 28 Magender in this case.

Decision No. 73232

Page 5 of 7

Docket No. L-00000C-11-0400-00164

1 7. The Application to Intervene filed by Pima County is hereby granted.

2 **CONCLUSIONS OF LAW**

3 1. Tucson Electric Power Company is a public service corporation within the meaning of
4 Article XV of the Arizona Constitution and A.R.S. §§ 40-252, 40-253, and 40-360, *et seq.*

5 2. The Commission has jurisdiction over Tucson Electric Power Company and the
6 subject matter of this Application.

7 3. Notice of the proceeding has been given in the manner prescribed by law.

8 4. The Commission, having reviewed and considered the applications for rehearing and
9 the filings of the interested parties, concludes that it is in the public interest to vacate Decision No.
10 73074 and approve the Certificate of Environmental Compatibility issued by the Arizona Power Plant
11 and Transmission Line Siting Committee subject to the modifications described herein.

12 **ORDER**

13 IT IS THEREFORE ORDERED that Decision No. 73074 is hereby vacated.

14 IT IS FURTHER ORDERED that the Certificate of Environmental Compatibility issued by
15 the Arizona Power Plant and Transmission Line Siting Committee is hereby approved as modified by
16 this Order.

17 IT IS FURTHER ORDERED that the Application to Intervene filed by Pima County is
18 hereby granted.

19 IT IS FURTHER ORDERED that this decision shall become effective immediately.

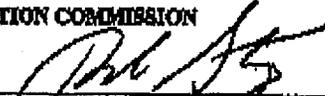
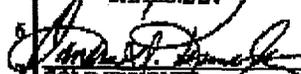
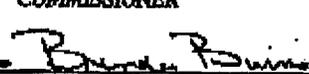
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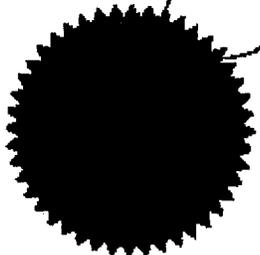
Decision No. 73232

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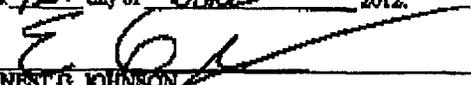
THE CEC ISSUED BY THE SITING COMMITTEE IS
INCORPORATED HEREIN AND IS APPROVED AS MODIFIED BY ORDER OF THE

ARIZONA CORPORATION COMMISSION

		
CHAIRMAN	COMMISSIONER	
		
COMMISSIONER	COMMISSIONER	COMMISSIONER



IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capital, in the City of Phoenix, this 12th day of June 2012.


ERNEST G. JOHNSON
Executive Director

DISSENT: _____

DISSENT: _____

Decision No. 73232

Page 7 of 7

Docket No. L-00000C-11-0400-00164

1 **SERVICE LIST FOR: TUCSON ELECTRIC POWER COMPANY**
 2 **DOCKET NO. L-00000C-11-0400-00164**

3 Original and thirty-one (31)
 4 copies of the foregoing filed this
 5 _____ day of June, 2012 with:

6 Docket Control
 7 Arizona Corporation Commission
 8 1200 West Washington Street
 9 Phoenix, Arizona 85007

10 Copies of the foregoing mailed
 11 this _____ day of June, 2012 to:

12 Jason D. Gellman
 13 ROSEKA DeWULF & PATTEN, P.L.C.
 14 One Arizona Center
 15 400 East Van Buren Street, Suite 300
 16 Phoenix, Arizona 85004-2262
 17 Attorneys for Tucson Electric Power Co.

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 19 Attorney at Law
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 26 Attorneys for Save Our Sonoran Santa Rita
 27 Association, Sky Island Alliance, Center for
 28 Biological Diversity and Tucson Audubon
 Society

29 Laura Bergman
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 District Ranger
 UNITED STATES DEPARTMENT
 OF AGRICULTURE
 Forest Service
 303 Old Tucson Road
 Nogales, Arizona 85621

Decision No. 73232

L-00000C-11-0400-00164

ORIGINAL

BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

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IN THE MATTER OF THE APPLICATION OF TUCSON ELECTRIC POWER COMPANY FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING THE CONSTRUCTION OF A 138 KV TRANSMISSION LINE AND ASSOCIATED FACILITIES FROM THE PROPOSED TORO SWITCHYARD, SECTION 29, TOWNSHIP 17 SOUTH, RANGE 14 EAST TO THE ROSEMONT SUBSTATION, SECTION 30, TOWNSHIP 18 SOUTH, RANGE 16 EAST, EACH LOCATED WITHIN PIMA COUNTY, ARIZONA.

Docket No. L-00000C-11-0400-00164
Case No. 164

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AZ CORP COMMISSION
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CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY

Pursuant to notice given as provided by law, the Arizona Power Plant and Transmission Line Siting Committee (the "Committee") held public hearings on December 12, 13, 14, and 15, 2011, in Tucson, Pima County, Arizona, all in conformance with the requirements of Arizona Revised Statutes ("A.R.S.") § 40-360, et seq., for the purpose of receiving evidence and deliberating on the Application of Tucson Electric Power Company ("TEP") (the "Applicant") for a Certificate of Environmental Compatibility ("CEC") for the Rosemont 138 kV Transmission Line Project (the "Project").

The following members and designees of members of the Committee were present at one or more of the hearings for the evidentiary presentations and/or for the deliberations:

- | | |
|-------------------------|--|
| John Furusman | Chairman, Designee for Arizona Attorney General Tom Horne |
| Ernst Paska | Designee for Director, Arizona Department of Environmental Quality |
| Jack Harnishen | Designee for Director, Arizona Governor's Office of Energy Policy |
| Michael J. Lacey | Designee for Director, Arizona Department of Water Resources |
| David L. Eberhart, P.E. | Designee for Chairman, Arizona Corporation |

Arizona Corporation Commission
DOCKETED
DEC 24 2011



Decision No. 73232

L-00000C-11-0400-00164

Commission

1	Jeff McGuire	Appointed Member, representing Agriculture Interests
2		
3	Patricia Noland	Appointed Member, representing General Public
4	Michael Palmer	Appointed Member, representing General Public
5	David Richards	Appointed Member, representing Incorporated Cities and Towns
6		
7	F. Ann Rodriguez	Appointed Member, representing Counties
8	Paul Walker	Appointed Member, representing General Public

9 The Applicant was represented by: J. Matthew Deryn and Jason D. Gellman of Resniks,
 10 DeWulf & Patton, PLLC, and Marcus G. Jordan of UniSource Energy Corporation for TEP. The
 11 following parties were granted intervention pursuant to A.R.S. § 40-360.05: Patrick J. Black and
 12 Norman D. James of Panhandle Coal, P.C. for intervenor Rosemont Copper Company;
 13 Lawrence V. Robertson, Jr. and Robert I. Mehl, for intervenors Save the Sonoran Santa Rita
 14 Association, Sky Island Alliance, Center for Biological Diversity and Tucson Audubon Society
 15 collectively; Laura Berglan for intervenor Tohono O'odham Nation through its Office of Attorney
 16 General; and Marshall Magruder, in propria persona.

17 At the conclusion of the hearings - after considering the Application, the evidence and
 18 exhibits presented, the legal requirements of A.R.S. §§ 40-360 to 40-360.13, and upon motion
 19 duly made and seconded - the Commission voted 11 to 0 to grant the Applicant, its successors and
 20 assigns, this CEC for the construction of the Project (Case No. 164).

21 The Project as approved consists of a new single-circuit 138kV transmission line that is
 22 approximately 13.2 miles in length from the proposed Turo Switchyard, located on the west end of
 23 Section 29, Township 17 South, Range 14 East to the Rosemont Substation (to be owned and
 24 operated by Rosemont), Section 30, Township 18 South, Range 16 East, in Pima County, Arizona.
 25 The transmission structures will be double-circuit-capable monopole structures, with typical
 26 heights of 75 to 150 feet; with taller structures at major road and/or line crossings not to exceed
 27 199 feet. The corridor width for the entire Project route is 500 feet.

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Decision No. 73232

L-00000C-11-0400-00164

1 The route for the Project will be what was labeled the Preferred Route. Starting at the
 2 proposed Turo Switchyard, located approximately 3 miles south of Sabuwerita Road and 3.5 miles
 3 east of I-19, the route travels east approximately 1 mile and then southeast paralleling Santa Rita
 4 Road and a water pipeline alignment that is part of Rosemont's mining operations plan. Near the
 5 intersection of Santa Rita and Helvetia roads, the Preferred Route turns northeast and follows the
 6 proposed Rosemont water pipeline alignment as described in the Draft EIS (MR-R3-05-3 dated
 7 September 2011, Figure ES3) for the Rosemont Copper Project over Lopez Pass to the Rosemont
 8 Substation. This route is located on land owned by the Arizona State Land Department ("ASLD")
 9 (which ASLD leases to the Santa Rita Experimental Range ("SRRER")), Coronado National Forest
 10 ("CNF"), and Rosemont. The length of this route is approximately 13.2 miles.

11 A location map of the Project is attached as Exhibit A.

12 CONDITIONS

13 This Certificate is granted upon the following conditions:

- 14 1. Any transfer or assignment of this Certificate shall require the assignee or successor
 15 to assume all responsibilities of the Applicant listed in this Certificate and its
 16 conditions in writing as required by A.R.S. § 40-360.08(A) and R14-3-213(F) of the
 17 Arizona Administrative Code.
- 18 2. The Applicant shall comply with all existing applicable statutes, ordinances, master
 19 plans and regulations of any governmental entity having jurisdiction during the
 20 construction and operation of the Project - including the United States, the State of
 21 Arizona or Pima County.
- 22 3. If any archaeological site, paleontological site, historical site or an object that is at
 23 least 50 years old is discovered on state, county, federal or municipal land during
 24 the construction or operation of the Project, the Applicant or its representative in
 25 charge shall promptly report the discovery to the Director of the Arizona State
 26 Museum ("Director"), Coronado National Forest, the Cultural Affairs Office and the
 27 Office of the Attorney General of the Tohono O'odham Nation, and in consultation

L-000003-11-0400-00164

- 1 with the above entities, shall immediately take all reasonable steps to secure and
 2 maintain the preservation of the discovery, pursuant to A.R.S. § 41-844.
- 3 4. If human remains and/or funerary objects are encountered on private land during the
 4 course of any ground-disturbing activities relating to the construction or operation
 5 of the Project, the Applicant shall cease work on the affected area of the Project and
 6 notify the Director, pursuant to A.R.S. § 41-865.
- 7 5. The Applicant shall comply with the notice and salvage requirements of the Arizona
 8 Native Plant Law (A.R.S. §§ 3-501 et seq.) and shall, to the extent feasible,
 9 minimize the destruction of native plants during the construction and operation of
 10 the Project.
- 11 6. This authorization to construct this Project shall expire unless the transmission line
 12 is capable of operation within ten (10) years from the date the Certificate is
 13 approved by the Arizona Corporation Commission ("Commission"). However, prior
 14 to expiration, the Applicant may request that the Commission extend this time
 15 limitation.
- 16 7. In the event that the Project requires an extension of the term of this Certificate
 17 prior to completion of construction, Applicant shall use reasonable means to notify
 18 all landowners, neighborhood associations registered with Pima County and within
 19 the Project study area as set forth in the Application, and residents within one mile
 20 of the Project corridor, all persons who made public comment at this proceeding
 21 who provided a mailing address, and all parties to this proceeding of the request and
 22 the date, time and place of the hearing in which the Commission will consider the
 23 request for extension.
- 24 8. The Applicant shall make every reasonable effort to identify and correct, on a case-
 25 specific basis, all complaints of interference with radio or television signals from
 26 operation of the transmission lines and related facilities addressed in this Certificate.
 27 The Applicant shall maintain written records for a period of five years of all

L-00000C-11-0400-00164

1 complaints of radio or television interference attributable to operation, together with
 2 the corrective action taken in response to such complaint. All complaints shall be
 3 recorded to include notations on the corrective action taken. Complaints not leading
 4 to a specific action or for which there was no resolution shall be noted and
 5 explained. Upon request, the written records shall be provided to the Staff of the
 6 Commission.

- 7 9. Within 120 days of the Commission decision granting this Certificate, Applicant
 8 will post signs in or near public rights-of-way giving notice of the Project corridor
 9 to the extent authorized by law. The Applicant shall place such signs in prominent
 10 locations at reasonable intervals so that the public is notified along the full length of
 11 the Project until the transmission structures are constructed. To the extent
 12 practicable, within 45 days of securing easement or right-of-way for the Project, the
 13 Applicant shall erect and maintain signs providing public notice that the property is
 14 the site of a future transmission line. Such signage shall be no smaller than a normal
 15 roadway sign. The signs shall advise:
- 16 (a) That the site has been approved for the construction of Project facilities;
 - 17 (b) The expected date of completion of the Project facilities;
 - 18 (c) A phone number for public information regarding the Project;
 - 19 (d) The name of the Project;
 - 20 (e) The name of the Applicant; and
 - 21 (f) The website of the Project.
- 22 10. Applicant or its assignees shall design the transmission lines to incorporate
 23 reasonable measures to minimize impacts to raptors.
- 24 11. Applicant shall use non-specular conductor and dulled surfaces for the Project's
 25 transmission line structures.
- 26 12. Before construction on this Project may commence, the Applicant shall file a
 27 construction mitigation and restoration plan ("Plan") with ACC Docket Control.

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1 interventors, and the Coronado National Forest. Where practicable, the Plan shall
 2 specify the Applicant's plans for construction access and methods to minimize
 3 impacts to wildlife and to minimize vegetation disturbance outside of the Project
 4 right-of-way particularly in drainage channels and along stream banks, and shall re-
 5 vegetate, unless waived by the landowner, native areas of construction disturbance
 6 to its preconstruction state outside of the power-line right-of-way after construction
 7 has been completed. The Plan shall specify the Applicant's plans for coordination
 8 with the Arizona Game and Fish Department ("AGFD") and the State Historic
 9 Preservation Office ("SHPO"). The Applicant shall use existing roads for
 10 construction and access where practicable and the Plan shall specify the manner in
 11 which the Applicant makes use of existing roads.

- 12 13. Applicant shall follow any published guidelines adopted by AGFD or the United
 13 States Fish and Wildlife Service ("USFWS") for handling contacts during the
 14 construction and operation of the Project with any species designated as
 15 endangered. Applicant also shall follow any published and adopted guidelines for
 16 handling contacts with any species of greatest conservation need as designated by
 17 AGFD. If no published and adopted guidelines exist, the Applicant shall use
 18 reasonable care to avoid any harm to individuals of the designated species. If the
 19 avoidance of harm to individuals is not possible, the Applicant shall contact AGFD
 20 and USFWS to obtain any appropriate permits and guidance for removing the
 21 individual members of the species contacted from the area of the Project.
- 22 14. With respect to the Project, Applicant shall participate in good faith in state and
 23 regional transmission study forums to coordinate transmission expansion plans
 24 related to the Project and to resolve transmission constraints in a timely manner.
- 25 15. The Applicant shall provide copies of this Certificate to the United States Forest
 26 Service, Bureau of Land Management, Pima County, the Arizona State Land
 27 Department, SHPO and AGFD.

L-00000C-11-0400-00164

- 1 16. Before construction commences on this Project, the Applicant shall provide known
 2 homebuilders, neighborhood associations registered with Pima County within the
 3 study area as set forth in the Application, and developers of record who are building
 4 upon or developing land within one mile of the center line of the Certificated route
 5 of the transmission line, a written description of the Project. The written
 6 description shall identify the location of the Project and contain a pictorial
 7 description of the type of transmission line being constructed. The Applicant also
 8 shall encourage the developers and homebuilders to include this information in the
 9 developers' and homebuilders' homeowners' disclosure statements.
- 10 17. Applicant will follow the latest Western Electricity Coordinating Council/North
 11 American Electric Reliability Corporation Planning standards as approved by the
 12 Federal Energy Regulatory Commission, and National Electrical Safety Code
 13 construction standards.
- 14 18. The Applicant shall submit a self-certification letter annually, identifying progress
 15 made with respect to each condition contained in the Certificate, including which
 16 conditions have been met. Each letter shall be submitted to the District Control of
 17 the Commission and intervenors on March 1 beginning in 2013. Attached to each
 18 certification letter shall be documentation explaining how compliance with each
 19 condition was achieved, including any required actions pursuant to the United States
 20 Forest Service - Coronado National Forest Record of Decision. Copies of each
 21 letter along with the corresponding documentation shall be submitted to the Arizona
 22 Attorney General, and the Arizona Governor's Office of Energy Policy (or its
 23 successor organization). The requirement for self-certification shall expire on the
 24 date the Project is placed into operation.
- 25 19. Within one hundred twenty (120) days of the Commission decision approving this
 26 Certificate, the Applicant shall make good faith efforts to commence discussions
 27 with private landowners, on whose property the Project corridor is located, to

L-00000C-11-0400-00164

- 1 identify the specific location for the Project's right-of-way and placement of poles.
- 2 20. The Applicant will pursue reasonable efforts to work with private landowners on
- 3 whose property the Project right-of-way will be located, to mitigate the impacts of
- 4 the location, construction, and operation of the Project on private land.
- 5 21. Applicant will retain a qualified biologist to monitor all ground clearing and
- 6 disturbing construction activities that may affect sensitive species or habitat. The
- 7 biological monitor will be responsible for ensuring that proper actions and
- 8 conservation measures are taken if a special status species is encountered, including
- 9 completion of pre-construction surveys if necessary. If Sonoran desert tortoises are
- 10 encountered during construction, the Applicant will follow the Guidelines for
- 11 handling Sonoran desert tortoises from the ACFD.
- 12 22. The Applicant shall avoid or minimize impacts to properties listed, or eligible for
- 13 listing, on the National Register of Historic Places and sites including structures,
- 14 ceremonial sites, and burials significant to the Tohono O'odham Nation.
- 15 23. Applicant shall not commence construction on the Project until a Record of
- 16 Decision is issued by the United States Forest Service - Coronado National Forest
- 17 regarding the Rosemont Copper Company Mining Plan of Operations, which
- 18 approves the Proposed Action, or any Alternative Action (other than the No Action
- 19 Alternative) described in the Environmental Impact Statement for the Rosemont
- 20 Mining Plan of Operations.
- 21 24. Applicant shall make all reasonable efforts to comply with the recommendations,
- 22 mitigation measures and actions to reduce or prevent environmental impact that are
- 23 applicable to the Project and included in the Record of Decision issued by the
- 24 United States Forest Service - Coronado National Forest for the Rosemont Mining
- 25 Plan of Operations.
- 26 25. Applicant will retain a qualified archaeologist to monitor all ground clearing and
- 27 disturbing construction activities that may affect historical or cultural sites that are

Decision No. 73232

L-00000C-11-0400-00164

1 listed, or eligible for listing, on the National Register of Historic Places. The
 2 archaeologist will be responsible for ensuring that approved mitigation measures are
 3 implemented according to a treatment plan approved by State Historic Preservation
 4 Office after consultation with the Cultural Affairs Office of the Tohono O'odham
 5 Nation.

- 6 26. Applicant shall consult with the Tohono O'odham Cultural Affairs Office during
 7 any construction activities on, or within, 100 feet of known prehistoric cultural
 8 resource sites that are eligible for the National Register of Historic Places, as
 9 identified in Table E-3 of the Application, with the addition of Huerfano Butte.

10
 11 **Table E-3. NRHP Eligible Historic Properties along Preferred and Alternative Routes**

No.	Site Number	Description	CL Length through Site	Route ¹
12 1	AZ EE:1:30(ASM)	Historic mining town of Helvetia	1830'/560m (P, 2) 2823'/860m (1, 5)	P, 1, 2, 3
13 2	AZ EE:1:59(ASM)	Prehistoric artifact scatter with thermal features and tools	817'/249m (P, 1) 846'/258m (2, 3, 4)	P, 1, 2, 3, 4
14 3	AZ EE:1:243(ASM)	Prehistoric artifact scatter with thermal features and tools	512'/156m	2, 3, 4
15 4	AZ EE:1:245(ASM)	Prehistoric artifact scatter with thermal features and tools	545'/166m	2, 3, 4
16 5	AZ EE:1:392(ASM)	Prehistoric artifact scatter with thermal features and tools	700'/213m	P, 1
17 6	AZ EE:1:446(ASM)	Prehistoric habitation site (multiple room blocks)	262'/80m	P, 2
18 7	AZ EE:1:450(ASM)	Historic CCC-constructed Box Canyon Road	50'/15m (P, 1) 107'/31m (4)	4
19 8	AZ EE:1:452(ASM)	Prehistoric resource processing	184'/56m	2, 3
20 9	AZ EE:1:454(ASM)	Prehistoric artifact scatter	604'/184m	4
21 10	AZ EE:1:455(ASM)	Prehistoric artifact scatter with features	358'/109m	2, 3, 4

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Decision No. 73232

L-00000C-11-0490-00164

Table E-3. **NRHP Eligible Historic Properties along Preferred and Alternative Routes**

No.	Site Number	Description	CL Length through EIS	Route ¹
11	AZ HR:1:423(ASM)	Historic mine and road	1207/368m (spannable to north of centerline)	P, 1, 2, 3
12	AZ HR:1:431(ASM)	Historic road	Parallel CL for approximately 1654/504m.	P, 1, 2, 3
13	AZ HR:2:149(ASM)	Historic mining town of New Rosemont	891/727m (spannable west of centerline)	P, 1, 2, 3

¹ "P" indicates Preferred route; numbers indicate Alternative routes 1 through 4.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Certificate incorporates the following findings of fact and conclusions of law:

1. The Project aids the state in meeting the need for an adequate, economical and reliable supply of electric power.
2. The conditions placed on the Project in the CEC by the Committee effectively minimize the impact of the Project on the environment and ecology of the state.
3. The Project is in the public interest because the Project's contribution to meeting the need for the adequate, economical and reliable supply of electric power outweighs the minimized impact of the Project on the environment and ecology of the state.

DATED this 19th day of December, 2011.

THE ARIZONA POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE


Hon. John Foreman, Chairman

EXHIBIT H

COVER SHEET



0000000642

NEW APPLICATION ARIZONA CORPORATION COMMISSION RECEIVED
DOCKET CONTROL CENTER

CASE/COMPANY NAME:

DOCKET NO.

2000 MAY -5 P 12: 31

Application of Dine Power Authority for a
Certificate of Environmental Compatibility

AZ CORP COMMISSION
DOCUMENT CONTROL

D/B/A or RESPONDENT:

DOCKET NO.

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NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark the item that describes the nature of the case/filing:

01 UTILITIES - NEW APPLICATIONS

- | | | | |
|--------------------------|--|-------------------------------------|---|
| <input type="checkbox"/> | NEW CC&N | <input type="checkbox"/> | MAIN EXTENSION |
| <input type="checkbox"/> | RATES | <input type="checkbox"/> | CONTRACT/AGREEMENTS |
| <input type="checkbox"/> | INTERIM RATES | <input type="checkbox"/> | COMPLAINT (Formal) |
| <input type="checkbox"/> | CANCELLATION OF CC&N | <input type="checkbox"/> | RULE VARIANCE/WAIVER REQUEST |
| <input type="checkbox"/> | DELETION OF CC&N (TERRITORY) | <input checked="" type="checkbox"/> | SITING COMMITTEE CASE |
| <input type="checkbox"/> | EXTENSION OF CC&N (TERRITORY) | <input type="checkbox"/> | SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252) |
| <input type="checkbox"/> | TARIFF - NEW (NEXT OPEN MEETING) | <input type="checkbox"/> | SALE OF ASSETS & TRANSFER OF OWNERSHIP |
| <input type="checkbox"/> | REQUEST FOR ARBITRATION
(Telecommunication Act) | <input type="checkbox"/> | SALE OF ASSETS & CANCELLATION OF CC&N |
| <input type="checkbox"/> | FULLY OR PARTIALLY ARBITRATED | <input type="checkbox"/> | FUEL ADJUSTER/PGA |
| <input type="checkbox"/> | INTERCONNECTION AGREEMENT
(Telecom. Act.) | <input type="checkbox"/> | MERGER |
| <input type="checkbox"/> | VOLUNTARY INTERCONNECTION | <input type="checkbox"/> | FINANCING |
| <input type="checkbox"/> | AGREEMENT (Telecom. Act) | <input type="checkbox"/> | MISCELLANEOUS
Specify |

02 UTILITIES - REVISIONS/AMENDMENTS TO
PENDING OR APPROVED MATTERS

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| <input type="checkbox"/> | APPLICATION | <input type="checkbox"/> | TARIFF |
| <input type="checkbox"/> | COMPANY | <input type="checkbox"/> | PROMOTIONAL |
| <input type="checkbox"/> | DOCKET NO. | <input type="checkbox"/> | DECISION NO. |
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| | | <input type="checkbox"/> | COMPLIANCE |
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| | | <input type="checkbox"/> | DOCKET NO. |

SECURITIES or MISCELLANEOUS FILINGS

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|--------------------------|---------------------------------|--------------------------|---|
| <input type="checkbox"/> | 04 AFFIDAVIT | <input type="checkbox"/> | 29 STIPULATION |
| <input type="checkbox"/> | 12 EXCEPTIONS | <input type="checkbox"/> | 38 NOTICE OF INTENT
(Only notification of future action/no action necessary) |
| <input type="checkbox"/> | 18 REQUEST FOR INTERVENTION | <input type="checkbox"/> | 43 PETITION |
| <input type="checkbox"/> | 48 REQUEST FOR HEARING | <input type="checkbox"/> | 46 NOTICE OF LIMITED APPEARANCE |
| <input type="checkbox"/> | 24 OPPOSITION | <input type="checkbox"/> | OTHER |
| <input type="checkbox"/> | 50 COMPLIANCE ITEM FOR APPROVAL | <input type="checkbox"/> | 39 Specify |
| <input type="checkbox"/> | 32 TESTIMONY | | |
| <input type="checkbox"/> | 47 COMMENTS | | |

5/5/00
Date

Michael M. Grant, Esq.
Print Name of Applicant/Company/Contact person/Respondent/Atty.
(602) 530-8291
Phone

PLEASE SEE NOTICE ON REVERSE SIDE

NEW APPLICATION

NEW APPLICATION

ORIGINAL



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AZ CORP COMMISSION
DOCUMENT CONTROL

NTP

AVAJO TRANSMISSION PROJECT

APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL COMPLIANCE

Prepared for
State of Arizona Power Plant and
Transmission Line Siting Commission

Prepared by
Energy Planning and Control

Date

Page No

10-157-14

NEW APPLICATION

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2000 MAY -5 P 12: 32

BEFORE THE ARIZONA POWER PLANT AND
TRANSMISSION SITING COMMITTEE

AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION
OF DINÉ POWER AUTHORITY FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY FOR THE NON-
RESERVATION PORTIONS OF THE
NAVAJO TRANSMISSION PROJECT.

Case No.: 00-0103

APPLICATION

The Diné Power Authority ("DPA"), by and through its attorneys
undersigned, pursuant to A.R.S. § 40-360 et. seq., and A.C.C. R14-3-201 et. seq., in
support of its Application states as follows:

1. The DPA is a tribal enterprise established by the Navajo Nation to
promote the Navajo's development of energy resources and new sources of transmission
capacity. Its address is Post Office Box 3239, Window Rock, Arizona 86515

2. In order to relieve transmission constraints, improve overall
transmission system reliability, allow increased economical power transfers, sales and
purchases, improve Navajo economic conditions and facilitate its development of tribal
resources, DPA proposes to construct the Navajo Transmission Project (the "Project").

3. The Project is a single-circuit alternating current, 500 kV
transmission line which will deliver electric power from the Shiprock Substation located
in the Four Corners area in northwestern New Mexico to the Marketplace Substation in
southeastern Nevada. The preferred route for the Project parallels existing transmission
lines.

4. The Project will consist of three segments - the first two of which are

GALLAGHER & KENNEDY, P.A.
2575 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
(602) 530-8000

GALLAGHER & KENNEDY, P.A.
2575 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
(602) 530-6000

1 located entirely on the Navajo Indian Reservation. This Application concerns only those
2 portions of the third segment of the Project which traverse non-reservation lands located
3 within the State of Arizona.

4 5. Submitted herewith and by this reference made a part hereof is a
5 multiple tabbed document entitled "Navajo Transmission Project Application for a
6 Certificate of Environmental Compatibility." It contains all the pertinent and necessary
7 data required by A.A.C. R14-3-203 and R14-3-219 as well as A.R.S. §§ 40-360.03 and
8 40-360.06 in relation to the Project.

9 6. The Project has been the subject of extensive environmental reviews
10 as well as public and affected agency scoping, inventory and impact assessments. As
11 explained in greater detail in the materials submitted with this Application, the Project is
12 the subject, among other things, of a final Environmental Impact Statement and a Record
13 of Decision issued by the Western Area Power Administration.

14 WHEREFORE, having fully stated its Application, DPA requests that (1)
15 the Power Plant and Transmission Line Siting Committee schedule this matter for hearing
16 and thereafter grant a Certificate of Environmental Compatibility for the non-reservation
17 portions of the Project located within Arizona and (2) the Commission enter its written
18 Order affirming and approving the same.

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RESPECTFULLY submitted this 5th day of May, 2000

GALLAGHER & KENNEDY, P.A.

BY: Michael M. Grant
Michael M. Grant
Gallagher & Kennedy, P.A.
2575 East Camelback Road
Phoenix, Arizona 85016-9225
Attorneys for AEPCO

ORIGINAL and 25 copies of the Application
and attachments were filed this 5th day
of May, 2000 with:

Arizona Corporation Commission
Attn: Docket Control
1200 West Washington
Phoenix, Arizona 85003

Linda Maguire
12772-0001/829166

GALLAGHER & KENNEDY, P.A.
2575 E. CAMELBACK ROAD
PHOENIX, ARIZONA 85016-9225
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EXHIBIT I

ORIGINAL

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AZ EPIC COMMISSION

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BEFORE THE ARIZONA POWER PLANT AND
TRANSMISSION SITING COMMITTEE

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DOCUMENT CONTROL

3 IN THE MATTER OF THE APPLICATION
4 OF DINÉ POWER AUTHORITY FOR A
5 CERTIFICATE OF ENVIRONMENTAL
6 COMPATIBILITY FOR THE NON-
7 RESERVATION PORTIONS OF THE
8 NAVAJO TRANSMISSION PROJECT.

Case No.: L-00000U-00-0103

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TESTIMONY OF
GARLYN N. BERGDALE
ON BEHALF OF
DINÉ POWER AUTHORITY

- 1 Q. Would you please state your name and your business address?
- 2 A. My name is Garlyn Bergdale. My business address is 4350 East Camelback Road,
3 Suite G-200, Phoenix, Arizona 85018.
- 4 Q. By whom are you employed and in what capacity?
- 5 A. I am President of Environmental Planning Group (EPG), an environmental
6 planning firm.
- 7 Q. Describe your education and professional experience.
- 8 A. I received a bachelor's degree of geography from Winona State University and a
9 master's of landscape architecture from Utah State University. I am a registered
10 landscape architect. Since 1976, I have participated in numerous environmental
11 planning studies in 20 states and Canada, including transmission and substation
12 siting and assessment studies. These environmental studies have involved various
13 transmission voltages including 500kV transmission lines. In addition, I have
14 provided testimony in Arizona, California, New Mexico, Nevada and Colorado on
15 transmission line studies that I have managed. I am currently the project director
16 for the Southwest Valley 500kV transmission line project and the APS Gila River
17 500kV transmission line project.
- 18 Q. Are you familiar with the Arizona Power Plant and Siting Committee?
- 19 A. Yes. I have testified many times on previous power plant and transmission
20 projects before this Committee.
- 21 Q. What has been your involvement with the Navajo Transmission Project?
- 22 A. I have been the principal-in-charge for the Navajo Transmission Project (the

1 "Project" or "NTP") environmental studies since 1992. I have provided direction
2 regarding the overall scope and methodology for the environmental studies and
3 oversight review of the documentation completed to date, including this
4 Application.

5 Q. What is the Diné Power Authority (DPA)?

6 A. The DPA was established as a tribal enterprise by the Navajo Nation Council to
7 promote the Navajo Nation's development of energy resources as well as new
8 sources of transmission capacity.

9 Q. Please describe the Project.

10 A. The NTP is a 500kV transmission line which begins at Western's Shiprock
11 Substation in New Mexico and proceeds west to the proposed Red Mesa
12 Substation sites (west and east), south of Page, Arizona, along Segment 1 (see
13 Figure 1 to the Application which for the convenience of the Committee is
14 attached to this testimony). The proposed 500kV line (Segment 2) then turns south
15 parallel to two 345kV lines and two 500kV lines to the proposed interconnection
16 at the Moenkopi Substation just south of Cameron, Arizona. Finally, Segment 3
17 parallels an existing 500kV line from the Moenkopi Substation to the Marketplace
18 Substation in Nevada, south of Las Vegas.

19 Q. Please describe the portions of the NTP for which a Certificate of Environmental
20 Compatibility (CEC) is sought (see Figure 2 which also is attached to this
21 testimony).

22 A. The CEC Application is for the Arizona, non-reservation portions of Segment 3.

1 The 500kV transmission line begins on the east at the boundary of the Navajo
2 Nation and the Coconino National Forest and ends at the Colorado River at the
3 Nevada and Arizona state line boundary. This portion of Segment 3 is Arizona's
4 only non-Indian reservation section of the proposed line. The length of the
5 proposed route is 138 miles (exclusive of the Navajo and Hualapai Indian
6 reservations). The alternative route is 181 miles (excluding the Navajo
7 Reservation).

8 Q. Does the proposed, preferred route parallel existing transmission facilities.

9 A. Yes. The NTP parallels an existing 500kV lattice structure along its entire route.
10 The alternate portion of the route (around the Hualapai Reservation) does not
11 parallel any existing transmission facility.

12 Q. What benefits will construction of the Project provide to the region's generation
13 and transmission system?

14 A. As described in the CEC Application, the three major benefits to the region's
15 generation and transmission system are:

- 16 1. To relieve the constraints on transmission lines west from the Four Corners
17 area to the Desert Southwest;
- 18 2. To improve operational flexibility and reliability of the extra high voltage
19 transmission system in the event of an outage of a parallel transmission
20 system and therefore to improve overall system reliability; and
- 21 3. To allow increased economical power transfers, sales and purchases in the
22 region.

EXHIBIT J



BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION
LINE SITING COMMITTEE

NOV 30 2000

DOCKETED BY *AY*

IN MATTER OF THE APPLICATION OF
DINE POWER AUTHORITY FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY FOR NON-RESERVATION
PORTIONS OF THE NAVAJO TRANSMISSION
PROJECT

CASE NO: 103
DOCKET NO. L-00000U-00-0103
Decision No. 63197

CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY

Pursuant to notice given as provided by law, the Arizona Power Plant and Transmission Line Siting Committee (the "Committee") held public hearings on July 31, September 27, October 4 and October 25, 2000, in conformance with the requirements of A.R.S. § 40-360, et. seq., for the purpose of receiving evidence and deliberating on the Application of the Diné Power Authority ("DPA" or "Applicant") for a Certificate of Environmental Compatibility for the Arizona, non-reservation portions of its 500kV Navajo Transmission Project (the "Project") as described in its Application. The following members and designees of members of the Committee were present for one or more of the hearing days:

- | | |
|-----------------|---|
| Paul A. Bullis | Chairman, Designee for Arizona Attorney General, Janet Napolitano |
| Steve Olea | Arizona Corporation Commission |
| Dennis Sundie | Department of Water Resources |
| Richard Tobin | Department of Environmental Quality |
| Mark McWhirter | Department of Commerce |
| George Campbell | Appointed Member |
| Arlo B. Lee* | Appointed Member |
| Jeff Maguire | Appointed Member |

* Mr. Lee resigned from the Committee before the hearings on this matter were completed, and did not participate in the deliberations or voting.

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the event that all rights of way and regulatory approvals have been received for Segments 1 and 3 of the Project, financing has been procured for Segments 1 and 3, and construction of Segment 1 has begun, then construction of the non-reservation portions of the Project may begin prior to the completion of Segment 1, as long as Segment 1 is completed, energized and capable of operating at its rated capacity prior to Segment 3 being energized.

6. The Applicant will become a member of the Western States Coordinating Council ("WSCC") and will file with the Arizona Corporation Commission a copy of the Applicant's WSCC Reliability Criteria Agreement.
7. The Applicant will provide the Arizona Corporation Commission copies of interconnection studies concerning the Project as and when such studies are performed.
8. The new transmission line shall interconnect with the existing 345 kV and/or 500 kV transmission lines at either or both the Red Mesa or Moenkopi substations. If Segment 2 has not been completed, energized and capable of operating at its rated capacity, then the new transmission line shall interconnect with the existing 345 kV and/or 500 kV transmission lines at both the Red Mesa and Moenkopi substations..

GRANTED this 27th day of October, 2000.

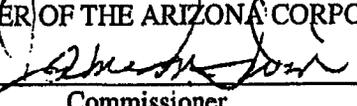
ARIZONA POWER PLANT AND
TRANSMISSION LINE SETTING COMMITTEE

By Paul A. Bullis
Paul A. Bullis, Chairman

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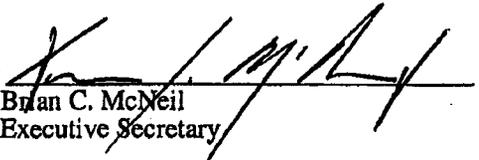
APPROVED BY ORDER OF THE ARIZONA CORPORATION COMMISSION


Chairman


Commissioner


Commissioner

IN WITNESS WHEREOF, I, Brian C. McNeil, Executive Secretary of the Arizona Corporation Commission, set my hand and cause the official seal of the Commission to be affixed this 30th day of November, 2000.

By 
Brian C. McNeil
Executive Secretary

Dissent: _____