



August 22, 2012

Mr. Adrian Garcia, BLM Project Manager
SunZia Southwest Transmission Project
Bureau of Land Management
New Mexico State Office
P.O. Box 27115
Santa Fe, NM 87502-0115

**Re: Comments on the SunZia Southwest Transmission Project Draft
Environmental Impact Statement**

Dear Mr. Garcia:

Archaeology Southwest¹ and the National Trust for Historic Preservation (“National Trust”) submit the following comments on the SunZia Southwest Transmission Project Draft Environmental Impact Statement (“DEIS”). These comments build on, and amplify, our scoping comments of August 27, 2009, November 25, 2009 and June 6, 2010 and our informal communications with Bureau of Land Management (BLM) lead archaeologist, Jane Childress and BLM project consultant EPG. We appreciate the opportunity to provide this input.

GENERAL COMMENTS:

1. *Non-Compliance with Section 106 of the National Historic Preservation Act.* As a preliminary matter, Archaeology Southwest and the National Trust again draw your attention to the BLM’s failure to initiate formal Section 106 consultation in a timely manner. While we appreciate your letter of August 8, 2011, acknowledging our status as consulting parties for the purposes of meeting your responsibilities under the National Historic Preservation Act, we have not had the opportunity for input and discussion that the Section 106 process is intended to provide. Neither the Arizona nor New Mexico State Historic Preservation Offices have been given the opportunity to provide specific input to the identification of alternatives, selection of the draft preferred alternative, or the analysis of impacts to historic resources.

¹ On January 1, 2012, the Center for Desert Archaeology changed its corporate name to Archaeology Southwest. No other aspect of the organization changed apart from the corporate name. Any previous correspondence submitted by the Center for Desert Archaeology should be considered information provided by Archaeology Southwest

We were very pleased that BLM recently issued an Instructional Memorandum (IM) that expressly describes the process to be followed when undertaking a project that requires compliance with both NEPA and NHPA (IM No. 2012-108) The IM includes a helpful chart (attached to this letter) that describes what steps should be taken at various points in the NEPA and NHPA processes to assure coordinated and complementary action. What we find puzzling is that in the case of the Sun Zia project, this useful guidance has been completely disregarded. For example, the chart accompanying the IM shows that the appropriate time to initiate NHPA is *prior to* beginning NEPA scoping, certainly *not after* a draft NEPA document has already been released. In other words, according to BLM's own guidance, BLM should have initiated Section 106 consultation for this project **three years ago**, in 2009. Furthermore, according to the chart, at the point in the NEPA process where a draft EIS has already been issued (the current status of Sun Zia), a draft Section 106 agreement should already be completed and be circulated for comments. Instead, BLM continues to refuse to initiate Section 106 consultation, in direct violation of BLM's own explicit guidance on the matter.

The 1997 Arizona BLM Protocol agreement states that, "[t]he BLM will request the SHPO's review of the following kinds of undertakings: . . . [n]on-routine interstate and/or interagency projects or programs, as determined by either the BLM or the SHPO. Examples are interstate pipelines or transmission lines which involve multiple jurisdictions and require the preparation of Environmental Impact Statements." Protocol at 4. Since this seems to describe the Sun Zia project, it is clear that BLM should have already contacted the SHPOs about this project to seek their review. Furthermore, BLM recently adopted a new Nationwide Programmatic Agreement (PA) which reinforces the importance of NHPA compliance early in the process of project planning. PA at 4.(b)

We are also concerned that waiting until a final alternative is selected before beginning compliance with Section 106 will foreclose the opportunity of the Advisory Council on Historic Preservation to provide meaningful comments on the undertaking. 36 C.F.R. §§ 800.9(b), 800.16(j). Under Section 106 of the NHPA, federal agencies have an obligation to develop and evaluate measures to "avoid, minimize or mitigate" the adverse effects of their actions before finalizing such actions. 16 U.S.C. § 470f; 36 C.F.R. § 800.1(c). In spite of this obligation, BLM has stated that it will select a Sun Zia alternative before commencing NHPA compliance, effectively removing from consideration other siting alternatives that could "avoid, minimize or mitigate" adverse effects on historic properties. Complying with Section 106 *now* will ensure that BLM does not select a project alternative before Section 106 consultation, which would impermissibly foreclose alternatives, such as selecting a different route or route segments, to "avoid, minimize or mitigate" the adverse effects of the project.

Finally, we find it difficult to understand the "flip-flopping" that BLM has done on the question of when it intends to actually start Section 106 consultation. In correspondence dated June 3, 2010, BLM stated, "[o]nce the preferred and alternative routes have been

selected, the Section 106 process will be initiated. . . This will take place **well before** the publication of a Draft [EIS].” (emphasis added). Then, in an August 2011 letter, BLM changed its mind and stated, “[a]fter the Draft [EIS] is published, we will formally initiate Section 106 consultation and the draft PA will be sent to consulting parties for review.” (emphasis added). The comment period on the draft closes on August 22, 2012 and consultation has yet to begin. We recommend that the formal Sec 106 consultation process begin immediately, and that the NEPA review process be suspended until the Section 106 review has caught up to the point of developing a Draft PA, in conformance with BLM’s own policies.

SPECIFIC COMMENTS:

1. ***Project Purpose and Need.*** Archaeology Southwest and the National Trust fully support efforts by the BLM to expand our nation’s renewable energy portfolio, and we recognize that our public lands will play an important role in the development and transmission of these resources. Nonetheless, we remain concerned about the purpose and need for this project.

Originally, this project was presented to the public as a project designed to transmit wind power, a renewable source of energy, from central New Mexico to markets in Arizona and California. All of the initial scoping meetings were focused, almost exclusively, on this renewable energy source and SunZia’s intent to utilize it. It is also reflected in the Supplementary Information in the 2009 Notice of Intent to prepare an EIS: “*SunZia’s proposal is to transport electricity generated by power generation resources, including **primarily** renewable resources, to western power markets and load centers. The SunZia project would enable the development of renewable energy resources, including wind, solar, and geothermal generation, by creating access to the interState power grid in the Southwest and providing increased transfer capacity*”. There was no ambiguity in our minds that this project would assist with meeting our Nation’s ambitious renewable energy use goals.

Presently, the Notice of Availability for the DEIS states: “*The Applicant’s objective for the Project is to improve the reliability and efficiency of the western electrical grid and aid in delivering electrical energy throughout the region.*” With no mention of renewable energy transmission, this is a marked shift in emphasis as it relates to project purpose. Despite the shift in emphasis, public meetings on the DEIS continue to emphasize the renewable energy elements of the project. This continues to mislead the general public and because the public meetings did not provide any opportunity to hear public comments, there was no opportunity for attendees to provide an alternative perspective or to publicly supplement the information provided by the BLM consultant. Furthermore, the applicant’s objectives outlined in Chapter 1.4 focus significantly on renewable energy needs and in doing so misrepresent the demand.

The market demand information presented in Table 1-1 is noteworthy in what it fails to disclose; namely what portion of the demand is currently met from existing projects and what is anticipated from projects that are approved and for whom transmission capacity is not an issue. Currently in

California 20% of all electricity is met from renewable sources. A table (see attached) published on the California Public Utilities Commission website (<http://www.cpuc.ca.gov/PUC/energy/Renewables/index.htm>) indicates that projects online, under development, or pending approval, are providing, or will provide, a minimum of 10,000 megawatts and potentially as much as 30,000 megawatts of electricity. We would also point out that the Arizona NetShort calculation fails to consider that the Renewable Portfolio Standard requires that 33% of the 15% 2025 goal, be met through the distributive systems. As such the NetShort calculation as it relates to SunZia is actually 10.5% by 2025. We request that the final EIS provide for a more accurate market demand calculation for each state (CA, NV, AZ and NM) that reflects what portion of the demand is currently met or anticipated to be met without the SunZia project.

On a related note, we also draw attention to the BLM and the Western Area Power Administration Notice of Intent to prepare an EIS for the proposed Southline Transmission Line Project in New Mexico and Arizona (77 Federal Register No. 65). The Southline project proposes to construct new facilities that will provide for a 1,500 megawatt increase in transmission capacity in Segment A and an upgrade of existing facilities to provide for a 1,000 megawatt increase in transmission capacity in Segment B. In light of the revised project purpose for SunZia and the aforementioned NOI for Southline, there appears to be substantial similarity in project purposes. From Deming, New Mexico to the San Pedro River basin, the proposed alignments for SunZia and Southline are in close physical proximity. Given the existence of these two proposals, both of which are permitted by BLM, under review and proposed for construction in a similar time period, appear to have similar project purposes, are located in close physical proximity to each other over a significant portion of their respective project areas, impact natural and cultural resources in a very similar if not identical manner, and engage identical stakeholders, we strongly recommend that a supplemental DEIS be prepared that includes the Southline Transmission Line Project as a SunZia project alternative.

Lastly, we would be remiss in not mentioning that the first generation SunZia transmission line project was a single 500-kV line going east and west from the Bowie power plant. The line to the west was proposed through the Winchester substation and down the San Pedro Valley to reach southeast Phoenix. The eastern line was to end near the Luna substation at Deming, New Mexico. Tom Wray, the primary representative for SunZia, also played a key role in development efforts for the Southwestern Power Group's Bowie power plant project. The second generation vision for the project envisions a renewable energy component that, as we state above, remains ambiguous at best. Given the relationship between investors in the Bowie power plant and the investors in the SunZia project, we recommend that the relationship between the SunZia project and the natural gas generated power from the Bowie plant be more fully represented in the context of the project purpose and need.

2. Failure of the DEIS to consider all relevant information in assessing impacts to historic resources.

In our letter of June 10, 2010, we requested that you consider Pima County's Priority Cultural Resources areas when evaluating impacts of various alternatives. The information developed by Pima County on Priority Cultural Resource Areas was developed through an exhaustive data analysis based on AZSITE records and the expert opinion of notable area

archaeologists and tribal members and employees. The Pima County planning effort identified the most sensitive areas in Pima County with respect to significant prehistoric features on the landscape. In some instances they represent prehistoric cultural landscapes with the full complement of site types associated with Native Americans, particularly within the period of AD450 and 1450. It appears based on the list provided on page 3-138, that Pima County was not consulted in any capacity as it pertains to cultural resources despite our specific reference to the significant information they had compiled as part of their County planning efforts associated with the Sonoran Desert Conservation Plan, an award winning planning effort. Under Section 106, local governments have a right to participate as consulting parties. 36 C.F.R. 800.2(c)(3).

We appreciate that the information provided to the BLM consultants by Archaeology Southwest concerning priority areas in Pinal County and the San Pedro River basin were referenced in the DEIS (Page 3-138 and Figure M 08-1W). Nonetheless, there is no subsequent analysis or associated narrative on how this information was considered for purposes of the alternatives assessment and determination of impacts to historic properties. This provides further indication that the NEPA process has not served, and cannot serve, the requirements of the Section 106 consultation process. We have attached a recent final report that includes all of the Prehistoric Priority Cultural Resource Areas in Pinal County. Similar to Pima County this information was distilled from thousands of AZSITE records and the expert opinion of notable local archaeologists and tribal representative and members. We strongly recommend that this information, previously submitted information for the entire San Pedro River basin and information provided by Pima County be considered as part of the Final EIS and Section 106 consultation process.

3. Inadequate delineation of the area of potential effect for Class I records review.

The Class I records review initially considered data within 1 mile of the edge of the 1000 foot corridor. However because of the “enormous amount of data” the review focused only on data found within a zone defined as ¼ mile in width calculated from the 1000 foot corridor center line. The decision to limit the focus of inquiry should be determined from an assessment of the “area of potential effects” as opposed to the size of the dataset. An area of potential effects (APE) will be identified in the Section 106 process. In comments we submitted previously, we raised the issue of indirect impacts associated with motorized access routes constructed to support transmission line construction and maintenance². In short, certain sites such as large habitation areas, petroglyph or pictograph sites, rock shelters and caves as well other sites with above-ground historic structures, are vulnerable to vandalism including looting. Such activities are related, in part, to site access which is facilitated by routes open to motorized use. Facilitated access to areas that would

² The regulations are clear that the area of potential effect is the “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties...” (36 CFR 800.16 (d))

otherwise require traveling longer distances off road could occur during construction or afterwards in the event that these routes remain in existence for maintenance purposes.

A variety of assessments and studies which are included for your reference clearly address this problem. Schroeder (2010) provides a good overview of the issue on pages 15-16 of her Cultural Resources Specialist Report prepared to support the Travel Management Environmental Impact Statement for the Apache-Sitgreaves National Forests. References that provide specific information include: Hedquist and Ellison, 2010; Plog et al. 1978 pp. 28; Nickens et. al 1981 pp. 67-74; Sullivan et. al 2002; and Spangler 2006 pp. 21-25) are included herein with these comments. These studies indicate that for sites vulnerable to vandalism, the frequency of damage increases when a site is within 200m–750m of a road open to motorized travel. Because access routes are likely to fall anywhere within the 1000 foot corridor, the area subject to indirect impact should be measured from the edge of the 1000 foot corridor and is best estimated conservatively to be ½ mile from the edges of the corridor. We recommend that this zone be considered the area of potential effects for purposes of Section 106 compliance and also for the NEPA alternatives analysis. Interestingly, ½ mile is the distance used on either side of the corridor edge for purposes of the Class II inventory work, which we support.

4. Inappropriate identification of the preferred alternative as the federal undertaking.

The DEIS at page 3-143 indicates that for “this Project, in which several alternatives were considered, the area of potential effects has been defined with the selection of a preferred alternative.” As stated above, this decision forecloses the opportunity of the Advisory Council on Historic Preservation to provide meaningful comments on alternatives that can best avoid, minimize or mitigate impact to historic resources. As stated earlier, the BLM has failed to initiate formal Section 106 consultation in direct contravention of BLM IM 2012-108 and 36 C.F.R. § 800.1(c) (“*[t]he agency official shall ensure that the section 106 process is initiated early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process for the undertaking.*”) We strongly recommend that formal consultation be initiated immediately in accordance with BLM’s internal guidelines and Section 106 regulations. Any use of the NEPA process to substitute for elements of the consultation process would have required prior notification of the ACHP and the SHPO in accordance with the Section 106 regulations. 36 C.F.R. § 800.8(c).

5. Insufficient impact assessment methodology

The DEIS Page 4-108 identifies “[i]ndirect and permanent disturbances due to changes in public accessibility and visual intrusion” as one of four types of impacts. As previously discussed and in the studies included with our comments, these impacts often extend for a distance of ½ mile from the motorized route. Notwithstanding our earlier comments calling attention to your incorrect identification of the project undertaking, the impact

assessment methodology presently is restricted to a potential corridor width of 600 feet. Our first concern relates to the decision to further restrict the geographic area under consideration to 600 feet despite the BLM's earlier statement that the corridor could be up to 1000 feet in width and the Right of Way application is designed to provide for that additional width if needed. The limited focus area for the direct project impacts is not explained. We recommend that the final impact assessment for purposes of NEPA and Section 106 compliance evaluate direct impacts within the 1000' corridor width. In addition, the impact assessment methodology fails to consider the larger geographic zone subject to indirect impacts that we discuss above. In essence one is left to conclude that any sites outside a 600 area centered on the corridor centerline would not be impacted by the project. We recommend that the Impact Assessment Methodology include an indirect impact zone as described more fully in Section 3 above.

6. Misleading information on the status of Section 106 consultation.

We strongly object to the statement made on pages 3-145 and 5-10 of the DEIS that formal Section 106 consultation has begun. This is not the case, as verified in phone and email conversations with Arizona and New Mexico State Historic Preservation Offices and the Advisory Council for Historic Preservation. We strongly recommend that Section 106 consultation begin immediately. Because BLM did not undertake appropriate notification, clarifying the relationship between the NEPA process and Section 106 public involvement requirements, commencing the required Section 106 process is necessary and long overdue.

REFERENCES

Saul L. Hedquist and Leigh Anne Ellison. 2010. *Condition and Damage Assessment of 96 Previously Recorded Archaeological Sites Located on the Tonto National Forest in Gila, Maricopa, Pinal, and Yavapai Counties, Arizona*. Unpubl. Report. Center for Desert Archaeology, Tucson, Arizona.

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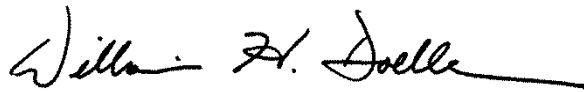
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We appreciate the opportunity to provide these comments and look forward to your response to our input.

Sincerely,



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CEO and President
Archaeology Southwest



Amy Cole
Senior Field Officer and Attorney
National Trust for Historic Preservation

Attachments:

- Attachment 1 from BLM IM No. 2012-108 (Apr. 27, 2012)
- Final Pinal County Priority Cultural Resource Area Report
- California Public Utility Commission RPS Table
- Reports and select pages from reports regarding vandalism of archaeological sites.

cc: Richard Hanes, Div. Chief, Cultural & Paleontological Resources & Tribal Consultation, Washington Office BLM
Kate Winthrop, Energy & Landscapes Coordinator, Washington Office BLM
Robin Hawks, Council on Environmental Quality
Jesse Juen, BLM State Director, New Mexico
Nancy Brown, BLM Liaison, Advisory Council on Historic Preservation
Caroline Hall, Advisory Council on Historic Preservation
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