July 12, 2013

Copy emailed to:
bhudgens@blm.gov

Original sent via U.S. certified mail to:
Director (210)
Attn: Brenda Hudgens-Williams
P.O. Box 71383
Washington, D.C. 20024-1383

Dear Ms. Hudgens-Williams:

In Section 2.6 of the Final Environmental Impact Statement (FEIS) for the proposed SunZia transmission project, the BLM presented three alternatives for the amendment of Resource Management Plans (RMPs) that would be affected by the proposed action of the applicant (SunZia Transmission LLC). These three alternatives were the No Action Alternative, a 400-foot corridor, and a 2500-foot corridor. The BLM's preferred alternative is the 400-foot-wide corridor that may be included as an amendment to RMPs for conformance with visual resource management and right-of-way management objectives. Under the full range of route alternatives, the following RMPs in New Mexico and Arizona would be subject to amendment:

- Socorro RMP, Socorro Field Office (2010) – BLM preferred alternative
- Mimbres RMP, Las Cruces District Office (1993)) – BLM preferred alternative
- Final Safford District RMP and EIS, Safford District Office (1991)"

Concise statement of why the BLM's preferred RMP amendment alternative is the wrong choice:

As coordinator of The Friends of the Aravaipa Region (FAR), I protest this Resource Management Plan (RMP) amendment alternative, and request that the No Action RMP amendment alternative be taken instead. The Bureau of Land Management (BLM) has a mandate under the National Environmental Policy Act (NEPA) to analyze the effects of the proposed action by the applicant. There are specific federal requirements for developing a Final Environmental Impact Statement (FEIS), which is the final report on these effects. These federal requirements include fostering meaningful participation in the development of the FEIS by stakeholders and the general public and developing a plan to mitigate impacts that cannot be avoided. This protest references information and requests that were submitted by FAR and others during the environmental review process but were not adequately considered in the FEIS. These submittals are critical to analyzing the effects of and alternatives to the proposed action. **It is premature to proceed with amending the RMPs until federal requirements for the development of the FEIS have been met.**

FAR is a communication network that includes over 300 conservation activists who support ecological conservation in the lower San Pedro watershed, which contains the second largest unfragmented

wilderness zone in New Mexico and Arizona. FAR's interest in the proposed action is based upon avoiding significant impacts associated with the proposed action.

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FAR incorporates by reference the following documents that were submitted during the planning process, all part of the public record:

- *Draft Environmental Impact Statement Contributions for the Proposed SunZia Transmission Line Route Traversing the Aravaipa Watershed and Lower San Pedro River Valley* (by Omick, Baker, Evans, & Stephens), a 144 page volume co-sponsored by FAR and submitted during the SunZia scoping period on 09/27/2010
- Scoping comments submitted by FAR coordinator, Peter Else, on 09/28/2010.
- Comment ID package 2197 in SunZia FEIS Appendix J, submitted by FAR coordinator, Peter Else, on 08/17/2012.
- Comment ID package 1606 in SunZia FEIS Appendix J, submitted by the Winkelman and Redington Natural Resource Conservation Districts, co-authored by Peter Else, on 08/20/2012.

The initial statement of protest indicated that the *No Action* alternative for these RMP amendment proposals is the appropriate choice, because federal requirements for the development of the associated FEIS have not been met. The following <u>underlined</u> section headings describe why these requirements have not been met:

1) <u>The BLM failed to consider submitted evidence in the development of a statement of purpose and need for the proposed transmission project, and instead:</u>

a) <u>deferred to the applicant in characterizing the proposed project as one that would primarily facilitate the development of renewable energy resources.</u>
b) <u>deferred to the applicant on the relationship of the planned and permitted Bowie natural gas powered generation plant to the proposed project.</u>
c) <u>deferred to the applicant in defining the necessary transfer capacity of the proposed transmission project</u>

Taking these points one at a time:

1-a) Characterization of the project as a renewable energy endeavor.

The proposed project involves the construction of an electrical transmission system. In the Notice of Intent on May 29, 2009, the applicant indicated that the primary purpose of this project is to facilitate the development and transfer of renewable energy resources. The BLM disseminated this characterization of the project's purpose in scoping documents. FAR challenged this characterization in scoping comments of 09/28/2010 and requested correction, but received no response to this request. The Winkelman and Redington Natural Resource Conservation Districts (NRCDs) challenged the same statement of purpose in a formal Information Quality Act petition of July 12, 2011 and in two subsequent appeals (see Attachment A, p. 15 in this protest). On April 19, 2012, BLM Director Robert Abbey agreed to publish a disclaimer to the web-disseminated scoping documents regarding the open access policies of the Federal Energy Regulatory Commission (FERC), but declined to address other requests for correction regarding the challenged statement of purpose (Attachment A).

The disclaimers about FERC's open access policies were presented in the DEIS when it was released in May of 2012, but the project continued to be characterized as primarily facilitating the development and transfer of renewable energy resources in the energy development forecast, which was used as the basis for analyzing economic impacts, cumulative effects, alternatives to the proposed project, and overall impact on greenhouse gas emissions, as well as providing a justification for the stated necessary transfer capacity. Relevant information related to the most probable forecast of energy development has been submitted to the BLM by FAR members and others dating back to early in the scoping period. These submittals are contained in the public record for the SunZia environmental review. One of the most compelling submittals that contradicts the SunZia energy development forecast in the DEIS and the FEIS is the High Plains Express (HPX) Economic Feasibility Study (2008).

Despite at least eight attempts over a two-year period (see Attachment A) requesting that the BLM consider specific findings in the HPX feasibility study, these findings were not acknowledged by the BLM until the FEIS was released, and then they were casually dismissed in an appendix (see details below). This extended refusal to even acknowledge the specific findings of the HPX study contradicts the BLM's response to FAR's DEIS comment #1-2197 that the BLM followed necessary protocol with regard to public participation in the preparation and review of the DEIS, and it indicates that restricting public comments to either written submissions or one-on-one discussions with BLM officials at public meetings was not effective in fostering meaningful public participation in this particular NEPA process.

In their response to the NRCDs' DEIS comments regarding the HPX study (FEIS response #57-1606), the BLM extracted one quote from the HPX study, stating that *"…results would indicate that HPX would provide economic benefits to customers in the HPX states over a variety of resource mixes and CO2 tax scenarios, with the sole exception of a fossil only scenario. As such, HPX's economic feasibility appears to be sufficiently positive and consistent with emerging public policy to warrant further investigations*." **The BLM's response concluded that "The HPX report does not rule out the use of a higher percentage of renewable energy."**

It appears that the BLM reviewers did not examine the actual data points in the HPX benefit/cost (B/C) analysis, in which **a *higher percentage of renewable energy* was indeed ruled out under market conditions that are projected for SunZia's construction and operation timetable.** A copy of the summary table and graph is attached (Attachment B, p.18 in this protest). While it is indeed true that favorable B/C results were possible *over a variety of resource mixes and carbon tax scenarios*, it is also true that the United States of America currently does not have a CO2 emissions tax, nor is it reasonable to expect that one will be enacted during the BLM's stated construction and operation timetable for the proposed transmission project.

According to the HPX analysis, the energy development forecast presented in the FEIS ("wind first" scenario vs. existing mix of fossil fueled generation and minimum renewables to meet RPS) will not break even economically (B/C=1) on an Extra High Voltage (EHV) line unless CO2 emissions are taxed at $10 per ton, and does not perform as well as the more balanced energy scenarios until CO2 emissions are taxed at $25 per ton. Further, the energy mix that has, by far, the highest B/C ratio and the highest economic advantage to investors and consumers under current market conditions is actually the **inverse** of the energy development forecast presented in the FEIS, one that consists of 75% fossil fueled generation and 25% renewable generation. In Attachment B, note that Table 8 assumes a minimum CO2 emissions tax of $10/ton. However, the Figure 12 graph does model the absence of a CO2 emissions tax.

The BLM response to FAR's criticism of the energy development forecast (FEIS Appendix J response #20-2197) stated:

> *Although FERC rules do not allow for discriminatory preference among generation subscribers to a transmission line, "it is the intent of the Applicant to provide infrastructure to increase transmission capacity in areas of potential renewable energy generation" (see DEIS, p.1-8). Table 1-1, Renewable Energy and Transmission Capacity Needed to Meet RPS, and Table 1-2, Summary of Generation Interconnection Requests to Existing Transmission Owners within the Project Area, illustrate, respectively, a need for additional renewable generation sources and a need for transmission capacity.*

Remarkably, there is no mention of the market factors affecting the economic feasibility of operating an EHV line under various energy development scenarios. Just as the proposed Tucson routes were deemed unfeasible to build, certain energy transmission scenarios are not economically feasible on expensive EHV lines under the market conditions expected during the stated construction and operation period. **If a route segment on a merchant line is not economically advantageous to investors, it will not be built, and if it is not built, it will not carry energy resources located along its proposed route.**

The BLM failed to consider the HPX study's findings, and allowed the applicant and the contracted environmental firm to claim that an energy mix deemed unfeasible for transfer on EHV lines is the most probable scenario for development. The alleged *intent* of the applicant to facilitate 81 to 94% renewable energy development is irrelevant to the project's ultimate purpose. Market and regulatory factors determine economic feasibility on a merchant line, not intentions. While the FEIS includes disclaimers related to open access regulatory factors, it still has not addressed the economic feasibility of the energy development forecast presented in the FEIS.

The applicant's original Notice of Intent (May, 2009) stated that the proposed project "*would likely be constructed in phased segments*". Under current market conditions, it is unreasonable to expect that

investors will accept significant construction and operational losses on the route segment between SunZia's proposed East and Midpoint Substations. This large section of the proposed route would primarily be supplied with wind resources originating near the East Substation.

Also, given the results of the B/C analysis in the HPX study, it is very likely that investors will insist that the first *phased segment* should originate in southern New Mexico or Arizona. If this first segment becomes operational, market conditions projected for the stated construction and operation timetable will favor power purchase agreements that provide the best economic benefits to investors and consumers, which, according to the HPX study, involves transmitting a mix of primarily high-dependability fossil-fueled resources and a smaller portion of renewable resources.

If SunZia becomes operational before the proposed Southline transmission line, it is likely that the first line proposed by the SunZia project would eventually fill to capacity with the resource mix described above, and with generation resources located in the southern portions of Arizona and New Mexico. This route segment and this configuration of energy resources is the same as what was described in the original 2006 configuration of the SunZia project, which was designed to accommodate significant amounts of non-renewable energy from the owner's planned and permitted Bowie generation plant. This original project configuration was brought to the BLM's attention repeatedly, dating back to the scoping period. The currently unfeasible wind energy segment of the project proposal was introduced to the SunZia project proposal in 2008, and at that time SunZia's marketing strategy shifted to the promotion of an almost exclusively renewable energy development scenario. **By failing to consider contradictory evidence, the BLM has allowed the applicant and the contracted environmental firm to reinforce this renewable energy marketing strategy in the federal environmental review process**.

Regarding the BLM's RPS-related justification for its energy development forecast (BLM's #20-2197 response to FAR), the minimal renewable energy standards in the affected states are already being met without the additional transmission capacity that would be provided by the SunZia project. RPS is not expected to be a major factor regarding demand on the first SunZia line. A footnote to FEIS Table 1.1 concedes that the "net short" in RPS-related transmission would not necessarily have to be provided by the SunZia project.

And finally, regarding the BLM's #22 -2197 response to FAR that the 81 to 94% in low-dependability renewable energy transfer could be supplemented with "regulation generation services from other sources on the grid, or from within their own inventory of generation assets", page 33 of the HPX study has a clear statement:

> *In all of these cases, with the exception of the renewables-only scenario, HPX was modeled to meet the load requirements profile and achieve an average 75% utilization level. While this is readily achievable with fossil resources, which are "dispatchable" (coal and gas), it is a much greater challenge when material amounts of "non-dispatchable" renewable resources (wind and solar) are involved. Two of the renewable-dominated scenarios approached this problem by first dispatching the HPX line's full capacity with renewables, and backfilling/firming with fossil resources in order to meet load requirements when renewable energy isn't available (the "renewables-first" scenarios). Such an approach is likely to involve many operational and economic challenges*.

These *operational and economic challenges* are reflected in the prohibitively low economic feasibility ratings for the *renewable-dominated* scenarios in the absence of a CO2 emissions tax. Note that the HPX study considered 75% renewables to be the high limit for the *renewable-dominated* category. SunZia's 94% renewable scenario is considered to be a *renewables-only* scenario, which provides less than 60% EHV line utilization (Attachment B).

The economic feasibility of transferring different mixes of energy resources on an EHV line will determine which parts of the proposed transmission project are most likely to be constructed. Thus, the energy development forecast must be consistent with the best available feasibility study. The HPX study is highly relevant, because the SunZia project was cited in the HPX study as being an integral part of the HPX project. The BLM has not presented any other feasibility study that contradicts the findings of the HPX study.

As stated before, the energy development forecast is very important in the FEIS. It was used in large part as the basis for developing a statement of purpose and need, justifying the necessary transfer capacity of the proposed project, analyzing (and dismissing) alternatives to the proposed transmission project, assessing the proposed project's overall impact on greenhouse gas emissions, and analyzing the cumulative effects of the proposed project. **These important assessments must be based upon the best available data. It is premature to amend the RMPs when this standard has not been met in the FEIS.**

1-b) Relationship of the Bowie power plant to the SunZia transmission project.

In scoping comments of 09/28/2010, FAR pointed out that the planned and permitted gas-fired Bowie power plant could provide up to 1000 MW of power to the SunZia transmission lines. This point was repeated in detail by the NRCDs in their IQA petition/appeals (referenced in Attachment A), as well as by FAR and the NRCDs in their comments to the DEIS. However, the greatest detail on this point was provided by Norm Meader of the Cascabel Working Group. Mr. Meader made this point explicitly through DEIS comments (see Attachment C) that referenced detailed reports. In responding to these comments, the BLM deferred to the statement of the applicant:

> *The Applicant states that, although the SunZia Project may have been initially conceptualized as an interstate generation-tie line for Bowie with a transfer capability of 1,500 MW (thus only adding an additional 500 MW of capacity to the electrical grid), the configuration of the proposed SunZia Project (two 500kV transmission lines adding an additional 3,000-4,500 MW of capacity to the electrical grid), and Bowie are not "connected actions," as each has an "independent utility" from the other.*

Despite repeatedly receiving submittals containing evidence regarding the close relationship between the two *actions*, the BLM again deferred to the applicant's declaration that the Bowie plant would not benefit from nor be a major contributor to the SunZia transmission lines. A summary of this close relationship is provided by Mr. Meader in Attachment C on pages 21-23 of this protest. The conclusion states:

"The Bowie power plant is just as likely to use SunZia as any of the renewable energy facilities envisioned, and the plant could use up to 1,000 MW of capacity once fully built. This is the project proponent's intent. The FEIS does not mention this possibility, whereas SunZia's initial 2010 application to the Federal Energy Regulatory Commission for a Declaratory Order explicitly states it. The statement from this application follows:

> *It is possible that other LLC Members will also use some or all of their portion of the Project for affiliated generation (e.g., SWPG's Bowie power plant, ECP SunZia-affiliated generation projects in early-stage development located in the vicinity of the Project). Such generation may also be renewable or may be combined-cycle gas-fired generation.*

It would be consistent for the Bureau of Land Management to make the same admission of Bowie's use of SunZia in the Environmental Impact Statement and evaluate the project accordingly."

In dismissing the close relationship between the Bowie power plant and the SunZia transmission project, the BLM failed to independently consider submittals dating back to early in the scoping period, opting instead to simply accept the statement of the applicant. This neglect of neutral oversight responsibility allowed the applicant to obscure the relationship between the proposed transmission project and applicant's long history with the Bowie Power Plant and convince a largely unsuspecting public that the project has nothing or very little to do with expanding markets for fossil fueled generation. This is not consistent with the requirement to foster meaningful participation in the planning process by the public and stakeholders.

1-c) Statement of necessary transfer capacity.

The proposed SunZia project is scaled to be one of the largest in American history. Numerous comments by FAR have indicated that it is not appropriate to site this industrial scale transmission project in long expanses of previously undisturbed wild lands. The applicant and the BLM have responded that the project is scaled to accommodate the vast potential of renewable resources, and the FEIS energy development forecast indicates that 81 to 94% of the resources developed will probably be renewable. The clear implication has been that sacrifices will need to be made to accommodate the development of renewable energy. However, the previous discussions in this protest indicate that there is a very low probability that the project will actually be used primarily for that purpose.

In a response to DEIS comment #1-1604, the BLM states that the minimum transfer capacity for the proposed project is based upon the ***applicant's*** identification of existing demand:

> *The Applicant identified the 3,000 MW mark as a minimum increase based on the existing demand for increased transmission capacity to relieve congestion, improve reliability, and provide future energy sources, including renewables, with access to market, balanced by marketing factors and engineering constraints*.

Rather than conducting an independent assessment of all factors that typically constitute the definition of *existing demand*, the BLM is deferring to the applicant, who has carefully defined the term in a way that avoids considering the *existing demand* for power purchase agreements by utility companies.

FAR contributor, Norm Meader, responded in this way (Attachment C, page 20 of this protest):

> *The project's scope is not based upon an assessment of the transmission and generation needs of specific utilities in the region, the fundamental criterion used in the past for sizing any transmission project. Rather, it is a highly speculative project aimed at expanding energy markets… However, it is important to give the underlying motives for proposing such a huge project, the largest ever proposed in U.S. history except for the double 500-kV lines leading from the Grand Coulee Dam to southern California*.

As discussed in the previous section, the *underlying motives for proposing such a huge project* include the applicant's financial interest in the Bowie power plant and certainly do not rule out providing transfer capacity for other fossil fueled generation plants.

By simply deferring to the applicant's energy development forecast *and* the applicant's statement of necessary transmission capacity, and by dismissing contradictory information, the BLM allowed the applicant to mislead the public about the actual purpose of the project. This does not meet acceptable standards for formulating an objective understanding of the purpose the proposed project.

The BLM's statement of purpose and need mainly referenced its role in considering an application for right-of-way in the context of federal energy development policies. The BLM deferred to the applicant to describe the actual objectives of the proposed project (SunZia Project FEIS, p. E-2). Although this formal statement of objectives carefully avoided making the original and challenged claim that the project would primarily facilitate the development of renewable energy, the energy development forecast, presented later in the FEIS, indicates that 81 to 94% of the energy development facilitated by the project would be renewable. This conflicting and evasive presentation of the purpose of the proposed project was used in a confusing and evasive way throughout the document.

It is the responsibility of the oversight agency to develop an objective statement of purpose and need for the proposed project, one that is not based upon the applicant's over-riding interest in obtaining a favorable Record of Decision, but one that takes into account the best available data related to the most probable use of the proposed transmission project. **The BLM deferred to the applicant on critical information related the purpose of the project, failed to take into account relevant information that had been submitted by stakeholders, and thus failed to present an objective statement of purpose and need, one that could be consistently be applied to assumptions and analyses throughout the FEIS.**

2) Lacking an objective and clear statement of purpose and need, the BLM failed to provide a valid basis for conducting an analysis of alternatives to the proposed project.

Given the significant impacts that would take place as a result of constructing a new major transmission route through long expanses of natural landscape that were previously undisturbed by industrial scale development, it is imperative that a rigorous analysis of alternatives, based upon valid assumptions of purpose and need, takes place before the RMP amendments are considered.

In FAR's comments #13 through #19 in the SunZia DEIS comment package 2197, a request was made for the BLM to consider alternatives to the proposed SunZia action in a multivariate analysis, in order to think "outside of the box" that the applicant has constructed. FAR presented combinations of possible alternatives that could achieve increased transfer capacity, increase proportional use of renewable energy, and reduced grid congestion, while avoiding major impacts in the lower San Pedro watershed.

In the responses to these comments, as well as in the final discussion of these alternatives in the FEIS, the BLM opted to simply dismissed all proposed alternatives individually, based upon SunZia's stated purpose to provide at least 3000 MW in transfer capacity, which was, in turn, based largely upon a currently unfeasible transfer of wind energy from central New Mexico (see BLM response to comment #15-2197). Given that there is no assurance that the wind segment of the project will ever be constructed and that the most likely configuration of the first SunZia line is similar to the proposed Southline project, this minimum figure for transfer capacity is highly speculative and has been misrepresented to the public in the energy development forecast as a requirement for rescuing over 2400 MW in stranded renewable resources.

The sweeping dismissal of all alternatives to the proposed project is based upon an enormous sizing of the "necessary" transfer capacity.

By sizing the project at a minimum capacity of 3000 MW, based upon a development scenario that is currently unfeasible and highly speculative, and by defining the study area narrowly, **the applicant was able to construct parameters that provided simplistic rationales for both dismissing alternatives to the project and requiring the project to pass through long expanses of wild lands previously undisturbed by any type of linear infrastructure.**

In both the DEIS and the FEIS, the analysis of alternatives to the proposed SunZia project is far too simplistic to meet any sort of rigorous standard. Rather than exercising independent review in their oversight functions, both the BLM and the contracted environmental firm have simply deferred to the applicant's assessment on the most critical assumptions related to the purpose of the proposed project. **It is premature to sanction the impacts associated with the proposed RMP amendments until the major energy development assumptions underlying the stated need for 3000 MW of transfer capacity have been independently reviewed and until a subsequent and rigorous multivariate analysis of alternatives to the proposed project has been conducted.** To do otherwise will simply sanction the use of this NEPA process for manipulation by the applicant.

3) **If the BLM approves the RMP amendments and ultimately grants rights-of-way without correcting deficiencies in the FEIS, it will fail to meet its stated objective to grant rights-of-way in accordance with federal directives, as stated in the SunZia FEIS, p. 1-5:**

> *Pursuant to 43 CFR 2801.2, it is the BLM's objective to grant rights-of-way and to control their use on public lands in a manner that: (a) protects the natural resources associated with public lands and adjacent lands, whether private or administered by a government entity; (b) prevents unnecessary or undue degradation to public lands; (c) promotes the use of rights-of-way in common, considering engineering and technological compatibility, national security, and land use plans; and (d) coordinates, to the fullest extent possible, all BLM actions under the regulations in this part with state and local governments, interested individuals, and appropriate quasi-public entities.*

There is strong evidence that the applicant intends to ask the Arizona Corporation Commission to overturn the BLM's preferred route selection in the Group 4 route segment when the project seeks state approval. The applicant's route choice would least comply with the BLM's co-location directive, among all the alternatives available in the Group 4 segment. Also, there are strong indications that the BLM's overall preferred route alternative will cause much greater impact to undisturbed lands than two other transmission proposals that are pending in the same region. Until a comparative analysis among transmission proposals has been developed and disseminated, it is premature to sanction the impacts associated with the proposed RMP amendments.

The BLM's preferred route in the FEIS is co-located with existing utilities and corridors for approximately 64% of the entire route. However, the applicant has stated that it is likely the project would be constructed in *phased segments*. The "co-location factor" for various route groups needs to be considered, and this data needs to be compared to the proposed Southline Transmission project. This was not done in the FEIS. FAR submitted comments regarding the alternative of using the proposed Southline project as a means of increasing transfer capacity without building a whole new infrastructure corridor through the lower San Pedro watershed (DEIS comment #17-2197).

As stated in the previous section of the protest, the findings of the HPX study indicate that there is a high likelihood that construction of the Group 1 SunZia route segment (between the East and Midpoint substations) would be postponed until market conditions favored an energy transmission mix consisting primarily of low-dependability wind resources. This would be consistent with the postponement of other long- distance wind energy transmission projects in the West, and is likely to stay that way until a) a substantial CO2 emissions tax is enacted, or b) the current glut of natural gas resources subsides, or c) the federal government provides significant subsidies for the construction and operation of long-distance EHV lines that primarily transmit renewable resources. These conditions are not likely to change during the BLM's stated construction and operation timetable, and these conditions could remain relatively static for an unknown number of years following the proposed project's goal of becoming operational by 2016. The current market conditions are the very reason why investors did not jump right into the long distance wind energy transmission proposals of the HPX project.

The SunZia project must then be evaluated in terms of the most likely construction configuration for the first line, which would probably originate in southern New Mexico or Arizona and terminate at the Pinal Central substation (SunZia route groups 3 and 4). This route portion is likely to be the first *phased segment* of the SunZia project and would compete with the proposed Southline Transmission project for

many of the same generation resources. The two projects would be built adjacent to each other for 100 miles across southwestern New Mexico and southeastern Arizona. Each project would connect with the 345-kV grid fairly close to one another in southwestern New Mexico, permitting a similar exchange of power. Both the Southline and SunZia projects would interconnect with the same Lordsburg substation. Southline is proposed to terminate about 35 miles from SunZia's terminus. Southline is proposed to carry between 1000 and 1500 MW of power, while the first SunZia line is rated at 1500 MW. These points contradict the BLM's assertion that the purposes of the two projects are so different that the Southline project cannot be considered an alternative to the SunZia project (FEIS response to comment #17-2197). The most likely build-out of the first SunZia line mainly differs from the Southline proposal in terms of impacts on the lower San Pedro watershed and the number of substations available for transmission access in southern Arizona.

If the first "phased segment" of the SunZia line runs from the Willow Substation to Pinal Central Substation, the BLM's preferred route will have a co-location factor of 57%. However, the applicant has made it clear in both letters and an extensive lobbying effort that SunZia will accept nothing less than its own original preferred route, the route segment that bisects the confluence of the Aravaipa and Galiuro Wilderness zones (SunZia subroute 4B), which would have a co-location factor of 17%.

SunZia's lobbying effort took place during the same time period that the BLM was conducting meetings related to the DEIS, and SunZia lobbyist Stan Barnes was observed at the Tucson meeting trying to convince a Pima County Supervisor that, with enough local support, the Arizona Corporation Commission could be persuaded to accept the 4B route segment and overturn the BLM's preference. Although Pima County did not cede to this effort, at least nine other different local government and commerce units wrote letters of resolution between July and September of 2012. These include Bowie Chamber of Commerce, City of Benson, City of Willcox, Cochise County Board of Supervisors, Willcox Chamber of Commerce and Agriculture, Graham County Board of Supervisors, Southeast Arizona Economic Development Group, Pinal County Board of Supervisors, and the Willcox Regional Economic Development Alliance. The first seven of the referenced letters explicitly stated support of the 4B subroute over the BLM's preference, with rationales citing impacts and local control over line siting decisions on non-federal land. Some cited these reasons despite their remote relationship to the affected routes. The latter two letters of resolution expressed support for the "shortest route" and for the "more northern route".

With SunZia's intentions for Subroute 4B in mind and if the project proposal receives federal approval, this NEPA process could ultimately result in a final siting that will least comply with the BLM directive to co-locate new infrastructure projects with existing infrastructure to the highest degree practical among feasible route alternatives. Below are the co-location factors for each Subroute associated with the route segments most likely to be constructed, expressed in percent, with the fraction of co-located miles over total miles in parentheses:

- BLM preferred subroute 3A2 (Midpoint to Willow Substation) 56% (69/124) co-location

- BLM preferred subroute 4C2c (Willow to Pinal Central) 57% (92/161) co-location
- Subroute 4B, Aravaipa (Willow to Pinal Central) 17% (22/133) co-location

- BLM preferred 3A2 plus 4C2c (Midpoint to Pinal Central) 56% (161/285) co-location
- SunZia intended 3A2 plus 4B (Midpoint to Pinal Central) 35% (91/257) co-location

It should be noted that none of these co-location factors are particularly high. In the best case, nearly half of the proposed route is new territory for linear infrastructure. On the BLM's preferred Group 4 route segment (4C2c), the first 30 miles north of the San Pedro River crossing opens an entirely new corridor parallel to the river through previously unspoiled rangeland, while bisecting a large tract of conservation land managed by Pima County**. If that is the best case scenario, the proposed Southline project deserves serious consideration.**

Through a public-private partnership, Southline plans to upgrade existing lines and follow already disturbed lands on the vast majority of their proposed route. The Southline study area parallels the Interstate 10 corridor. The proposed line will add 1000 to 1500 MW of additional transfer capacity (similar to the first SunZia line), without impacting the significant conservation values and investments in the lower San Pedro watershed. Given the potential for a great difference in environmental impacts between the two transmission proposals (SunZia and Southline), a comparative analysis is essential.

Further, we request that before moving forward with sanctioning the impacts associated with the RMP amendments, the BLM consider in this comparative analysis the Corona-to-Phoenix "wind-first" route segment proposed in the HPX study. This proposed route segment begins and ends at essentially the same points that the SunZia Project does, and is designed to accomplish the same purpose stated by SunZia, to transport wind energy from Corona area to the central growth region of Arizona. However, the proposed HPX route segment would co-locate with an existing 345kV line between central New Mexico and Springerville and with an existing 500kV line between Springerville and east Phoenix, would take a more direct route to major load centers, and would benefit Arizona's wind energy development interests as well as those in New Mexico. The proposed HPX wind segment appears to be much more in accord with the BLM co-location directive, and must be considered before committing to the SunZia wind energy routing proposal

There is so much at stake in the lower San Pedro watershed. This protest incorporates through reference all of the impacts described by almost every conservation group in Arizona during the federal environmental review process for the SunZia project. **It would be premature and contrary to federal directives to sanction the impacts associated with RMP amendments and clear the way for significant effects along the rest of the SunZia route before this vital comparative analysis of the SunZia, Southline, and HPX project proposals takes place**.

4) **The FEIS did not include specific mitigation measures to address many of the most significant impacts.** Guidelines for preparing a NEPA document are presented in 40 CFR § 1502. That includes development of mitigation (§ 1502.14). Mitigation is defined below:

§ 1508.20 Mitigation.
Mitigation includes:
(a) Avoiding the impact altogether by not taking a certain action or parts of an action.
(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
(e) Compensating for the impact by replacing or providing substitute resources or environments.

During this environmental review process, FAR and many others have identified hundreds of significant impacts that will take place as a result of the proposed transmission project, and have requested information about mitigation measures.

The FEIS provides a catalog of anticipated impacts, including 2,871 acres of permanent ground disturbance spread along 515 miles of lines (Appendix H). However, the mitigation provisions in the FEIS and in the preliminary Plan of Development (POD) only provide best management practices to avoid or minimize impacts to soil, water, vegetation, threatened species, endangered species, cultural resources, visual resources, existing land uses, and future land uses**. This permanent disturbance of 2,871 acres, and any remaining impacts to a whole range of resources after minimization takes place, have been left unmitigated in the FEIS.**

The effects of the proposed action cannot be objectively stated until post-mitigation impacts are assessed. **The RMPs should not be amended until the EIS has followed NEPA guidelines for the development of mitigation, and until post-mitigation impacts are assessed.**

<u>Summary</u>.

The lower San Pedro watershed has become the repository for off-site mitigation of impacts taking place as a result of rapid growth in the nearby "Sun Corridor". It would be irresponsible to devalue the enormous conservation investments that have been made in this important watershed for a misrepresented project that will mainly benefit the very growth centers that caused the need for these investments. Local conservation investments in off-site mitigation were made in good faith, swapping sacrificed environmental values for a compensatory replacement that was intended to be protected in an unfragmented ecosystem.

By deferring to the applicant on critical assumptions and dismissing information submittals that contradict these assumptions, the BLM has allowed this applicant to take advantage of a nation's inexperience with a newly unfolding shift in our energy paradigm and use this NEPA process to grossly misrepresent the proposed project's renewable energy benefits. As indicated in this protest, if the BLM continues to defer to the applicant on all critical assumptions underlying the analyses of effects in the FEIS**, the final route selection will likely be the one that least meets the federal directive to site projects with existing rights-of-way and the final energy development scenario will likely be the inverse of what was presented in the FEIS.** The BLM would then be accountable for a serious breach in public faith.

If the project is constructed and the expected results take place, additional safeguards to protect the integrity of the NEPA process and ensure meaningful public participation will become imperative. For example, in this process, a public hearing may have been the only option that could have motivated the BLM and the contracted environmental firm to finally consider the *specific findings* in the repeatedly

submitted feasibility study. Due process concerns were discussed in FAR's DEIS comments #1, #3, #4, #5, and #6 in comment package 2197. These concerns were summarily dismissed in the corresponding responses by the BLM or the contracted environmental firm.

Indeed, we are at the very beginning of a new energy paradigm in our nation, but market conditions have not changed sufficiently to make the long-distance transport of the "wind-first" energy mix a feasible proposition on high-investment EHV lines, without significant subsidies for construction and operation. No availability of subsidies has been reported in the FEIS, and if subsidies do become available, it would make much more sense to use them in a way that would benefit wind energy development in both of the states affected by this proposal, conform to the BLM's federal directive to co-locate new transmissions lines with existing rights-of-way to the highest degree practical, and avoid major impacts in the lower San Pedro conservation corridor. **Construction of the wind segment of the proposed SunZia project (between the East and Midpoint Substations) is not likely to take place in the reasonably foreseeable future, and should not be used as a mechanism to avoid consideration of alternatives to the project proposal, including comparison with the proposed Southline project.** And, with SunZia's wind segment so far off in the future, it is imperative that the BLM exercise due diligence and consider the alternative HPX route segment between Corona, NM and Phoenix, AZ.

FAR urges the BLM to follow the requests in this protest before approving any pending amendment to the Resource Management Plans. Federal requirements have not been met in the preparation of the FEIS. Please make the necessary corrections to the statements and analyses that are currently based upon an obscured purpose and an unfeasible energy development forecast, conduct a rigorous analysis of alternatives to the proposed project, develop and publish a comparative analysis of project proposals, and develop a mitigation plan that meets NEPA standards before proceeding with consideration of the proposed RMP amendments.

This protest respectfully submitted,

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Three Attachments Follow (A, B, and C)

Attachment A- Submittal of the High Plains Express Economic Feasibility Study to the BLM.

Critical information related to the High Plains Express Economic Feasibility Study has been formally submitted to the BLM on at least eight occasions during the past two years:

1. July 12, 2011-- "Request for Correction of Information Contained in Scoping Documents for the SunZia Southwest Transmission Project" was submitted under the Information Quality Act (PL 106-554-Section 515), by two local Natural Resource Conservation Districts (NRCDs) in the lower San Pedro/Aravaipa watershed. The HPX study was cited as evidence contradicting the statements of purpose and need for the proposed project. In his response of 08/17/2011, New Mexico BLM Director Jesse Juen did not acknowledge the specific requests for correction, and stated that NRCD concerns would be addressed in the draft EIS (DEIS). Challenged statements made by the BLM in scoping documents continued to be disseminated on their SunZia website

2. September 6, 2011-- Response by Jesse Juen was appealed to the Assistant Director, BLM Information Resources Management, as per the Information Quality Act (IQA). Key information from the HPX Economic Feasibility Study was re-submitted. Response to this appeal was delayed for four months. In his response of 01/06/2013, Ronnie Levine, an Assistant Director at the BLM in Washington, D.C., did not acknowledge the specific requests and stated that the NRCD concerns would be addressed through the public comment processes. The challenged statements by the BLM continued to be disseminated on the BLM's SunZia website.

3. January 20, 2012-- Response by Ronnie Levine was appealed to the Director of the BLM. It was again stated that the HPX Economic Feasibility Study was relevant and contradictory to the renewable energy development claims that were continuously being disseminated by the BLM. The 04/19/2012 response by BLM Director Robert Abbey included an agreement to add a disclaimer to the BLM's SunZia website regarding the Federal Energy Regulatory Commission's open access policy, but did not include any acknowledgement of the HPX study and its associated economic feasibility analysis. Mr. Abbey gave the NRCDs no assurance that their specific requests and information submittals would necessarily be considered or addressed in the DEIS, and indeed, this information was not included when the DEIS was released on 05/29/2012.

4. July 30, 2012- The NRCD's sent the BLM a request for an errata appendix to the DEIS, citing specific requests for correction that had not been addressed, as well as the submission of the HPX study. The BLM did not respond to this request.

5. December 18, 2012- The NRCDs requested that Jesse Juen, New Mexico BLM Director, issue a Supplement to the DEIS to address the outstanding information deficiencies. Including consideration of the HPX study. This request was denied on 03/14/2013 by Mr. Juen.

6. August 17, 2012- The author of this protest, on behalf of Friends of the Aravaipa Region, submitted information on the HPX study in DEIS comments (FEIS comment ID #20-2197). No acknowledgement of the study was provided in the response to this comment.

7. August 20, 2012- The Cascabel Working Group submitted information in the HPX study that challenged the economic feasibility of the SunZia project (DEIS comment #13-2412). No acknowledgment of the study was provided in the response to this comment.

8. August 20, 2012- The NRCDs re-submitted information about the HPX Economic Feasibility Study in their comments to the DEIS. The BLM responded in an appendix attached to the FEIS (comment #57- 1606) that the HPX study did not contradict their energy development forecast.

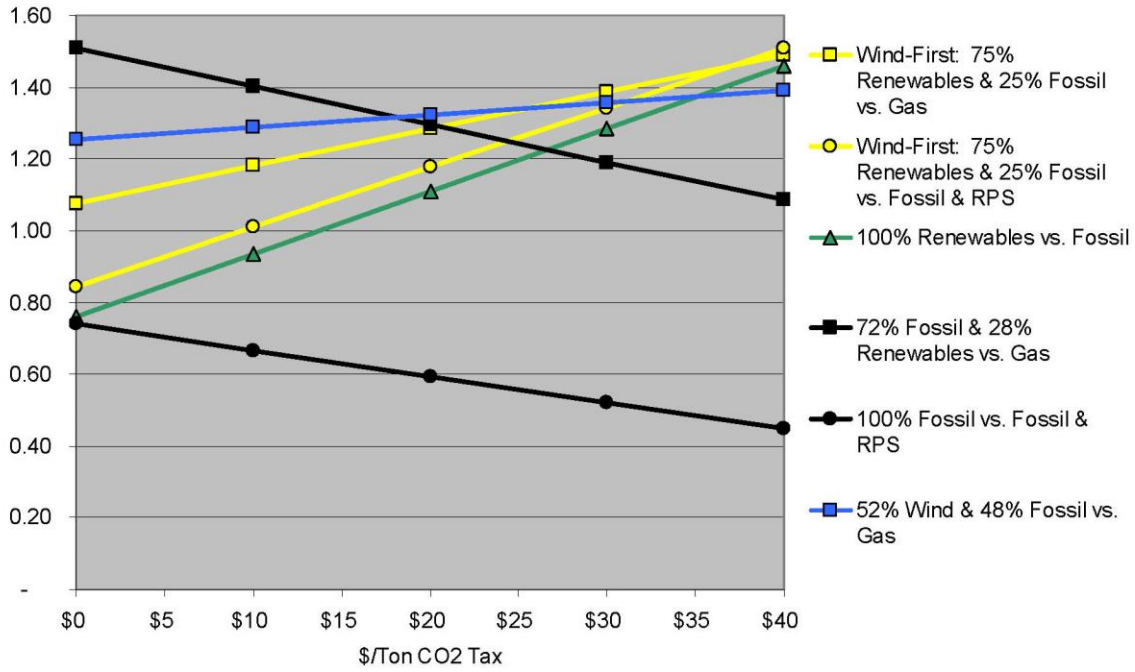
Attachment B- Summary of the High Plains Express (HPX) Benefit/Cost Analysis

***Table 8*—HPX Benefit/Cost Analyses Results**

			HPX FEASIBILITY				HPX ENERGY MIX			
SOURCE	SINK	GHG	B/C	$MM/YR	$/MWH	UTLZ	WIND	SOLAR	COAL	GAS
RENEWABLES-ONLY	DISPATCHABLES (COAL/GAS)	$10	0.94	($32)	($1.87)	56%	90%	10%	-	-
		$20	1.11	$56	$3.21	56%	90%	10%	-	-
		$30	1.28	$144	$8.30	56%	90%	10%	-	-
		$40	1.46	$232	$13.36	56%	90%	10%	-	-
RENEWABLES-FIRST FIRMED WITH COAL & GAS	GAS	$10	1.18	$91	$3.97	75%	67%	8%	13%	12%
		$20	1.28	$144	$6.25	75%	67%	8%	13%	12%
		$30	1.39	$196	$8.52	75%	67%	8%	13%	12%
		$40	1.49	$248	$10.79	75%	67%	8%	13%	12%
RENEWABLES-FIRST FIRMED WITH COAL & GAS	DISPATCHABLES + 20% RPS	$10	1.01	$5	$0.24	75%	67%	8%	13%	12%
		$20	1.18	$90	$3.89	75%	67%	8%	13%	12%
		$30	1.34	$174	$7.55	75%	67%	8%	13%	12%
		$40	1.51	$258	$11.21	75%	67%	8%	13%	12%
COAL + RENEWABLES FIRMED WITH GAS	GAS	$10	1.40	$204	$8.86	75%	28%	-	61%	11%
		$20	1.30	$150	$6.53	75%	28%	-	61%	11%
		$30	1.19	$97	$4.20	75%	28%	-	61%	11%
		$40	1.09	$43	$1.88	75%	28%	-	61%	11%
50:50 RENEWABLES & DISPATCHABLES	GAS	$10	1.29	$146	$6.38	75%	52%	-	25%	23%
		$20	1.32	$163	$7.12	75%	52%	-	25%	23%
		$30	1.36	$180	$7.85	75%	52%	-	25%	23%
		$40	1.39	$197	$8.59	75%	52%	-	25%	23%
DISPATCHABLES-ONLY (COAL/GAS)	DISPATCHABLES + 20% RPS	$10	0.67	($169)	($7.33)	75%	-	-	52%	48%
		$20	0.59	($205)	($8.93)	75%	-	-	52%	48%
		$30	0.52	($242)	($10.53)	75%	-	-	52%	48%
		$40	0.45	($279)	($12.13)	75%	-	-	52%	48%

B/C <1 | 1.0 - 1.2 | 1.2 - 1.4 | > 1.4

***Figure 12*: HPX Benefit/Cost Analyses Results**



ATTACHMENT C – Norm Meader's Response to BLM responses to Cascabel Working Group

Comments on the SunZia Draft Environmental Impact Statement

CWG Submission: The Purpose and Need for the SunZia Southwest Transmission Project: SunZia's Relationship to the SouthWestern Power Group's Bowie Power Station, submitted by Norm "Mick" Meader, August 20, 2013

FEIS Page No.	Comment No.	BLM Text
J271-J272	**1604-1**	**Paragraph 1:** The BLM's action in considering the Applicant's right-of-way application is provided under the authority to the Secretary of the Interior (BLM) to "grant, issue, or renew rights-of-way…for generation, transmission, and distribution of electric energy" (43 Code of Federal Regulations [CFR] 2800). *The BLM is responsible for complying with NEPA with respect to the construction and operation of the SunZia Project, but has no jurisdiction over regulating interstate transmission.* FERC is responsible for analyzing and making decisions based upon (1) the justness and reasonableness of rates; (2) the potential for undue discrimination; (3) the potential for undue preference, including affiliate preference; and (4) regional reliability and operational efficiency requirements. *The BLM is responsible for complying with NEPA with respect to the construction and operation of the SunZia Project, but has no jurisdiction over regulating interstate transmission.*

CWG Response:

This information is unrelated to the submitted comments, and it is unclear why it is included. These are all basic statements of fact and are not a matter of contention by myself or an issue that was raised. Please note that sentence 4 repeats sentence 2, as highlighted by italics and underlining.

FEIS Page No.	Comment No.	BLM Text
J271-J272	**1604-1**	**Paragraph 2.** The Applicant's objectives, as stated in Section 1.4 of the Draft EIS, include "…to increase available (transfer capability) in an electrical grid that is currently insufficient to support the development, access, and transport of additional energy-generating resources including renewable energy, in New Mexico and Arizona." As reflected in the proposed action, the SunZia Project was designed to increase transmission capacity (i.e., transfer capability) by at least 3,000 MW, and could ultimately be designed for an increase of up to 4,500 MW. The Applicant identified the 3,000 MW mark as a minimum increase based on the existing demand for increased transmission capacity to relieve congestion, improve reliability, and provide future energy sources, including renewables, with access to market, balanced by marketing factors and engineering constraints.

CWG Response:

The first two sentences regarding the portrayal of the project in the DEIS are correct, although they avoid the central issue of my submittal. The SouthWestern Power Group proposed SunZia in part to provide the additional transmission capacity needed to bolster the economic viability of its proposed Bowie, Arizona, 1,000-MW natural gas-fired power plant. This first sentence does apply to this intention. The second sentence is merely a statement of fact and does not address any comments made.

The third sentence, however, mischaracterizes the project proponent's actual intent: "The Applicant identified the 3,000 MW mark as a minimum increase based on existing demand..." The project's scope is not based upon an assessment of the transmission and generation needs of specific utilities in the region, the fundamental criterion used in the past for sizing any transmission project. Rather, it is a highly speculative project aimed at expanding energy markets. The applicant proposed the largest project possible in order to obtain the necessary permits to build that much capacity should it ever become profitable. Currently it is not, and it may never be, although the project proponent presumably hopes that it will be. Obtaining the necessary permits for that much capacity, however, leaves open the possibility of building it without seeking additional environmental review.

SunZia will build only as much of the project as is profitable, when and if it is profitable. The project as proposed is a matter of speculation, not calculation. It is a gamble, in other words. Nothing is wrong with this strategy and it is nothing to criticize *per se*, as corporations routinely use it in our capitalist economy. However, it is important to give the underlying motives for proposing such a huge project, the largest ever proposed in U.S. history except for the double 500-kV lines leading from the Grand Coulee Dam to southern California.

FEIS Page No.	Comment No.	BLM Text
J271-J272	**1604-1**	**Paragraph 3:** The Bowie Power Station (Bowie) was permitted to interconnect with the existing TEP 345kV Greenlee-Winchester-Vail transmission line at the Bowie Willow-345kV substation. The Bowie Willow substation does not afford Bowie a direct interconnection with the SunZia Southwest Transmission Project. The Applicant states that, although the SunZia Project may have been initially conceptualized as an interstate generation-tie line for Bowie with a transfer capability of 1,500 MW (thus only adding an additional 500 MW of capacity to the electrical grid), the configuration of the proposed SunZia Project (two 500kV transmission lines adding an additional 3,000-4,500 MW of capacity to the electrical grid), and Bowie are not "connected actions," as each has an "independent utility" from the other.

CWG Response:

This third paragraph is based upon a lack of understanding of how the Bowie power plant will interface with Tucson Electric Power Company's lines and SunZia's lines. To help explain this, I have taken the following from my reply to EPG's responses to the Cascabel Working Group's primary commentary on the SunZia DEIS. It appears from the text above that SunZia itself provided the response ("The Applicant states…"). *The Applicant has from the beginning hidden its intentions about this use, and having the Applicant provide the reply here is inappropriate*. It is incumbent on EPG and the BLM to act independently from the Applicant and not allow themselves to be manipulated in this way.

The SouthWestern Power Group (SWPG) initially proposed SunZia specifically to serve as another delivery option for its Bowie, Arizona, power plant, as EPG's own response states. This is carefully documented in my full submittal and was the reason for submitting it. *SWPG did not abandon this purpose because the project was expanded, as the Applicant's response above would seem to imply*. SunZia's 500-kV Willow substation will interconnect with TEP's 345-kV lines near the permitted but not built 345-kV Willow substation associated with the Bowie plant. This close siting will facilitate direct power exchanges between the power plant and SunZia's lines and is a fundamental reason for placing SunZia's 500-kV substation here.

Without SunZia transmission capacity, power delivery options for the Bowie plant through TEP's lines are very limited because the lines are already so heavily used. This restricts the plant's economic viability. Building SunZia would eliminate these restrictions and is a major reason why the SouthWestern Power Group proposed the project. The majority of Bowie's power would likely be delivered through SunZia if both projects are built, as explained below. A primary purpose of an environmental impact statement is to accurately characterize how a project may be used, which has been consciously avoided in this case. *The FEIS instead dismisses what could easily be the largest single use of this project*. This distorts the project's actual use and raises serious questions about the process used to generate the FEIS.

The use of SunZia by the Bowie power plant will occur in two ways, (1) by actually carrying power from the plant (the electrons generated), and (2) through contractual use of SunZia by the SouthWestern Power Group and purchasers of Bowie power. Preventing Bowie power from flowing in SunZia's lines will be physically impossible, as electricity follows the path of least resistance. What is more important, however, is the contractual use of SunZia to deliver this power. Any Bowie power not purchased by Tucson Electric Power Company, which owns the 345-kV lines that the Bowie plant and SunZia will interconnect with, will most likely be delivered through contractual arrangements with SunZia. This is because SunZia transmission capacity will be the most direct, unencumbered, and available to use. Economic and physical simplicity will ensure Bowie's use of SunZia if both projects are constructed.

EPG's response states that these two projects are "not connected actions, as each has an independent utility from the other," yet both will strongly complement, if not be necessary to, the function of the other. If SunZia is not built, it is far less likely that the Bowie power plant will be, and demonstrating the Bowie plant's use of SunZia could be crucial in obtaining funding for the project. To secure funding, SunZia must demonstrate concrete usage of its transmission system through sufficient *a priori* power purchase agreements from utilities – not expressions of interest by speculating energy developers – no matter the generation source. SWPG is very likely to employ Bowie's projected use of SunZia to demonstrate the level of use required for financing.

Nothing is wrong with this strategy, as it will likely be vital to building both the power plant and at least part of this transmission system. It is a sound financial approach and one that the SouthWestern Power Group will undoubtedly use. The great problem with the Environmental Impact Statement is that it ignores and obscures this relationship, which greatly distorts the project's overall use. This could easily be a matter of legal challenge when it otherwise would not be if the EIS merely acknowledged the relationship.

Preferential Treatment for Solar Facilities

In contrast to this treatment of the Bowie power plant, EPG has portrayed and evaluated three potential solar power projects proposed before SunZia was conceived as being dependent upon SunZia. The developers of these projects proposed them with the intention of using existing transmission capacity to deliver power, not SunZia capacity. These projects thus have the same relationship to SunZia as the Bowie power plant, yet because they are renewable, EPG has evaluated them as if they were connected to SunZia and has determined cumulative impacts for them on this basis. These projects include enXco Development Corporation's Afton solar project, Iberdrola Renewables' Lordsburg Mesa solar project, and New Solar Ventures Deming solar project. This is a highly biased comparison and use of these projects.

While the FEIS notes that existing natural gas power plants and foreseen solar energy facilities will share cumulative effects with SunZia, the Bowie power plant is not mentioned except in the assessment of land use. The FEIS should treat the Bowie power plant in its relationship to SunZia in the same way that it treats these other facilities.

Conclusion

The Bowie power plant is just as likely to use SunZia as any of the renewable energy facilities envisioned, and the plant could use up to 1,000 MW of capacity once fully built. This is the project proponent's intent. The FEIS does not mention this possibility, whereas SunZia's initial 2010 application to the Federal Energy Regulatory Commission for a Declaratory Order explicitly states it. The statement from this application follows:

> It is possible that *other LLC Members will also use some or all of their portion of the Project for affiliated generation* (e.g., *SWPG's Bowie power plant*, ECP SunZia-affiliated generation projects in early-stage development located in the vicinity of the Project). *Such generation* may also be renewable or *may be combined-cycle gas-fired generation*.

It would be consistent for the Bureau of Land Management to make the same admission of Bowie's use of SunZia in the Environmental Impact Statement and evaluate the project accordingly.