



August 15, 2012

Sent via Electronic Mail to:
Bureau of Land Management
C/O Adrian Garcia, BLM Project Manager,
NMSunZiaProject@blm.gov

Sent via U.S. Mail to:
SunZia Southwest Transmission Project
C/O EPG, Inc.
4141 North 32nd Street, Suite 102
Phoenix, AZ 85018

Re: SunZia Southwest Transmission Project’s (“SunZia”) Fourth Comment on the SunZia Draft EIS, issued on May 25, 2012, requesting clarifications on: (1) the Final EIS Comment Period; (2) the Arizona Corporation Commission’s role in a “Decision to be Made”; and (3) the fact that Southline Project does not present reasonably foreseeable future cumulative impacts on the affected environment associated with the SunZia Project.

Dear Mr. Garcia:

As you are aware, SunZia has provided three previous comments on the SunZia Draft EIS, all of which related to a request that, based upon the analysis in the Draft EIS, the BLM select Segment A270 instead of A260 in Subroute 1A1, Subroute 3A, and Subroute 4B as the Preferred Alternative in the Final EIS. This letter is not related to the BLM’s selection of a Preferred Alternative in the Final EIS. Rather, the purpose of this fourth comment is to request that the BLM do the following:

- Clarify whether there will be a comment period on the Final EIS. Such a clarification should include an explanation as to which public participation processes apply generally to the Final EIS and which relate to the proposed resource management plan amendments in the Final EIS.
- Clarify in the Final EIS that, in addition to the existing list of agencies in the Draft EIS under the section entitled “Decisions to be Made,” the Arizona Corporation Commission (“ACC”) has a relevant decision to make. In making this clarification, SunZia also requests that the BLM define and explain the scope of the “decision to be made” by the ACC.
- Clarify in the Final EIS that the Southline Transmission Project does not have reasonably foreseeable future impacts on the affected environment associated with SunZia.

August 15, 2012

SunZia's Fourth Comment on the Draft EIS

Page 2 of 5

Summarily, the Draft EIS is a very robust and thorough examination, which thus far has required over three years to produce and describes the potential impacts and mitigation, associated with SunZia on its affected environment. The depth of analysis is a product of three distinct and separate scoping periods that, taken together, resulted in a year-long scoping process, followed by a Draft EIS drafting-period that extended nearly two years beyond the close of scoping.

The requested clarifications below were identified by SunZia as information that would be helpful to stakeholders and members of the public notwithstanding the thorough analysis in the Draft EIS.

I. Clarification Regarding the Comment Period on the Final EIS.

The request for clarification regarding public comment on the Final EIS begins with a summary of the extensive public outreach conducted by the BLM associated with SunZia's NEPA process. Such a review and summary provides context and background for the process going forward and this comment's first request for clarification.

The Notice of Intent for SunZia¹ ("NOI") indicated that there would be a 45-day scoping period. The BLM went beyond this advertised 45-day scoping period, affording the public and concerned stakeholders a total of three separate scoping periods lasting over a year-long timeframe. Over the course of the year-long scoping process the BLM conducted 14 public scoping meetings, numerous meetings with stakeholder groups and organizations, and several meetings with Cooperating Agencies. SunZia commends the BLM for conducting this thorough scoping process. BLM's scoping efforts afforded the public and interested stakeholders multiple opportunities for their concerns to be voiced, and their comments to be reduced to writing so that they may be considered in the context of the Draft EIS.

The NOI also indicated that following publication of the Draft EIS there would be a 90-day comment period and that the BLM would "provide additional opportunities for public participation." Once again, the BLM acted in a commendable manner by providing ample opportunities for public participation by conducting 10 public meetings in different communities potentially impacted by SunZia. It should be noted that conducting 10 public meetings following the issuance of a Draft EIS is something that goes beyond the requirements of NEPA, and is indicative of the BLM's ongoing dedication of ensuring meaningful public participation in this NEPA process.

SunZia attended each of the public meetings following the issuance of the Draft EIS, and would like to note that BLM notified the meeting attendees that all comments must be submitted in writing. Requiring comments to be submitted in writing is a step that will help facilitate

¹ http://www.sunzia.net/documents_pdfs/26_sunzia_eis_noi_fed_reg_may_29_2009.pdf (last visited August 9, 2012).

August 15, 2012

SunZia's Fourth Comment on the Draft EIS

Page 3 of 5

public participation by ensuring that comments are accurately reflected in the project record, allowing BLM to respond to the comments.

The NOI is silent as to whether a comment period will follow publication of the Notice of Availability of the Final EIS. However, the BLM's website has a "Project Timeline" which reflects that following publication of the Final EIS there will be a 30-day "Public Protest Period." Alternatively, the Draft EIS indicates that there will be "a 30-day minimum comment period before the BLM may issue the Record of Decision." It is unclear if there is any difference between a "30-day Protest Period" (referenced on the BLM's website) and "30-day comment period" (referenced in the Draft EIS).

SunZia believes that the "30-day comment period" is one in which any member of the public or stakeholder may provide a comment on any issue related to the Final EIS, and that any such timely comment will be considered by the BLM in issuing a ROD. Conversely, SunZia believes that the "30-day Protest Period" is one in which a member of the public or stakeholder, including local units of government, may file a specific protest of the Proposed Resource Management Plan Amendment contemplated by this NEPA process. Consequently, SunZia would like clarification of BLM's intent regarding both the nature and duration of the review period(s) to be expressly described in the Final EIS.

II. Clarification regarding the role of the ACC as a relevant Decision-Maker.

The Draft EIS identifies "Decisions to be Made" and includes a list of six different agencies, including the BLM. Table 1-5 describes a "Summary of Potential Major Federal and State Permits or Licenses Required and Other Environmental Review Requirements for Transmission Line Construction and Operation." The ACC is listed in Table 1-5 but not in the section discussing "Decisions to be Made." Prior to construction, SunZia will have to file an Application with the Arizona Power Plant and Transmission Line Siting Committee and the ACC to acquire a Certificate of Environmental Compatibility ("CEC"). Therefore, the ACC has ultimate statutory responsibility for evaluating whether a particular configuration of SunZia, including any route in Arizona, will be granted a CEC and thus constructed in Arizona. This is an important point. Route Group 4 in Arizona includes Subroute 4C2c that is a portion of BLM's Preferred Alternative in the Draft EIS. Subroute 4C2c is located on BLM-administered lands for 14.9 miles (9%), with the remaining portions on Bureau of Reclamation-administered lands for 0.4 miles (.002%), State of Arizona-administered lands for 128.6 miles (80%), privately-held property for 17.4 miles (10%).

August 15, 2012

SunZia's Fourth Comment on the Draft EIS

Page 4 of 5

The NEPA process does not afford the BLM decision-making authority over the location of transmission alignments on non-federal lands in Arizona.² Notwithstanding any Final EIS or ROD, the ACC has the legal responsibility for granting SunZia the right to construct the project along on a particular alignment in Arizona.

Therefore, while the Draft EIS accurately indicates that the ACC will be a “State Permit [or License] Required . . . for Transmission Line Construction and Operation,” SunZia requests that the ACC also be listed in the section entitled “Decisions to be Made,” and that a description of the particular decision-making process regarding a CEC be provided. This clarification would be consistent with the Draft EIS’s current treatment of agencies that have a decision to make in order for SunZia to come to fruition. *See e.g.* reference and description of the Bureau of Reclamation in Chapter 1 of the Draft EIS at § 1.10.

III. Clarification that the Southline Project does not currently have reasonably foreseeable future cumulative impacts on any component of the affected environment associated with SunZia.

Currently, the SunZia DEIS indicates that, “[a]s of January 2012, there is insufficient information on the [Southline] project and therefore cannot [it] be meaningfully evaluated in this analysis although the project is considered a reasonably foreseeable future action.” Ostensibly, this statement is an acknowledgement that the Southline Project is still in its infancy. While the Draft EIS makes this statement, SunZia believes further clarification in the Final EIS would be helpful to explain and justify why the Southline Project does not have any reasonably foreseeable cumulative impacts on the affected environment associated with SunZia.

Specifically, the Southline Project was not a proposed action at the time the Draft EIS for SunZia was being developed. Moreover, the Southline Project had just initiated its scoping process at the time the SunZia Draft EIS was ultimately published. Therefore, at the point the SunZia Draft EIS was published the Southline Project was still receiving public and stakeholder input designed to help develop the range of reasonable alternatives and scope of its affected environment. Stated differently, at the time the SunZia Draft EIS was published, the Southline Project had not yet matured to a point where its reasonable range of alternatives or the scope of its affected environment had been fully-described, much less, finalized.

NEPA does not require an agency to consider in a Final EIS cumulative impacts from a future project that was not reasonably foreseeable at the time the Draft EIS was published. Therefore, the SunZia requests that in the Final EIS the BLM clarify and provide a consistent explanation as to why the Southline Project did not have, as of the date the Draft EIS was

² The BLM is the decision-maker regarding SunZia’s application for use of BLM administered lands for a new utility right-of-way. Specifically, the BLM will decide whether to grant, grant with conditions, or deny the application for a new right-of-way. This decision may include modifying the route or location of the facilities on federal land.

August 15, 2012

SunZia's Fourth Comment on the Draft EIS

Page 5 of 5

published, nor does it currently have, reasonably foreseeable cumulative impacts on the affected environment associated with SunZia.

Thank you for your time and consideration of these requests for clarification. If you have any questions or suggestions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wray".

Tom Wray
Project Manager
SunZia Southwest Transmission Project