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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Power Plant and Transmission Line Siting Committee, at
4 the Tucson Convention Center, 260 South Church Avenue,
5 Tucson, Arizona, commencing at 9:10 a.m. on the 2nd of
6 December, 2016.

7

8 BEFORE: THOMAS K. CHENAL, Chairman

9 LAURIE WOODALL, Arizona Corporation Commission
10 IAN BINGHAM, Department of Environmental
Quality
11 LISA WILLIAMS, Arizona Department of Water
Resources
12 JEFF McGUIRE, Agriculture, Appointed Member
13 JIM PALMER, Counties, Appointed Member
14 MARY HAMWAY, Cities/Towns, Appointed Member
15 JACK HAENICHEN, Public Member
16 PATRICIA NOLAND, Public Member

17 Note: No roll call taken. The following is a list
18 of the parties that made an initial
19 appearance.

20 APPEARANCES:

21 For the Applicant:

22 SUTHERLAND ASBILL & BRENNAN, L.L.P.
23 By Mr. James Guy
24 Ms. Marty Hopkins
25 One American Center
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Austin, Texas 78701

and

OSBORN MALEDON, P.A.
By Ms. Meghan Grabel
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Phoenix, Arizona 85012

1 APPEARANCES:

2 For Intervenor Pinal County:

3 Pinal County Attorney's Office
4 By Mr. Cedric I. Hay, Deputy County Attorney
5 30 North Florence Street
6 Florence, Arizona 85132

7 For Mountain View Ranch Development Joint Venture:

8 Jackson & Oden, P.C.
9 By Mr. Todd Jackson
10 3573 East Sunrise Drive, Suite 125
11 Tucson, Arizona 85718

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1 CHMN. CHENAL: All right. Good morning,
2 everybody. Let's resume the hearing, the morning
3 session for this Friday.

4 I believe we are in the direct examination of
5 Ms. Rietz, but I also understand that there has been a
6 suggestion that perhaps this would be the appropriate
7 time if we are going to allow Mr. Jackson to engage in
8 some limited cross-examination of Ms. Bellavia, that
9 that happen now before we continue with the direct of
10 Ms. Rietz.

11 So is there any further discussion on allowing
12 Mr. Jackson to engage in some limited cross? We had
13 some argument yesterday, but Ms. Hopkins, if you want to
14 make any further argument on it, any issue.

15 MR. GUY: No, Chairman. I think we are okay
16 with your suggestion yesterday that there be limited
17 cross. I mean we do think it should be limited to
18 Mountain View's interest as Mountain View and their
19 location along WAPA route. But that's obviously your
20 discretion as to how much to allow on that.

21 CHMN. CHENAL: Okay, Mr. Jackson, let's have you
22 proceed with some limited cross. I just want, again,
23 let you know, I mean I don't -- I think we have ruled
24 that this Committee really does not have jurisdiction
25 over the portion of the line, the WAPA line that goes

1 through your client's subdivision, you know,
2 development. So I would ask you to, you know, be
3 mindful and limited in your examination. And I don't
4 think we can spend too much time, but we will let you
5 proceed for now and see where it gets us.

6 MR. JACKSON: And I will --

7 CHMN. CHENAL: If you could, hold the
8 microphone. Just rip it out of the holder.

9 MR. JACKSON: I expect to be very brief. We
10 have talked, and the idea is here, if Ms. Bellavia is
11 not able to answer my question and Ms. Rietz can, that
12 the panel, I am fine, I think Mr. Guy is as well, that
13 the panel will address it.

14 And I will only add that I am going to, based on
15 some of the testimony that has come in the course of the
16 hearing in connection with the close, I am going to ask
17 the Committee to just hear a couple comments of mine and
18 to reconsider the jurisdiction issue.

19 I understand that it has been ruled on, and you
20 may not agree, but I would like to at least make my
21 final argument for about ten minutes in the closing
22 portion, so I am going to limit the questions to those
23 issues.

24 CHMN. CHENAL: Okay. Before we go to Member
25 Woodall, I know it is a little difficult with the

1 microphone.

2 MR. JACKSON: Better now?

3 CHMN. CHENAL: Much better. And you might be
4 better just pulling it out of the holder and taking it
5 in your hand. I think that will be easier, save you
6 having to go to the chiropractor.

7 MR. JACKSON: Okay. Does that sound about
8 right?

9 CHMN. CHENAL: Member Woodall.

10 MEMBER WOODALL: Mr. Chairman, I think I
11 indicated initially that it was my understanding that
12 the Arizona Corporation Commission is not bound by legal
13 determinations made by the Siting Committee. And
14 therefore I would personally like to hear the issues of
15 concern by you and your client, because otherwise I
16 think we might have a -- I can see you appearing at the
17 Corporation Commission and then, let's say, they don't
18 agree with us. So I would rather have an opportunity
19 for you to put on some information, if only to take care
20 of the possibility that the Commission might reject our
21 legal determination.

22 MR. JACKSON: Right.

23 MEMBER WOODALL: So that's the reason I think it
24 is appropriate to you to be able to participate in that
25 manner.

1 CHMN. CHENAL: Also to add that I certainly
2 agree with that, but if it is limited, we will allow you
3 to make an offer of proof so the record is clear.

4 MR. JACKSON: I think I can cover what I need to
5 cover very quickly this morning; if not, we will address
6 it in that fashion.

7 CHMN. CHENAL: Please proceed.

8
9 CARA BELLAVIA and DeANNE RIETZ,
10 called as witnesses, having been previously duly
11 affirmed by the Chairman to speak the truth and nothing
12 but the truth, were examined and testified as follows:

13

14 CROSS-EXAMINATION

15 BY MR. JACKSON:

16 Q. Okay. And it is my understanding I am going to
17 direct the questions to you, Ms. Bellavia, and if there
18 is something that you don't know the answer to, please
19 feel free to defer to your colleague.

20 You are an employee of SWCA, correct?

21 A. (BY MS. BELLAVIA) Yes, I am.

22 Q. And SWCA, as I understand it, is a contractor to
23 the federal agencies?

24 A. (BY MS. BELLAVIA) A third-party contractor to
25 the federal agencies, correct.

1 Q. But am I also correct that the entirety of
2 SWCA's fees in connection with their work on the EIS and
3 this application have been paid by Southline?

4 A. (BY MS. BELLAVIA) That's correct.

5 Q. And am I also correct that Southline, in
6 particular Ms. Rietz, participated in drafting the EIS?

7 A. (BY MS. BELLAVIA) That's correct.

8 Q. Did any WAPA employees other than your firm and
9 employees of Southline participate in the drafting of
10 the EIS?

11 A. (BY MS. BELLAVIA) So Southline, one part of
12 your question, did Southline participate in drafting the
13 EIS, and the answer is no, the document was prepared by
14 the federal agencies.

15 The other question you asked was did WAPA
16 participate, and the answer is yes. There is a list of
17 preparers in chapter 5 of the EIS.

18 Q. Okay. With respect to the responses to the
19 input from various interested parties to the draft EIS,
20 including my client, did you or your firm prepare those
21 responses?

22 A. (BY MS. BELLAVIA) So the process for preparing
23 the response to comments that you are referring to found
24 in chapter 8, SWCA drafted the initial responses,
25 provided them to BLM and WAPA, and ultimately the

1 content reflected in those responses is the position of
2 the federal agencies.

3 Q. Okay. And I understand that. I am just trying
4 to get to who actually prepared those responses. Was
5 the written response prepared by SWCA?

6 A. (BY MS. BELLAVIA) Again, a version of it was,
7 but it was collaborative in nature. Again, we drafted
8 the initial version and it went through several
9 revisions.

10 Q. Okay.

11 A. (BY MS. BELLAVIA) And I can't tell you
12 specifically who is responsible for each particular
13 part, other than it was a collaborative effort and the
14 ultimately published responses were approved by the
15 agencies.

16 Q. Okay. And did Southline, employees of Southline
17 also participate in the drafting of those responses, in
18 particular to my client's comments?

19 A. (BY MS. BELLAVIA) No, they did not.

20 Q. Okay. Did they review or approve those, to your
21 knowledge?

22 A. (BY MS. BELLAVIA) Did they review or approve
23 the comments?

24 Q. The responses to the comments submitted on the
25 draft EIS.

1 A. (BY MS. BELLAVIA) If they did that, they would
2 have done that on their own when the document was
3 published, available to members of the public, but they
4 did not participate in that prior to its publication.

5 Q. Okay. And just to wrap up, in terms of
6 background, you have approximately 20 years experience
7 in compliance and permitting, correct?

8 A. (BY MS. BELLAVIA) 19, yes.

9 Q. Okay. And as I understood it, Ms. Rietz also
10 has about 19 years in that field as well, in
11 environmental compliance?

12 A. (BY MS. BELLAVIA) I believe that's what she
13 said, yes.

14 Q. Okay. And may we assume, then, that you have a
15 good familiarity with the regulatory oversight schemes
16 that would apply to a project like this?

17 A. (BY MS. BELLAVIA) Yes. As it relates to the
18 NEPA process and federal processes related to the NEPA
19 process, such as the National Historic Preservation Act,
20 Clean Water Act, Endangered Species Act, yes.

21 Q. Okay. Now, I want to ask you a few questions on
22 the EIS responses that you testified about yesterday.
23 And I think that is Exhibit 28?

24 A. (BY MS. BELLAVIA) Yes.

25 Q. And just so I am clear as to the process

1 involved with the EIS preparation, am I correct that the
2 purpose of that exercise and the purpose of the EIS in
3 particular is analysis, consideration, and disclosure of
4 impacts on private property owners and others, but on
5 owners such as my client?

6 A. (BY MS. BELLAVIA) Can you rephrase the
7 question? I am sorry.

8 Q. Yeah. Let me try it again. The purpose of the
9 EIS is to analyze and disclose impacts of the project,
10 correct?

11 A. (BY MS. BELLAVIA) Yes.

12 Q. It is not a regulation of the impact of the
13 project?

14 A. (BY MS. BELLAVIA) It is not a regulation of the
15 impact of the project? I am not sure I understand that
16 question. I am sorry.

17 Q. Okay. Here is where I am going with this, and I
18 want to ask you about the PCEMs that you talked about.
19 But the EIS itself is simply a disclosure and analysis
20 document. It doesn't undertake to apply restrictions,
21 conditions, or limitations on the project construction?

22 A. (BY MS. BELLAVIA) My understanding of what the
23 EIS is used for is to inform a decision. So the EIS is
24 itself not a decision document.

25 Q. Okay.

1 A. (BY MS. BELLAVIA) The decision memorializes the
2 decision and conditions the agencies place. So I am not
3 sure I understand the nuances of your question. I am
4 not trying to be obtuse. But you are correct in that
5 the EIS is a disclosure document, and there is no
6 decision made in that EIS.

7 Q. Okay. And I want to get to the PCEMs shortly,
8 and the extent to which they are binding on this
9 project. But with respect to the EIS comments -- and
10 there was a lot of testimony yesterday about how
11 Mountain View is given an opportunity to provide
12 comments in the draft EIS and so forth, but, for
13 example, on the first page there, there were some
14 comments, fairly extensive comments provided by Mountain
15 View with respect to visual impacts, correct?

16 A. (BY MS. BELLAVIA) You are talking about the
17 first comment, comment ID 452?

18 Q. Yes. The first three comments that are listed
19 on the first page of Exhibit 28 are all comments that my
20 client provided on the draft EIS, correct?

21 A. (BY MS. BELLAVIA) Yes, those are comments
22 provided by Mountain View Ranch on the draft EIS.

23 Q. Okay. And then let's look specifically at the
24 second one on that page, appears to be 456.

25 A. (BY MS. BELLAVIA) Comment ID 456, yes.

1 Q. Okay. And the response that was provided to the
2 comment on these visual issues was simply that the draft
3 accurately reflects the analysis -- or the comment
4 accurately reflects the analysis in the draft, and then
5 it concludes that while impacts are anticipated to be
6 low to moderate and not significant at a landscape
7 level, individual perspectives on the visual impact of
8 the proposed project may be different, right?

9 A. (BY MS. BELLAVIA) Correct.

10 Q. Okay. So this process, this comment process
11 that my client and other landowners were permitted to
12 participate in did not result in any kind of specific
13 limitations or conditions or mitigation that would apply
14 to the particular comment maker's property, correct?

15 A. (BY MS. BELLAVIA) Are we talking about comment
16 No. 456 still, or just generally?

17 Q. Well, generally.

18 A. (BY MS. BELLAVIA) So your question is did any
19 public comments, including yours, result in the addition
20 of PCEMs or mitigation?

21 Q. Let me rephrase it.

22 Did that comment process, and the ability of my
23 client to make comments on this draft EIS, result in any
24 specific mitigation conditions that were specific to its
25 property?

1 A. (BY MS. BELLAVIA) Mountain View Ranch?

2 Q. Yes.

3 A. (BY MS. BELLAVIA) Did Mountain View suggest
4 mitigation get wrapped in the PCEMs?

5 Q. Were there any PCEMs that were specific to my
6 client's property, and, for example, the view impacts
7 that were recognized in the response to be potentially
8 different than the general landscape impacts?

9 A. (BY MS. BELLAVIA) If I could take a moment, I
10 believe some of your recommended mitigation or
11 mitigation since essentially were in later comments, if
12 I could turn to those.

13 Q. Sure.

14 A. (BY MS. BELLAVIA) So if I am reflecting on
15 page B-12.1555, it is the second comment on that page,
16 comment ID 463. The comment letter received suggested a
17 number of mitigation measures, and I can read those if
18 you would like. Those were developers current
19 understanding, three types of finish. It goes on to
20 describe -- let's see.

21 CHMN. CHENAL: Ms. Bellavia, excuse me. Where
22 are you on that page?

23 MS. BELLAVIA: I am reading the second comment.

24 CHMN. CHENAL: Okay.

25 MS. BELLAVIA: Developer submits that the same

1 design objective, and it is the ones that were described
2 in the draft, which were also in the final, it says
3 three types of finish are dull galvanized light gray,
4 weathering steel dark brown, painted epoxy paint. With
5 respect to the electrical conductors -- you can't
6 understand me? My apologies.

7 So the comment from Mountain View Ranch that I
8 am referring to is No. 463. And the first part of the
9 comment is referring to, is quoting text in the draft
10 EIS, and it is describing the type of finish on the
11 poles that are described in the draft EIS. And those
12 are a dull galvanized light gray, weathering steel dark
13 brown, or painted epoxy paint.

14 And there is an intervening sentence, but then
15 the developer -- I am quoting a comment -- the
16 developer, slash, investor submits that the same design
17 objectives should govern the selection and use of
18 finishes for project supporting structures, and
19 compliance with such design criteria should be an
20 express condition and applicable approvals for the
21 project, including a certificate of environmental
22 compatibility.

23 So I am just trying to make sure what your
24 request was to answer whether it was incorporated into
25 those measurers. And I don't -- my understanding of the

1 application of the PCEMs is that those types of finishes
2 would apply to the project at large.

3 So I don't know that there is a requested
4 mitigation measure here other than that it would apply
5 to your portion of the project. And as I read the
6 Western's ROD, those would apply.

7 BY MR. JACKSON:

8 Q. Okay. Well, I guess what I am getting at is
9 this, that the ability to participate and offer comments
10 on the draft EIS did not result in any specific
11 conditions or limitations that bound Southline with
12 respect to my client's property, correct?

13 A. (BY MS. BELLAVIA) I guess I don't know how to
14 answer that. I don't know the answer to that.

15 Q. Okay. All right. And it is just -- let me ask
16 if Ms. Rietz knows an answer to that question.

17 A. (BY MS. BELLAVIA) As for me, I am not
18 speaking -- she can answer the question that you are
19 asking. It is more a question of I am not sure I
20 understand what you mean by conditions and limitations.
21 And I really am not trying to be obtuse. I want to make
22 sure I am answering your question.

23 Q. Let me try to be specific. For example, is
24 there anything that has been developed out of this EIS
25 process that was talked about at length yesterday that

1 requires, well, that prohibits Southline or WAPA from
2 using lattice poles through my client's property, for
3 example?

4 A. (BY MS. BELLAVIA) Is there anything in the EIS
5 process that prohibits the use of lattice poles in
6 your -- in the upgrade section essentially?

7 Q. Yes, correct.

8 A. (BY MS. BELLAVIA) That's not what was proposed
9 and analyzed in the EIS. Monopole structures were what
10 was proposed, discussed. So my understanding would be
11 if there were a change, that would require -- a change
12 from what was proposed, which was monopole, that would
13 require some kind of separate analysis.

14 Q. And I guess that maybe this goes to the root of
15 some of the questions that I have here. I recognize
16 that if there is a change that maybe there will be some
17 more analysis. My question is: Is there anything that
18 has happened in the regulatory process to date that
19 prohibits Southline or WAPA from installing lattice
20 poles as part of this upgrade?

21 A. (BY MS. BELLAVIA) I really don't know.

22 CHMN. CHENAL: Excuse me, Mr. Jackson. Member
23 Woodall has a question.

24 MEMBER WOODALL: I think this is properly
25 addressed to Ms. Bellavia.

1 As I understand the gist of counsel's questions
2 to you, it looks to me from the brief review of the
3 comments that the agencies' responses are basically
4 thanks for sharing. I mean and I think the question
5 that is being proposed here is if the comments simply --
6 if the comments are just put in the mill and there is
7 really no opportunity for a specific outcome, where does
8 the property owner, where does Mountain View Ranch,
9 where do they get their relief from.

10 In other words, they have told you what their
11 concerns are, and the agency said, well, we have looked
12 at this and we have clarified that, but where would he
13 actually get his relief from the things that are
14 concerning to him?

15 MS. BELLAVIA: And that is definitely the point
16 of the comments and incorporating feedback. And the
17 ones that we have referred to, you know, it was a
18 position of the agency that the comment, you know, about
19 potential visual impacts and change in pole type was
20 already sort of addressed in the EIS. And so on that
21 particular comment, it was, yes, we have addressed that
22 and that was in these sections.

23 There are others. For example, on the same
24 page, B-12.1555, comment No. 466, kind of towards the
25 bottom, they indicate that they would like materials to

1 minimize visual impact of supporting structures and
2 conductors, and the PCEMs table was modified to add
3 non-specular finishes.

4 So there is a real attempt to address concerns
5 through revisions, either to the analysis, where maybe
6 we didn't fully represent the impacts between the draft
7 and final, or to update the PCEMs and mitigation, you
8 know, as appropriate at the discretion of the agencies.

9 MEMBER WOODALL: It is my understanding that
10 NEPA is a procedural process. You have to do -- I mean,
11 that's the gist of it, is it not?

12 MS. BELLAVIA: Yes.

13 MEMBER WOODALL: A comment comes in and you have
14 to provide a response?

15 MS. BELLAVIA: Absolutely.

16 MEMBER WOODALL: With due respect, it seems to
17 me that many of the responses to the concerns
18 articulated by counsel's client there are conclusory and
19 really not specifically responding to the focus of the
20 questions. And from my review of other EIS reports,
21 that's typical, because it is a procedural process:
22 someone makes a comment, you do a response.

23 There is really not an effort to specifically
24 solve and address the concerns expressed by this
25 development.

1 I am assuming something like that, are we
2 anticipating that would be done during condemnation
3 proceedings when they are trying to acquire right-of-way
4 and there are arguments about severance damages, do you
5 know.

6 MS. BELLAVIA: I don't know about condemnation
7 proceedings.

8 MEMBER WOODALL: Thank you. I was just trying
9 to understand why you appeared to have some difficulty
10 in communicating. And I think at least I understand
11 what the issues are. So thank you.

12 And I apologize, Counsel, for interrupting your
13 cross-examination.

14 BY MR. JACKSON:

15 Q. All right. I want to move on to the PCEMs, and
16 that's Exhibit 30. And as I understood the testimony
17 yesterday, the PCEMs that have been entered into
18 evidence have been adopted as part of the BLM Record of
19 Decision and the plan of development that was adopted by
20 the BLM's Record of Decision, is that correct?

21 A. (BY MS. BELLAVIA) These PCEMs as in the
22 Exhibit -- I don't have the number.

23 CHMN. CHENAL: 30.

24 MS. BELLAVIA: 30. Thank you.

25 Yes, those are conditions of the BLM's Record of

1 Decision.

2 BY MR. JACKSON:

3 Q. Okay. And there has been a plan of development
4 that has been adopted by the BLM as part of its Record
5 of Decision. And as I understand it, these PCEMs are a
6 part of that plan of development?

7 A. (BY MS. BELLAVIA) Yes.

8 Q. Okay. And there was testimony yesterday, but I
9 am not sure I understood the specifics of it. And I
10 believe I wrote down the comment correctly, that WAPA
11 and Southline are committed to these PCEMs.

12 A. (BY MS. BELLAVIA) Are you asking about what is
13 stated in BLM's Record of Decision?

14 Q. Well, here is, I guess, what I am trying to
15 understand, first off. Number one, do these PCEMs, have
16 they been adopted and made binding with respect to
17 anything other than the BLM right-of-way across the BLM
18 land?

19 A. (BY MS. BELLAVIA) They only apply to BLM land
20 as stated in the BLM's Record of Decision. And my
21 understanding was, based on the testimony yesterday,
22 that Southline agrees to adopt them for their portion of
23 the project.

24 Q. Okay. And for their portion of the project,
25 does that mean the entirety of the project, including

1 the upgrade section that crosses my client's land?

2 A. (BY MS. BELLAVIA) I believe that's WAPA's part
3 of the project, not specific to Southline.

4 Q. Yeah. And that's what I am trying to pin down
5 as best I can. As we sit here today, is there -- let's
6 start with commitments and then talk about commitments a
7 little later.

8 But for the moment, is there a commitment by,
9 let's start with Southline, to apply these PCEMs to the
10 section of the project that crosses my client's
11 property?

12 A. (BY MS. BELLAVIA) I am not aware that Southline
13 is able to make those commitments for WAPA's line across
14 your property.

15 Q. Well, on that point, and I don't want to belabor
16 this, but am I correct that as we sit here today, number
17 one, we don't know exactly what WAPA's and Southline's
18 respective roles will be with respect to that upgrade
19 section of the project, is that right?

20 MR. GUY: Objection, Chairman. I think we are
21 very clear who is responsible for that part of the
22 project.

23 CHMN. CHENAL: If you will rephrase that,
24 Mr. Jackson. I think there has been a pretty good
25 amount of testimony on that. Maybe clarify your

1 question.

2 MR. JACKSON: Okay.

3 BY MR. JACKSON:

4 Q. All right. Well, if I understood the testimony
5 earlier in the hearing correctly, what we know today is
6 that Southline is committed to pay for the expansion and
7 the work within the section that crosses my client's
8 property, right?

9 A. (BY MS. BELLAVIA) I am not an expert in that,
10 but my understanding is, yes, that Southline intends to
11 fund Western's efforts within the upgrade.

12 Q. Okay. And then in terms of the ownership of the
13 excess capacity that will exist on the lines that cross
14 my client's property, as I understood the testimony,
15 that's the subject of negotiation, and the expectation
16 is that from somewhere between 50 percent to the
17 entirety of the expanded capacity that results from this
18 construction over my client's property will be owned by
19 Southline. Is that consistent with your understanding?

20 A. (BY MS. BELLAVIA) I honestly don't know details
21 of that.

22 Q. Okay. All right. Getting back to, I guess, my
23 earlier question, and that is -- and I am not trying to
24 put words in your mouth, but if I understand it
25 correctly, these PCEMs right now are only binding with

1 respect to the right-of-way over the BLM land, right?

2 A. (BY MS. BELLAVIA) As in the BLM's Record of
3 Decision, that's correct. The BLM can only enforce the
4 implementation of those PCEMs on BLM lands.

5 Q. Okay. And as we sit here today, is there a
6 commitment or any kind of binding decision that requires
7 any of these conditions to be applied to any portion of
8 the project outside of the BLM right-of-way?

9 A. (BY MS. BELLAVIA) If I read Exhibit STL-18,
10 which I believe is WAPA's Record of Decision -- and we
11 referred to this yesterday and discussed Western's
12 ROD -- if you are reading that paragraph, my
13 interpretation is that it says this ROD also commits
14 Western and Southline to implement the proponent
15 committed environmental measures, PCEMs, identified in
16 Table 2-8, project PCEMs by resource in the final EIS.

17 So yes, my understanding of that is that
18 Western's decision commits Western and Southline to
19 those PCEMs.

20 CHMN. CHENAL: Member Woodall.

21 Excuse me, Mr. Jackson.

22 MEMBER WOODALL: Ms. Bellavia, I understand that
23 you have characterized your understanding of what this
24 means. But it would be helpful to me if I could hear
25 some avowal from Southline that they anticipate that as

1 well. Thank you.

2 Mr. Guy.

3 MR. GUY: And I am sorry, Member Woodall. Are
4 you saying our understanding of WAPA's commitment or
5 Southline's commitment?

6 MEMBER WOODALL: She just read you something and
7 she said it was her understanding that both Southline
8 and WAPA had agreed to implement the measures that were
9 in the EIS. And rather than relying on her
10 understanding, which I am sure is very well informed, it
11 would be helpful to me to know if that's what Southline
12 believes.

13 MR. GUY: Yes. I can confirm that, and we
14 will -- we can have other Southline representatives
15 represent that on the panel later as well.

16 MEMBER WOODALL: Thank you. Sure.

17 MR. JACKSON: Just to follow up on that, if I
18 understand the commitment correctly, it is that these
19 PCEMs will apply across the entirety of the project and
20 Southline is committed to that?

21 MR. GUY: If that's directed to me, the WAPA
22 ROD, the testimony -- the WAPA ROD speaks for itself.
23 But the Record of Decision applies to the entire WAPA
24 project, and that ROD requires WAPA to comply with the
25 PCEMs.

1 CHMN. CHENAL: Member Noland.

2 MEMBER NOLAND: Now, Mr. Guy, I think you said
3 something different than you said the last time. My
4 understanding of what you said the last time was that it
5 applied to the entirety of the line, both Southline's
6 and WAPA. Now you just said only WAPA. So I need to
7 have that clarified for me.

8 MR. GUY: You are right. Thank you for the
9 clarification. I was trying to stay focused on language
10 of the WAPA ROD with respect to WAPA. The PCEMs apply
11 to the entirety of the Southline project in the State of
12 Arizona. And the source of that authority, if you will,
13 the WAPA ROD, requires both Southline and WAPA to comply
14 with the PCEMs on the part of the project that that WAPA
15 ROD authorizes. And then the BLM ROD requires the
16 application of the PCEMs to both WAPA and Southline on
17 property that crosses BLM land. So that encompasses the
18 entire project.

19 MEMBER NOLAND: One minute, one minute. Okay.
20 The entire project on both BLM land, Arizona state land,
21 private land, and WAPA owned right-of-way for the
22 upgrade?

23 MR. GUY: Yes.

24 MEMBER NOLAND: Thank you.

25 MR. JACKSON: Okay. And I had a couple

1 follow-up questions on that. I don't know if they are
2 appropriately directed to the witness or counsel.

3 MR. GUY: I should be sworn in.

4 CHMN. CHENAL: Probably to the witness,
5 Mr. Jackson.

6 MR. JACKSON: Western -- as I understand it,
7 there is not going to be a representative that
8 participates in this hearing. And so my question is:
9 Has Western made representations to Southline that are
10 consistent with what has been represented here with
11 respect to the application and its PCEMs?

12 MR. GUY: Yes.

13 BY MR. JACKSON:

14 Q. Okay. All right. And let me just tell you why
15 I ask that. In the Western ROD, the ROD, if you turn --
16 and you did reference that earlier statement, but there
17 is another statement later in that Record of Decision at
18 page 10. If you turn there, at the very end of the, I
19 guess it is a partial paragraph at the top of the page.

20 A. (BY MS. BELLAVIA) I believe this exhibit only
21 includes the notice of their decision, not the full
22 decision.

23 Q. I can show you my copy.

24 A. (BY MS. BELLAVIA) Okay.

25 Q. Do you see that last sentence on that first

1 partial paragraph? Yeah, if you would just read that,
2 please.

3 A. (BY MS. BELLAVIA) Yes. The sentence I have
4 been asked to read states: Western may implement
5 applicable provisions of the plan of development and
6 attached framework plans on state and private lands as
7 appropriate.

8 CHMN. CHENAL: Mr. Jackson, for the record, what
9 exhibit is that?

10 MR. JACKSON: I don't know what the WAPA ROD is.
11 I want to say 19.

12 CHMN. CHENAL: The WAPA ROD is 19.

13 MR. JACKSON: I am sorry.

14 CHMN. CHENAL: The Western ROD is Exhibit 19.

15 MR. JACKSON: Okay.

16 CHMN. CHENAL: Is that the exhibit that the
17 witness just read from?

18 MR. JACKSON: Yes.

19 CHMN. CHENAL: Okay, thank you.

20 MR. GUY: I don't know that that's the same
21 exhibit. It is at least a different format. The one
22 that's in the record is a Federal Register version,
23 which I don't recall that language that was just read,
24 and so I am not positive it is the same exhibit.
25 Perhaps we can talk about that later.

1 MR. JACKSON: We will clarify that on the break.
2 My copy was from the attachment to the application.

3 CHMN. CHENAL: Okay. I understand Exhibit 19
4 that's in evidence is more of the Federal Register
5 notice, it is not the actual ROD itself.

6 MS. BELLAVIA: I probably would in Exhibit 19,
7 if that helps. It is actually there. I found it. It
8 is actually there in the Federal Register notice. And
9 it is in Exhibit 19, page 228, the top left. And it
10 indicates the same language, quote:

11 The plan of development only applies to
12 activities on BLM managed lands. Western may implement
13 applicable provisions of the plan of development and its
14 attached framework plans on state and private lands as
15 appropriate.

16 BY MR. JACKSON:

17 Q. And that's what spurred my question. And that's
18 why, because we don't have a WAPA witness to ask
19 questions of, I want to be clear that Southline is
20 avowing or representing or testifying that Western has,
21 in fact, represented that these PCEMs will apply over
22 the entirety of the project, including both the WAPA and
23 Southline sections.

24 A. (BY MS. BELLAVIA) Yes. I think the difference
25 is that the plan of development includes additional

1 framework plans, whereas -- but Western's decision, both
2 in the paragraph I quoted earlier and towards the end,
3 reiterates, it states this ROD also commits Western and
4 Southline to implement the proponent committed
5 environmental measures, PCEMs, as identified in
6 Table 2-8 in the final EIS.

7 Q. Okay.

8 CHMN. CHENAL: Let me just jump in for a second
9 and see if we can kind of cut to the chase. Let me try
10 and kind of summarize what I think we have heard so far.

11 The Western ROD allows the PCEMs to be applied
12 to private and state land. The BLM ROD provides it
13 applies to the BLM managed lands.

14 I think the applicant -- I mean, excuse me,
15 Mr. Jackson is trying to find where in the record there
16 is a document that requires that these PCEMs be applied
17 from, you know, from where the line enters Arizona to
18 where it ends up in Tortolita.

19 There is discussion of PCEMs that may be
20 applied, but is there language in any plan of
21 development or document that requires these -- that
22 backs up Mr. Guy's representation that they will be
23 applied across the entire line, including through the
24 development?

25 I will ask that of Ms. Bellavia, and after her

1 answer, Mr. Guy can jump in.

2 MS. BELLAVIA: So Western's decision is limited
3 to the upgrade section from Apache to Saguaro. So they
4 can commit those PCEMs to the upgrade, and then, of
5 course, enforce them. And BLM can commit them to the
6 BLM lands across the whole project.

7 So of the agencies' decisions, to answer your
8 question, there is no WAPA or BLM document indicating
9 universal applicability, but I believe what we heard
10 yesterday in testimony, and what Member Woodall asked to
11 hear specifically, is that Southline would commit to the
12 application of those on non-BLM lands, essentially
13 private and state, on then to supplement those federal
14 decisions, I think.

15 CHMN. CHENAL: I think that's where we are. I
16 think Mr. Jackson is looking for documents that require
17 that PCEMs be applied to all portions of the Southline
18 line in Arizona, including but not limited to the
19 Western property and the BLM managed property. So the
20 private state lands that aren't necessarily required to
21 have those PCEMs applied to them, Southline has avowed
22 that they will in those instances apply those PCEMs, as
23 I understand what has been said.

24 But I guess I would like a clarification of
25 that, Mr. Guy and also if there is any document that

1 actually requires Southline to do what I believe you
2 have indicated they will do, if I am clear.

3 MR. GUY: I think you are clear. I think there
4 is actually one more clarification that the PCEMs is not
5 synonymous with the plan of development. That's the
6 assumption that's in Mr. Jackson's question that has
7 things confused. The WAPA ROD applies to the entire
8 WAPA section of the project, as Ms. Bellavia just
9 testified. That commits them to the PCEMs on that
10 portion of the line.

11 Then the WAPA ROD says WAPA may incorporate
12 portions of the plan of development as appropriate.
13 That was the second portion he read. Those are two
14 different things. Both of those things are incorporated
15 in the BLM ROD.

16 So with respect to the BLM property, both the
17 PCEMs and the plan of development apply to the BLM owned
18 lands. So that's actually, I think, the disconnect, if
19 you will. I don't believe -- I am not aware of a
20 document Southline has that says it is committed to
21 apply both the plan of development and the PCEMs to the
22 entire project, but I think we have had testimony from
23 Southline representatives that have said that. We can
24 confirm that as positively as we need to.

25 CHMN. CHENAL: And I think that would be good if

1 we have a witness that kind of firms this up.

2 We will let you proceed, Mr. Jackson.

3 But I think Mr. Jackson wants and his client
4 wants some confirmation that the line that runs through
5 the development, that the PCEMs will be applicable to
6 that portion of the line. That's the assurance that he
7 and his client are looking for.

8 MR. JACKSON: And to -- I don't want to
9 interrupt you. Is the floor mine for a moment, or do
10 you still have questions?

11 CHMN. CHENAL: I am waiting for Mr. Guy just to
12 answer that, and then we will let you proceed.

13 MR. GUY: Yeah. And I think that's -- again,
14 looking at Exhibit 19, that's the language that was read
15 originally. It says the ROD commits Western and
16 Southline to implement the proponent committed
17 environmental measures of the final EIS selection. So
18 that's what this language is, that's the order that
19 says, it says, it commits them to do it. It requires
20 them to do it. So this ROD applies to the entire WAPA
21 upgrade section.

22 CHMN. CHENAL: Member Woodall.

23 We'll get to you, Mr. Jackson, don't worry.

24 MR. JACKSON: I am not in any hurry.

25 MEMBER WOODALL: Mr. Guy, I know I originally

1 addressed remarks you made for an avowal by Southline
2 with respect to certain aspects here. I am assuming at
3 some point you would have a witness available that will
4 testify all the comments you have made in connection
5 with the Mountain View Ranch development are, in fact,
6 true?

7 MR. GUY: That's a great idea. Yes.

8 MEMBER WOODALL: Thank you.

9 MR. JACKSON: All right.

10 BY MR. JACKSON:

11 Q. A couple questions that maybe follow up on that,
12 and perhaps are directed to your expertise on the
13 regulatory scheme.

14 When there is a commitment like this, what
15 oversight is there, for example, if it is not this
16 Committee, what regulatory oversight is there to enforce
17 compliance with the PCEMs?

18 A. (BY MS. BELLAVIA) For federal land, for BLM
19 land, they hire a construction compliance contractor to
20 ensure that at least during construction those
21 mitigation measures, as identified in the table, are
22 committed to BLM lands.

23 Q. And that's CIC that I see referenced in these?

24 A. (BY MS. BELLAVIA) Yes.

25 Q. And that's an independent party that oversees to

1 ensure that these standards are applied as intended?

2 A. (BY MS. BELLAVIA) Yes. That's referenced in --
3 if my memory is correct, the CIC is selected by the BLM
4 and would be responsible for the BLM lands. I am not
5 totally clear on how WAPA enforces compliance with their
6 commitments, but if memory serves -- I don't know if you
7 remember differently, DeAnne -- WAPA would select a
8 similar person separate from the BLM person to oversee
9 commitments on their land. That's my understanding.

10 MR. GUY: Mr. Chairman, I think the question and
11 maybe the answer was how do the parties monitor
12 compliance. If Mr. Jackson is asking how does someone
13 enforce a federal order or a commitment in a Federal
14 Register, that's a legal conclusion that this witness is
15 probably not the right person to be answering.

16 CHMN. CHENAL: I would agree with that. But if
17 the witness understands the question, we will give it
18 the weight it deserves.

19 If you are able, Ms. Bellavia, to answer the
20 question, go ahead. We have a relaxed standard here of
21 evidentiary compliance.

22 MS. BELLAVIA: I think I answered the question
23 to the extent that I could in terms of my understanding
24 of how BLM specifically enforces their commitments. And
25 I believe WAPA has a similar provision that they handle

1 separately. So BLM and WAPA won't hire the same person,
2 to my understanding. WAPA will reserve the right to
3 select their own, essentially.

4 BY MR. JACKSON:

5 Q. All right. And I didn't see anywhere in the
6 PCEMs or Record of Decision from WAPA that there was any
7 kind of binding commitment that there be an independent
8 party overseeing the implementation of the PCEMs or any
9 other standard over the private land that's in the
10 upgrade section. Are you aware of anything?

11 A. (BY MS. BELLAVIA) In the PCEM table you are
12 asking? I don't have a memory of that either, but if
13 you would like me to look, I could look.

14 Q. Well, I don't want to take the time to read the
15 entirety today. It is of record. I just want to ask
16 you if you know of anything as you sit here where WAPA
17 or Southline is committed and bound to having a third
18 party oversee the implementation of these standards on
19 the private land and the upgrade section.

20 A. (BY MS. BELLAVIA) I don't have a memory of
21 that.

22 Q. Okay. All right. Now, in reading the PCEMs of
23 interest to residential areas, like my client's
24 property, I see a number of references to if
25 practicable, when feasible, if possible, verbiage along

1 those lines. You are familiar in general with that type
2 of language?

3 A. (BY MS. BELLAVIA) Yes.

4 Q. And is there a regulatory agency, if it is not
5 this Committee, that decides whether, for example, the
6 use of a shorter pole is feasible over my client's
7 property? Who is the gatekeeper on that? Is that
8 Southline that decides that, or is there some regulatory
9 oversight of that?

10 A. (BY MS. RIETZ) Across the whole project or --

11 Q. Well, I am asking specific to the upgrade
12 section that crosses my client's property.

13 A. (BY MS. BELLAVIA) I believe that's up to WAPA
14 and the Department of Energy.

15 Q. Let me just ask you, because you are here, if
16 you know. Based on your understanding of the regulatory
17 scheme, WAPA is charged with building transmission
18 facilities for hydroelectric power. Is there any agency
19 that regulates WAPA in terms of environmental impact or
20 the impact of its projects on private property through
21 which the projects are expanded?

22 A. (BY MS. BELLAVIA) I actually don't know.

23 Q. Let me just ask you this. With respect to the
24 PCEMs, these were drafted by your firm, is that correct?

25 A. (BY MS. BELLAVIA) Similar to the response to

1 comments, these were very collaborative. A lot of the
2 measures were just design features as proposed just by
3 Southline in their initial plan of development and their
4 application. Several of them are added based on
5 cooperating agency suggestions, such as through
6 consultation with the Fish and Wildlife Service, Arizona
7 Game & Fish Department.

8 So, yes, we participated in a collaborative
9 involvement of these, but they reflect the desires of the
10 BLM, WAPA, and cooperating agencies.

11 Q. And I don't want to belabor the point, but it is
12 a fact, isn't it, that Southline, as the entity who will
13 have to bear the cost of implementing these mitigation
14 procedures, actually participated and paid for the
15 preparation of these mitigation standards, correct?

16 A. (BY MS. BELLAVIA) Yes. I believe the BLM was
17 also paid via the cost recovery. So most parties were,
18 in fact, paid for their work.

19 Q. All right. Am I correct that these are
20 standards that apply across the range of areas that the
21 project applies to and there is not a specific set of
22 standards that has been developed for -- well, let's
23 start with this -- my client's property?

24 A. (BY MS. BELLAVIA) That's correct. The PCEMs
25 are written sort of to apply universally across the

1 project. They are not broken down to specific points.

2 Q. Right. And, for example, there is nothing that
3 limits the height of the poles as they cross my client's
4 property in these PCEMs?

5 A. (BY MS. BELLAVIA) There is no measure that
6 states that, correct.

7 Q. And I think we covered this earlier, but there
8 is nothing in here that precludes or prevents the use of
9 lattice poles within the viewshed of my client's
10 property?

11 MR. GUY: Chairman, at some point -- objection.
12 At some point -- we are going for an hour, and these
13 questions, this is at least the third or fourth time the
14 same question has been asked.

15 MR. JACKSON: I think I did cover that and I
16 will move forward.

17 CHMN. CHENAL: Thanks, Mr. Jackson.

18 BY MR. JACKSON:

19 Q. Final question on the topic. Putting aside my
20 client's property, there is not any specifically
21 developed standards or limitations, for example, on pole
22 height for any residential or privately owned
23 development in the entirety of the project, is that
24 correct?

25 A. (BY MS. BELLAVIA) I don't recall that there is

1 any measure that limits pole height for any portion of
2 the project.

3 I apologize. DeAnne just reminded me that there
4 is a commitment to watch tower height around airports,
5 in particular at Marana airport, because of potential
6 conflicts with the Army National Guard -- and I believe
7 DeAnne testified to this yesterday -- to minimize
8 impacts to military training groups. So just to correct
9 my --

10 Q. Okay, thank you.

11 Now, in that regard, am I correct that some of
12 these pole structures could exceed 130 feet, as I recall
13 the diagrams?

14 A. (BY MS. BELLAVIA) Yes. I know that the
15 standard height was 120 for the monopole in the upgrade.

16 Q. Okay. All right. Am I correct that over 130
17 feet there has to be aircraft warning lights?

18 A. (BY MS. BELLAVIA) I am not sure I remember
19 exactly what the trigger is for warning lights.

20 Q. All right. Well, let me ask this. And this
21 might be a question that goes to Ms. Rietz's testimony
22 more particularly, but can we agree that the higher the
23 pole structure, the greater the impact zone in terms of
24 the visual impact of the project?

25 A. (BY MS. BELLAVIA) Do you know how that affects

1 the viewshed?

2 MS. RIETZ: I don't know if pole height
3 particularly affects the viewshed.

4 MS. BELLAVIA: I think it does. I think the
5 answer to that question is correct, the taller the pole
6 that it will expand the view, the viewing zone.

7 MS. RIETZ: From afar.

8 MS. BELLAVIA: Yes.

9 BY MR. JACKSON:

10 Q. Would you agree -- whichever one of you wants to
11 field this question -- that a project, residential
12 project such as my client's, where it is in a rural area
13 with a viewshed, that that would be considered an area
14 of high sensitivity?

15 A. (BY MS. BELLAVIA) A rural area with no existing
16 infrastructure would be considered an area of high
17 sensitivity. As we analyze the type of development such
18 as yours and the EIS with an existing right-of-way and
19 structure, some of that high quality is significantly
20 diminished by the existing poles.

21 Q. Okay. But you would agree that if there is a
22 substantial expansion of the existing infrastructure on
23 that easement, that this would be considered an area of
24 high sensitivity, given that there will be home sites
25 adjacent to the immediate area --

1 MR. GUY: Objection, facts not evidence, and
2 mischaracterization of the WAPA upgrade.

3 CHMN. CHENAL: If the witness can answer the
4 question, we will let her answer that question.

5 MS. BELLAVIA: So I would not agree that that's
6 an area of high scenic sensitivity, in my personal
7 opinion, because of the existing Western transmission
8 line.

9 We did discuss, I think as you referenced in
10 your position statement, the visual impacts of the
11 upgrade, where we discuss that viewers are accustomed to
12 seeing a transmission line on the landscape, and so
13 there is some -- and that diminishes the high scenic
14 value. However, there would be, I believe we stated it
15 would be a minor to moderate impact with the increase in
16 tower height. The existing structures are 75 feet tall,
17 and as proposed, as you mentioned, could range from 120
18 to 135 feet. And so there could be minor to moderate
19 impact, visual impact, from replacing those poles.

20 BY MR. JACKSON:

21 Q. Right. I guess what I am just trying to pin
22 down, there is some reference in these analyses to areas
23 of high sensitivity. And as I understood it, at least
24 Southline used the urban areas, congested areas, to not
25 have high sensitivity. And wouldn't it be true that a

1 residential area that's not in a congested urban area
2 would have a high sensitivity to view impact?

3 A. Yes. Any residential -- I think, you know,
4 residents', viewers' sensitivity is subjective. But
5 certainly it is within the realm of possibility a
6 residential subdivision would be a high sensitivity view
7 for sure.

8 Q. Then the final area of questions. Am I
9 understanding correctly that as we sit here today,
10 Southline's position is that this application does not
11 seek a permit for the portion of the line that is
12 crossing my client's property?

13 A. (BY MS. BELLAVIA) My understanding, the
14 application does not include the portion across your
15 property.

16 Q. And am I correct that this application, in
17 connection with this application to this Committee,
18 there has not been consideration of the impact upon our
19 development plan?

20 A. (BY MS. BELLAVIA) The CEC application and
21 exhibits do not analyze impacts to your property,
22 Mountain View Ranch, that's correct.

23 Q. All right. And would you agree, ma'am, that if
24 it turns out that the law required consideration of
25 those impacts, that this particular application would be

1 insufficient for that purpose?

2 MR. GUY: Objection, legal conclusion.

3 CHMN. CHENAL: I think I will sustain that
4 objection, Mr. Jackson.

5 MR. JACKSON: Okay.

6 CHMN. CHENAL: Is there anything -- excuse me.
7 Member Noland.

8 Yeah, go ahead, Mr. Jackson.

9 MR. JACKSON: I don't have any further
10 questions.

11 CHMN. CHENAL: Okay. Before we go to Member
12 Noland, I want to make sure in light of Member Woodall's
13 comment that you feel you have had an adequate
14 opportunity to ask the questions that you wanted to ask
15 for purposes of making a record.

16 MR. JACKSON: I am sorry. I missed that.

17 CHMN. CHENAL: I want to make sure in light of
18 Member Woodall's comments that you feel you have had an
19 adequate opportunity to ask the questions you wanted to
20 ask in order to make your record.

21 MR. JACKSON: Correct. I do have some comments
22 I would like to make in closing, but for purposes of the
23 examination of the witness, yes.

24 CHMN. CHENAL: Because if you didn't feel like
25 you had that opportunity and you wanted to make an offer

1 of proof, we would allow you to do that. But we are not
2 at the point where we are going to be taking argument.
3 I mean that will be later in the case, and you will have
4 every opportunity to do that.

5 MR. JACKSON: Yes, I understand.

6 CHMN. CHENAL: Member Noland.

7 MEMBER NOLAND: Thank you, Mr. Chairman.

8 Mr. Jackson, I just want to be clear that I
9 understand the position that you are representing for
10 your client and that it is on the record.

11 That upgrade portion that passes through their
12 development currently has wooden H-poles, is that
13 correct?

14 MR. JACKSON: That's my understanding,
15 Ms. Noland, yes.

16 MEMBER NOLAND: And you understand that with
17 monopoles, differing heights can mean lesser amount of
18 poles because they could have a greater length of
19 transmission line? Do you understand that?

20 MR. JACKSON: I do know. And I don't know if
21 this is the right time to respond. Our concern is
22 without specifics and our participation in the specific
23 limitations, we are concerned there is not any kind of
24 control over what is going to happen through that
25 section. But yes, I do understand that concept,

1 correct.

2 MEMBER NOLAND: And I assume that -- and I am
3 just assuming -- that your client would not want the
4 lattice poles through that area, is that correct?

5 MR. JACKSON: That's correct. That's a
6 fundamental concern that they have.

7 MEMBER NOLAND: So they would prefer the
8 monopoles, but now we are talking about the height, so
9 some assurance that you are going to know how many poles
10 are going to be through that area, what the height is
11 going to be. If you can at some point develop some kind
12 of statement as to would you rather have more monopoles
13 with a shorter line span and shorter poles, or larger
14 poles and fewer of them with a longer span, I think that
15 it would help to have on the record so people could look
16 back at that, hopefully WAPA or maybe the Arizona
17 Corporation Commission, to understand exactly what your
18 clients would prefer, if they were listened to.

19 MR. JACKSON: Understood. And I will visit with
20 my client on that and attempt to provide that.

21 CHMN. CHENAL: Member Woodall.

22 MR. JACKSON: I am sorry.

23 CHMN. CHENAL: Excuse me.

24 MEMBER WOODALL: Complete your thought, sir.

25 MR. JACKSON: My client has pointed out that the

1 other primary concern -- and I will address this maybe
2 at closing rather than at the moment, but is the
3 right-of-way width and the expansion, both in terms of
4 the impact on surrounding properties and physically on
5 the right-of-way. I didn't want to leave that out.

6 MEMBER WOODALL: You actually got right to my
7 point. I was going to ask how much more land was going
8 to be needed other than the easement that you currently
9 have running through.

10 MR. JACKSON: If we understand -- one of our, I
11 guess, things we point out in the position paper is what
12 all we have seen are the, quote, typical configurations.
13 And that's one of our concerns, is that this is going to
14 be potentially permitted without those specifics. But
15 according to those typical configurations, we are
16 looking at an expansion of a 100-foot right-of-way to
17 potentially a 225-foot right-of-way.

18 MEMBER WOODALL: Thank you, sir.

19 CHMN. CHENAL: Okay. Thank you.

20 Mr. Guy.

21 MR. GUY: I just wanted to clarify for the
22 record that we certainly don't agree with everything
23 that was stated, and that's not in evidence, many of the
24 things that were just stated.

25 CHMN. CHENAL: Understood. Understood. Put

1 that in the category of argument.

2 I will allow any redirect now, I guess, of
3 Ms. Bellavia, if you would like. Or continue with
4 Ms. Rietz. I mean we will give flexibility to how you
5 want to do that, Mr. Guy.

6 I think I have an understanding, back to the
7 issue of what documents require, what construction
8 standards, PCEMs to apply to WAPA and to the WAPA line
9 and to the upgrade line and to the new build line. But
10 I think it would be helpful for me to have, I mean not a
11 memo, but some sort of a document or explanation that
12 kind of outlines, you know, what documents require what
13 construction standards and PCEMs across the entire line.
14 Because I still have in my mind that the RODs, there is
15 some gaps there that it applies to the WAPA -- maybe not
16 so much WAPA as BLM.

17 I thought I heard Ms. Bellavia state that PCEMs
18 applied to the BLM managed land, and that gives the
19 question in my mind whether then it applies to the
20 non-BLM land over the, you know, the new build. So I
21 would kind of like some documents, references to
22 documents to back up what I clearly understand
23 Southline's position to be, that these standards,
24 construction standards that are required by the POD and
25 that the PCEMs will apply Tortolita to, you know, the

1 New Mexico border.

2 MR. GUY: We can prepare that.

3 CHMN. CHENAL: All right. Thank you very much.
4 Member Woodall.

5 MEMBER WOODALL: Mr. Guy, I noticed that you
6 objected to arguments from counsel as not being
7 evidence. I am assuming if anything that counsel
8 represented is inaccurate, that you would be presenting
9 a witness that would rebut that?

10 MR. GUY: There has been testimony in the
11 record, right-of-way width, for example, and I think of
12 everything he said, the one that caused me to pause a
13 bit that I am not sure is consistent with the evidence
14 in the record is that a 225-foot right-of-way may be
15 required.

16 The evidence in the record is WAPA has an
17 existing 100-foot right-of-way, and that WAPA may
18 require up to 150 feet of right-of-way. Those potential
19 right-of-ways are not right on top of each other. So
20 there would be a move. And the idea, as I understand
21 it, is, so that WAPA would not have to take an outage,
22 it would be able to construct the line parallel and
23 adjacent to the old line.

24 And, now, there is no evidence -- now I am
25 testifying, but my understanding is WAPA would not

1 retain the 225-foot right-of-way, that once it builds a
2 new line, it would perhaps give up the original 100-foot
3 right-of-way. Because what they have said in all the
4 documents is from the 100 to 150. They have also
5 said -- and this is in response to the comments that we
6 were talking about previously -- they have said that
7 they review the easements, look at the land acquisition
8 rights, and work with landowners as necessary to the
9 extent they need to acquire additional right-of-way.

10 MEMBER WOODALL: And you believe what you just
11 represented is in the record which was yesterday, which
12 I was not in attendance?

13 MR. GUY: I do.

14 MEMBER WOODALL: Thank you very much.

15 MEMBER NOLAND: Thank you, Chairman.

16 Well, I was just going back looking. I believe
17 that in the testimony of one of the prior witnesses
18 there was a schematic that showed on the upgrade portion
19 of the line semi what you said, that they would need
20 some additional right-of-way, but then once it was
21 built, they would abandon 75 feet. So I think it left
22 like 125, but I can't remember exactly and I can't find
23 that particular exhibit. But I think that would help
24 answer some of that, and might be something that would
25 be of interest in this situation.

1 MR. GUY: I agree. I know at least part of that
2 representation or part of what you just described to us
3 was in Andy Rawlins' direct testimony, one of his
4 slides.

5 CHMN. CHENAL: That's my recollection as well.
6 Yeah. It wouldn't hurt to have a little more testimony
7 on that issue, just to clear it up.

8 Member Woodall.

9 MEMBER WOODALL: Are we sure or do we have
10 evidence in the record that WAPA might not keep that 115
11 line there?

12 MR. GUY: We will review to the extent we can
13 what we have in the record consistent with Member
14 Noland's recollection. And if it is not crystal clear
15 what is in the record, we will have another witness
16 testify to that.

17 MEMBER WOODALL: I guess my question is a little
18 broader than that. Right now we know you are planning
19 on -- they are planning on building a 230kV structure,
20 but I don't know that anyone has actually testified, and
21 that means that the 115s are going to be eliminated.
22 And I don't recall that. And I don't recall that in the
23 record.

24 So obviously lands burdened with two
25 transmission structures, it is different. So if there

1 is any testimony or evidence that you can present or
2 point me to, that will be helpful to me.

3 MR. GUY: We will do that.

4 MEMBER WOODALL: Thank you.

5 CHMN. CHENAL: All right. Thanks, Mr. Jackson.
6 Any further redirect?

7 MR. GUY: I actually don't think we have any
8 redirect for Ms. Bellavia.

9 MS. BELLAVIA: I have not been asked a question,
10 but I can read you text from the EIS which I think
11 answers Member Woodall's question.

12 CHMN. CHENAL: Sure, go ahead.

13 MS. BELLAVIA: It is on page 89, Volume 1 of the
14 final EIS. And it is the diagrams that Andy Rawlins
15 presented, Member Noland referred to, and are referenced
16 in this text, or what this text is referencing. And it
17 essentially says 75 feet of the existing 100-foot
18 right-of-way would then be abandoned, and the remaining
19 25 feet adjacent to the two new transmission lines would
20 be incorporated to form the new 150-foot permanent
21 right-of-way. This is the preferred method of
22 construction as it would minimize outage on the line.

23 I swore I just read text that said it would
24 abandon. I did, okay. Yes, would be.

25 Sorry, I don't actually read anything that will

1 be abandoned. The line would be abandoned. It doesn't
2 indicate what would happen with the right-of-way. My
3 apologies.

4 MEMBER WOODALL: I am reading page 89 of
5 Volume 1 of Exhibit B-1, which is the EIS, and I see it
6 says one of two methods of construction for the upgrade
7 section of the project would be used, depending on
8 right-of-way constraints, the teardown and
9 rebuild-in-place methods, or construction of the new
10 facilities adjacent to existing facilities. That
11 suggests to me that we have two options that are
12 possible here.

13 MS. BELLAVIA: Yes, that's correct. And I think
14 what Mr. Guy was referring to is Western has indicated
15 that where they, you know, where there are issues or
16 constraints, they could rebuild within the current
17 right-of-way.

18 MEMBER WOODALL: Okay. But we don't know for
19 sure whether -- where the existing 115s will remain
20 adjacent to the new 230s, correct?

21 MS. BELLAVIA: That's correct. There is a
22 portion across Bar V Ranch which they specifically
23 indicated remain the 100 foot, but in other cases that
24 you are asking, that's correct, it is not known.

25 MEMBER WOODALL: Thank you, ma'am.

1 CHMN. CHENAL: All right. Thank you very much.
2 Mr. Guy, is it your intent to proceed, then,
3 with the direct examination of Ms. Rietz?

4 MR. GUY: It is.

5 CHMN. CHENAL: Okay. Maybe this would be a time
6 to take a morning recess before we get into that. And
7 we can come back in 15 minutes. Thank you.

8 (A recess ensued at 10:19 a.m. to 10:42 a.m.)

9 CHMN. CHENAL: Okay, everybody, let's resume our
10 morning session.

11 Mr. Guy, I believe you wanted to proceed with
12 Ms. Rietz.

13 MR. GUY: Thank you, Mr. Chairman.

14 Before we dive back in, we made, or Ms. Rietz
15 made a correction on the record yesterday to a page of
16 the application. We have revised that page. And so I
17 am going to hand this to Ms. Rietz, have her confirm
18 this is consistent with her correction on the record and
19 have her offer this.

20 CHMN. CHENAL: Very good.

21

22 DIRECT EXAMINATION CONTINUED

23 BY MR. GUY:

24 Q. So for the record, Ms. Rietz, as you recall you
25 made a revision or a correction to a page in Exhibit H

1 of the application yesterday. Do you recall that?

2 A. (BY MS. RIETZ) Yes, I do.

3 Q. Would you review the correction shown on the
4 page that I handed you marked as Exhibit 31 and confirm
5 if that is consistent with the correction you made on
6 the record yesterday?

7 A. (BY MS. RIETZ) Yes, that is consistent.

8 MR. GUY: Thank you.

9 Mr. Chairman, we would then offer Exhibit
10 STL-31.

11 CHMN. CHENAL: All right. STL-31 is admitted.
12 (Exhibit STL-31 was admitted into evidence.)

13 CHMN. CHENAL: Member Woodall has a question.

14 MEMBER WOODALL: First of all, Ms. Rietz, I
15 apologize, I was not here yesterday afternoon, so if I
16 ask you or Ms. Bellavia questions that you responded to
17 previously, my sincere apologies.

18 Previously I indicated that I had some questions
19 over Exhibit H, and more specifically relating to the
20 private entity plans, the portion that you modified
21 here. So my question is: How did you define the area
22 of vicinity of the CEC proposed route?

23 MS. RIETZ: Adjacent to, the footprint of the
24 proposed route and adjacent.

25 MEMBER WOODALL: Okay. So I mean did you -- how

1 far beyond the corridor did you look, I guess is what I
2 am getting at, or did you just look at lands that would
3 potentially be impacted by right-of-way?

4 MS. RIETZ: Correct, correct.

5 MEMBER WOODALL: Okay. And tell me what you did
6 in order to attempt to identify those private entity
7 plans.

8 MS. RIETZ: We looked at the land ownership. We
9 looked at all the updated plans for the different
10 counties, the different cities and things like that.

11 MEMBER WOODALL: Oh, go ahead, ma'am.

12 MS. RIETZ: I was going to say then I heard your
13 concern the other day, and we went back to check,
14 actually, and we did that check, and we found that there
15 are some private developments further away from the
16 project, but not still -- we did confirm that there are
17 none or adjacent to the project.

18 MEMBER WOODALL: So these other developments,
19 how far away would they be from the proposed
20 right-of-way?

21 MS. RIETZ: I have some maps and I can show you
22 exactly where they are.

23 MEMBER WOODALL: I am trying to get an idea of
24 were they within 100 feet, three miles.

25 MS. RIETZ: Yes. They range anywhere from a

1 mile to 1.98 miles.

2 MEMBER WOODALL: And as far as you know, were
3 any of these potential residential developments
4 contacted with respect to this proposed project?

5 MS. RIETZ: No, I do not.

6 MEMBER WOODALL: Okay. All right. And I see
7 you have modified it to eliminate the reference to the
8 CEC substations study area. Does that mean that you
9 didn't look or that you did find some?

10 MS. RIETZ: No, it means that in -- that we did
11 look for the project footprint, and then in response to
12 your question, we looked further out, yes.

13 MEMBER WOODALL: As a part of your review to
14 determine what private entity plans were, did you
15 contact specific planning and zoning departments in the
16 respective municipal and county areas?

17 MS. RIETZ: We contacted -- we reached out to
18 Cochise County; we relied on their documents.

19 MEMBER WOODALL: Meaning what documents, ma'am?

20 MS. RIETZ: Their comprehensive plans, the ones
21 that have been updated, 2015, I believe, or most of
22 them, or 2014, the updated.

23 MEMBER WOODALL: I guess what I am trying to
24 drill down a little more, I understand comprehensive
25 plans, and I know women of your experience, both, have a

1 good experience of that significance, but sometimes
2 there are specific zoning applications that are filed
3 pertinent to the plan of development. Did you look into
4 those?

5 In other words, do you know if anyone had made
6 an application for a change in zoning or for a special
7 use permit or submitted some bubble diagram with respect
8 to what they were planning on, somebody might have been
9 planning on building in the vicinity of the project?

10 MS. RIETZ: When we looked further out, we did
11 review plats that had been before the City of Tucson,
12 Pima County, Pinal County, and Cochise County.

13 MEMBER WOODALL: But not --

14 MS. RIETZ: Reviewed plats.

15 MEMBER WOODALL: But not -- no specific
16 developments planned by individual developers that might
17 have been made to the zoning departments, correct?

18 MS. RIETZ: The specific plats were --

19 MEMBER WOODALL: What do you mean by plats,
20 before I am misunderstanding?

21 MS. RIETZ: Plats for development, right, the
22 plat is what was reviewed.

23 MEMBER WOODALL: And what time frame was this
24 reviewed?

25 MS. RIETZ: This was reviewed yesterday and day

1 before in response, so that was up to date as of
2 yesterday.

3 MEMBER WOODALL: And when did you review these?
4 Initially did you review these? Was that part of in
5 2011 as part of the NEPA process or --

6 MS. RIETZ: Those were reviewed, yes, as part of
7 the -- and understanding that they do, you know, it is
8 iterative and more come on, yes, so originally reviewed
9 and then rereviewed.

10 MEMBER WOODALL: Okay. So initially you
11 reviewed at what time frame? 2011?

12 MS. BELLAVIA: I could speak to that. I was
13 referencing a portion of my testimony from yesterday
14 where those plans were initially reviewed by a different
15 contractor as part of their first-party work. We call
16 them the baseline studies. And that work was initially
17 2011. So yes is the answer.

18 MEMBER WOODALL: So that would be CH2M Hill that
19 you are referring to?

20 MS. BELLAVIA: Correct.

21 MEMBER WOODALL: So relying upon their work, did
22 you subsequently do any review -- I am trying to get a
23 timeline. They looked at it in whatever year, you
24 looked at it again at another year, and then apparently
25 you looked at it yesterday. So can you tell me the time

1 frame that you -- before then?

2 MS. RIETZ: Correct, right. So 2011 for the
3 baseline.

4 MEMBER WOODALL: I am sorry. I didn't hear you.

5 MS. RIETZ: 2011 for the baseline.

6 MEMBER WOODALL: Thank you.

7 MS. RIETZ: Right. And then as the EIS was
8 being developed and the analysis, again, during that
9 time frame, which would have been 2013, 2014, and then
10 again as early -- I mean as late as yesterday.

11 MEMBER WOODALL: And I know there was testimony
12 yesterday about contacts made with private individuals
13 as part of the NEPA process. And I was hoping that you
14 could give me an idea of what criteria you used in order
15 to identify the private entities.

16 MS. RIETZ: I know that we had been looking at
17 the mailing list of the contacts.

18 Do you have more information on that?

19 MR. GUY: Member Woodall, I think that's one of
20 the items that we -- I mean the witness can certainly
21 answer the question if she knows. That's one of the
22 items we committed to follow up yesterday.

23 MEMBER WOODALL: Thank you so much, sir. I
24 appreciate that.

25 And then if I may, I don't know if you addressed

1 the outreach component with respect to the various
2 governmental entities yesterday.

3 MS. RIETZ: Cara Bellavia did.

4 MS. BELLAVIA: Did you have a specific question,
5 Member Woodall?

6 MEMBER WOODALL: Sure. I understand there were
7 references made to contacts with the Corporation
8 Commission at various stages in the EIS development,
9 notably the notice of information, issuance of the draft
10 EIS, the final EIS, and the ROD. Those were all
11 contacts made with the Arizona Corporation Commission?

12 MS. BELLAVIA: Yes, the Corporation Commission
13 was notified.

14 MEMBER WOODALL: How were they notified? Who
15 was provided the notice?

16 MS. BELLAVIA: I know for sure that the scoping
17 notice was mailed to the 11 Committee members at that
18 time, mailed. The draft EIS notice was mailed to
19 11 Committee members. I believe I saw reference that
20 one copy of the Record of Decision in May, April or May
21 of this year was mailed to the Committee. I don't know
22 to whom exactly.

23 MEMBER WOODALL: I guess -- the Arizona Power
24 Plant and Transmission Line Siting Committee is not the
25 Arizona Corporation Commission. So I guess my question

1 is a little more narrowly tailored. Who at the Arizona
2 Corporation Commission received notice of this, do you
3 know?

4 MS. BELLAVIA: I do not know. We do not manage
5 the mailing list. But I believe that's part of the
6 follow-up Mr. Guy is referencing.

7 MEMBER WOODALL: And I understand that there are
8 statements made that Southline itself had conducted some
9 preliminary stakeholder meetings and workshops before
10 the formal EIS started. Is that correct?

11 MS. BELLAVIA: Yes.

12 MEMBER WOODALL: And was there any discussion on
13 the record of who was contacted by whom, or is there any
14 documentation regarding that?

15 MS. BELLAVIA: As it relates to the NEPA
16 process, there was no specific contacts provided to the
17 agencies. But I believe that's also part of the
18 follow-up, is to indicate who Southline had contact with
19 leading up to the process.

20 MEMBER WOODALL: So basically when you are
21 talking about the informal contacts, that's not based on
22 personal knowledge that either of you have, that's based
23 on what Southline told you?

24 MS. BELLAVIA: It is based on information
25 Southline provided at the request of BLM and WAPA to

1 include in the EIS, yes. That's not my personal
2 knowledge other than what we were provided and
3 published.

4 MEMBER WOODALL: Is it anywhere in the EIS?

5 MS. BELLAVIA: Who Southline contacted?

6 MEMBER WOODALL: Yeah.

7 MS. BELLAVIA: I don't believe so, Southline
8 specifically, no.

9 MEMBER WOODALL: And when did the EIS process
10 start?

11 MS. BELLAVIA: The NOI was published in April
12 2012.

13 MEMBER WOODALL: To your knowledge, has
14 Southline had any independent public outreach components
15 that were not a part of the formal NEPA process?

16 MS. BELLAVIA: Since the start of the process?

17 MEMBER WOODALL: Yes.

18 MS. BELLAVIA: There was a meeting in January of
19 2016 that you attended.

20 MS. RIETZ: Yes. That was in New Mexico with
21 the New Mexico State Land Department.

22 MEMBER WOODALL: Oh, pooh, we don't care about
23 New Mexico.

24 MS. BELLAVIA: And then I understand there was
25 another meeting in, I believe, September of this year in

1 Benson with residents there.

2 MEMBER WOODALL: As far as you know, have there
3 been any stakeholder meetings, public outreach meetings,
4 publications, notices that were not a part of the formal
5 EIS processes? Are you aware of any?

6 MS. BELLAVIA: I am not personally aware of any,
7 no.

8 MEMBER WOODALL: Okay. Does your firm do work
9 in public outreach?

10 MS. BELLAVIA: Yes, we do, when requested. We
11 have not -- it has not been requested of us post-EIS,
12 other than the meeting Ms. Rietz mentioned in New
13 Mexico.

14 MEMBER WOODALL: So your appearance here today
15 is not in your formal role as the NEPA consultants, you
16 are here as a private consultant for Southline, correct?

17 MS. BELLAVIA: Yes, and represent what we did in
18 our role as NEPA consultant, yes.

19 MEMBER WOODALL: Sure.

20 So Mr. Guy, feel free to jump in on work product
21 grounds if you want to. But did you suggest to the
22 applicant that they have a separate outreach component?

23 MS. BELLAVIA: After publication of the EIS I
24 did not personally, no.

25 MEMBER WOODALL: Did anyone from your firm say,

1 hey, since we are going to be representing you in the
2 CEC siting process, you might want to think about doing
3 another go-round for public information outreach?

4 MS. BELLAVIA: The only two people really
5 working with Southline post-EIS would have been myself
6 and Ms. Rietz, and I did not personally. I don't think
7 Ms. --

8 MS. RIETZ: I didn't either.

9 MEMBER WOODALL: I looked, quickly scanned
10 through the agency contacts in the EIS, and I didn't see
11 legislators or -- I think there was some reference to
12 county supervisors. But as far as you know, were there
13 contacts made specifically with legislators or mayors or
14 other jurisdictions? I didn't see the Corporation
15 Commission in that agency contact list either, so I mean
16 I might have missed it.

17 MS. BELLAVIA: So as I mentioned, another firm,
18 Galileo Project, provided project management assistance
19 to the BLM and WAPA, and they managed the mailing list
20 and contacts for the EIS process. I believe that their
21 typical process is to contact government officials you
22 suggested. I don't know specifically in this case, but
23 I do know that is part of our follow-up, to provide the
24 contact list.

25 MEMBER WOODALL: Other than the earlier

1 stakeholder meetings that Southline told you about, are
2 you aware of any public outreach or stakeholder process
3 conducted by Southline, separate and apart from the NEPA
4 EIS process?

5 MS. BELLAVIA: I am not personally aware, other
6 than the New Mexico State Land Department meeting and
7 the recent Benson meeting, but I am not personally aware
8 of any other contacts.

9 MEMBER WOODALL: And so as far as you are aware,
10 was actual notice provided to property owners whose
11 lands might be affected by the proposed project?

12 MS. BELLAVIA: I do not know.

13 MEMBER WOODALL: Okay. So as we sit here today,
14 I mean we can't answer whether or not there was an
15 effort made to contact them and let them know that there
16 is a possibility of the 230kV transmission line with
17 structures ranging from 100 to 130 feet running through
18 their lands, is that correct?

19 MS. BELLAVIA: I don't know if that has been
20 done, correct.

21 MEMBER WOODALL: As far as you know.

22 MS. BELLAVIA: Correct, as far as I know.

23 MEMBER WOODALL: Okay. Thank you very much.

24 MR. GUY: Mr. Chairman, if I may, Member
25 Woodall, I think the witness is answering the exact

1 questions you were asking. Her part of the commitment
2 we made was to not only give a description or a
3 commitment to follow up, is to give a better summation
4 of the non-NEPA process contacts, including specific
5 names and dates of who Southline talked to at the
6 agencies, as well as communication with landowners and
7 publications and other types of outreach. So that is
8 something we intend to provide, according to the
9 schedule, probably Monday morning, but we do intend to
10 give you that information.

11 MEMBER WOODALL: Thank you very much, Mr. Guy.
12 And the reason I am kind of belaboring these points is
13 it is very important to me to have a sense that people
14 whose lands are going to be impacted for maybe 75 years
15 by the imposition of these structures, that there was a
16 real whole-hearted effort to let them know what was
17 coming, as opposed to relying on some NEPA agency list,
18 which I know some, I mean it is like the usual gang of
19 suspects, if you will. Pardon me, I make no offense,
20 but I read enough of these. And I think it would be
21 important to the Commissioners, too, as well,
22 particularly since some of these lands are in rural
23 counties.

24 And while I am not suggesting that residents of
25 rural counties and rural areas are somehow less aware of

1 what is going on, it is just a fact that, you know, they
2 are not coming in and congregating in large cities where
3 they might get all this information. I have a real
4 concern about that. So the more detail that you can
5 provide to that on Monday, the more helpful it would be
6 in my evaluation of your application.

7 MR. GUY: I understand. Thank you.

8 MEMBER WOODALL: Thank you.

9 BY MR. GUY:

10 Q. Ms. Rietz, I am not sure if we -- we were sort
11 of in a transition yesterday. You had gone through sort
12 of review of land use plans and considered potential
13 impacts on land use, and we were about to transition, I
14 believe.

15 But I want to start as a transition to just
16 state your conclusions. I mean, could you -- and you
17 might have done this yesterday, and I can't recall
18 exactly where we stopped. What were your conclusions
19 after reviewing the land use plans?

20 A. (BY MS. RIETZ) Yes. We concluded that the
21 project is consistent with all the federal, state, and
22 county plans, that impacts to existing land use would be
23 focused on the farm and range resources and military
24 operations, and those would be minor, and that the PCEMs
25 would help with the impacts to those lands, specifically

1 that farming and ranching would be an allowable use
2 under the right-of-way, and that PCEMs relating to
3 military uses as far as structure heights and
4 anti-collision lighting would apply to the project.

5 Q. Thank you.

6 And now let's -- would you walk us through the
7 planned land use in the CEC new build section.

8 A. (BY MS. RIETZ) Yes. And there is a series of
9 six maps. That's on the next slide. The first six maps
10 are in Cochise County, and I will work my way on the
11 project from east to west.

12 This particular map you see the state land in
13 the east. There it is. Sorry. So here we have a state
14 line, the proposed project in blue. And this is the
15 green. This is from the Cochise County comprehensive
16 plan. And green is rural.

17 And then also shown here is like a red hatched
18 area. And this is BLM, BLM exclusion and avoidance
19 areas. But as you can see, the project in Arizona does
20 not go through that.

21 Q. Since you have six maps, let's just go
22 through --

23 A. Okay. So you can go through to the next one.
24 So this is just progressing further west. So
25 here we are still in Cochise County. Here is the

1 proposed project in blue. Here is where it crosses
2 I-10. And this is the community of San Simon. So it
3 is -- yeah, this is San Simon. And then yellow
4 indicates existing transmission line, and the green,
5 again, is the rural designation by Cochise County.

6 Go to the next one.

7 3. So we are still continuing west. And this
8 is near the community of Bowie. Here again the blue
9 line is the project, Southline project. You have
10 Interstate 10, which is north of the project. And we
11 are -- the project itself is still crossing rural, which
12 is illustrated by green.

13 CHMN. CHENAL: Excuse me. Is it Mrs. or Ms.?

14 MS. RIETZ: Ms.

15 CHMN. CHENAL: Ms.

16 Member Hamway.

17 MEMBER HAMWAY: Was this the area and the time
18 you were going to point out environmental justice areas
19 and impacts?

20 MS. BELLAVIA: We are working on a map to
21 address that discussion yesterday to depict where those
22 census tracts are located. So I don't have the specific
23 locational information at this time. Our plan is to
24 have that available to you Monday.

25 MEMBER HAMWAY: Okay.

1 MS. RIETZ: Okay. This is Map 4 of 6 in Cochise
2 County. So this is the part of the project that turns
3 south. So we are still going west. And the project
4 turns south, and it by passes the community of Willcox,
5 the Town of Willcox, which is off to the west, and goes
6 in between, it is through Sulphur Springs Valley and the
7 mountains. And it is still the project on rural,
8 classified rural by the Cochise County plan.

9 Map No. 5, here again just going further south.
10 And the project is east of Willcox, staying away from
11 Willcox. And here it crosses a highway and continues.
12 And it is all in rural classification.

13 And then this is the last map for the new build
14 section. This is where it wraps around the Willcox
15 Playa. You can see that off to the west, to the left.
16 And the project going south, then paralleling this kind
17 of green line with some dots, this is an existing
18 pipeline. So that's where the project parallels that.

19 Then we also have in yellow, yellow lines, you
20 can see all going into the Apache substation are
21 existing transmission lines. And the project remains on
22 rural property, as classified by Cochise County.

23 BY MR. GUY:

24 Q. Thank you, Ms. Rietz.

25 It looks like you have similar maps for the CEC

1 upgrade section. Would you walk us through those? And
2 also it is helpful to refer to the slide number as you
3 do so as well so we can follow along.

4 A. (BY MS. RIETZ) Okay, okay. So this is
5 Slide 26. And here we have -- this is all in Pima
6 County. This is the new upgrade section to the -- on
7 the right-hand side is the Pantano substation. On the
8 left-hand side is a different view for the Vail
9 substation.

10 In Pantano, this green is from the Pima County
11 comprehensive land use. And it is classified as City of
12 Tucson. But the underlying classification for City of
13 Tucson is resource sensitive. And resource sensitive is
14 a larger parcel with environmentally sensitive
15 characteristics in close proximity to public preserves
16 or environmentally sensitive areas.

17 And this is the Pantano substation, which is
18 right in the middle of this frame. And it is in close
19 proximity to Cienega Creek, which is to the north. It
20 is about a mile north of the existing Pantano
21 substation. Here again on this map we have got the
22 existing lines, the existing transmission lines.

23 Then moving over to Vail, we have got I-10,
24 existing Vail substation, with showing the expansion
25 areas in the orange hatched. And there is many

1 parallel -- many lines depicting transmission lines in
2 the yellow and green, just symbolizing different
3 voltages.

4 Here again you have got the green line with the
5 green dots that are pipelines. And the project, this
6 gray line is the non-CEC, and then the interconnect into
7 the Vail substation.

8 This is under Pima County comprehensive -- I am
9 sorry. It is the buff color. And this is City of
10 Tucson as well. And the underlying zone is rural
11 homestead. This is at Vail.

12 And I was going to let you know rural
13 homestead -- I am sorry. I was looking for my
14 definition of rural homestead. And that's intended to
15 preserve the character of the area and encourage the
16 orderly growth of rural areas.

17 And this is going further west. So on the
18 right-hand side is the DeMoss Petrie, still in Pima
19 County. And here again we have the I-10 corridor in
20 red, the proposed non-CEC portion of the project in
21 gray, DeMoss Petrie right in the middle, and all the
22 yellow and green lines are existing transmission lines.

23 And this is classified, again, as City of
24 Tucson. That's the buff color. And the underlying zone
25 for this is heavy industrial, I-2.

1 And then in Pinal County at Tortolita and
2 Saguaro, this is on the left-hand side, again we have
3 got I-10 in the red, the proposed non-CEC portion of the
4 project coming in from the west. The kind of turquoise
5 color is the CEC -- lots of colors going on in this
6 one -- the CEC portion of the line, Tortolita substation
7 off to the east of this.

8 And for this we have got the project crosses the
9 brown that you see there. That is general public
10 facility services. And that's in the Pinal County
11 comprehensive plan. And that's described as areas that
12 include large public facilities that require significant
13 space, such as landfills, water facilities, water
14 campuses, and concentrations of public buildings.

15 And then it is also, the line crosses over into
16 this pink. And Tortolita is on top of the pink. And
17 that is categorized as employment under the Pinal County
18 comprehensive plan. And that is defined as areas that
19 can support a variety of employment generating business
20 activities such as industrial office, business park, and
21 warehousing and power plants.

22 Q. Thank you, Ms. Rietz.

23 In checking my notes, I want to back up to the
24 beginning, I guess, to review of development plans. We
25 had testimony yesterday, and today you did not mention

1 one of the instances in which you had updated your
2 review. So I just want to clarify that.

3 In response to Member Woodall's questions I
4 believe you said that you had reviewed, or development
5 plans had been reviewed as part of the NEPA process that
6 was updated again in 2013, 2014 time period. And then I
7 believe you said again, you know, in response to
8 comments from the Committee, you had also looked as
9 recently as yesterday.

10 A. (BY MS. RIETZ) Correct.

11 Q. I believe yesterday you also testified that you
12 had updated your investigation in preparation of this
13 application in the fall of 2016, is that correct?

14 A. (BY MS. RIETZ) That is correct.

15 Q. Okay. Thank you.

16 CHMN. CHENAL: Member Woodall.

17 MEMBER WOODALL: Ms. Rietz, just to follow up on
18 Mr. Guy's question there, when you say you reviewed
19 plans, and like what I am trying to get a sense of is,
20 basically do you do a documents review for this, or did
21 you actually have conversations with the planning folk?

22 MS. RIETZ: We did document review. Where we
23 needed to have conversations to acquire data, we did.
24 Lots of or all of these are in, as I am sure you know,
25 in GIS data, the comprehensive plans. So often we have

1 to reach out to the individual entities to receive their
2 GIS data so we can do the analysis. So that was
3 definitely points of contact with people.

4 MEMBER WOODALL: Sounds like your contacts with
5 people is asking for documents, as I understand your
6 testimony.

7 MS. RIETZ: Documents, data, the most recent
8 data, correct.

9 MEMBER WOODALL: Did anyone sit down and talk to
10 the planning and zoning director and ask any questions
11 about it, or get some sense of like, hey, is this going
12 to be sensitive here? Because it sounds to me, ma'am,
13 as though you just did a documents review and then
14 talked to people in order to get more documents.

15 MS. RIETZ: During the EIS process there are
16 several examples, yes, of when we did sit down and
17 talked to different planning and zoning.

18 One particular example is Pima County has a
19 planned industrial area, I believe, around the Tucson
20 airport. And we specifically talked with them at
21 length -- at their request, actually -- and made
22 adjustments to the lines and things like that. So yes,
23 there were instances where we talked directly to
24 planning and zoning people.

25 MEMBER WOODALL: Did any of these discussions,

1 which I am going to describe as more substantive
2 discussions with planning and zoning representatives,
3 include representatives of Cochise County?

4 MS. RIETZ: Cochise County is one of the
5 counties that we reached out to, yes, for data on
6 development.

7 MEMBER WOODALL: I am sorry. My question wasn't
8 clear. I wasn't trying to ask you who you asked for
9 paper. I was trying to ask you who you talked to
10 substantively about the nature of the project at the
11 planning --

12 Ms. Bellavia, looks like you have some --

13 MS. BELLAVIA: So I can -- I don't know the
14 names of who we actually interacted with, but Cochise
15 County was a cooperating agency, and in their role, they
16 were able to participate in alternatives development,
17 suggestions for mitigation, et cetera.

18 So I don't exactly recall every time or who
19 specifically, but they were definitely at the table as
20 we developed alternatives and analyzed those in the EIS.

21 MEMBER WOODALL: Thank you very much,
22 Ms. Bellavia. That's enormously helpful to me. Thank
23 you, ma'am.

24 MR. GUY: Thank you.

25 BY MR. GUY:

1 Q. Ms. Rietz, let's move back forward and talk now
2 about another one of the environmental factors. Were
3 recreational uses in the project area analyzed for the
4 CEC proposed route?

5 A. (BY MS. RIETZ) Yes. And those are presented in
6 Exhibit F of the application.

7 Q. And based on that analysis, what recreational
8 opportunities exist in the project vicinity?

9 A. (BY MS. RIETZ) We identified quite a few
10 recreational opportunities in the vicinity. As you can
11 imagine, most of the recreational opportunities are in
12 the new build section because that's more wide open
13 spaces. But there is also, like in Pima and Pinal
14 County, state lands and county lands, there are some of
15 these recreational opportunities.

16 What we identified are listed as off-highway
17 vehicle driving, OHV, scenic driving, hunting, hiking,
18 wildlife viewing, horseback riding, camping,
19 backpacking, mountain biking, geocaching, rock hounding,
20 picnicking, night sky viewing, viewing cultural or
21 historical sites, and photography.

22 Q. Thank you.

23 Did you identify any defined recreational sites
24 near the project?

25 A. (BY MS. RIETZ) Yes. Designed recreational

1 sites were considered in our analysis. And two that we
2 identified that is crossed by the project is Butterfield
3 Trail, which the project crosses close to the state line
4 just when it enters into Arizona, the project crosses
5 Butterfield Trail, and then --

6 CHMN. CHENAL: Ms. Rietz, I had a question on
7 that, just curiosity. Is that trail marked, Butterfield
8 stage route?

9 MS. RIETZ: Pardon me?

10 CHMN. CHENAL: Is that trail marked?

11 MS. RIETZ: Actually Butterfield Trail is. I
12 have a definition of this. If it is marked, I do not
13 know if it is. My guess would be no.

14 Oh, Cara.

15 CHMN. CHENAL: Ms. Bellavia has the answer to
16 that.

17 MS. BELLAVIA: Yes, sorry, I always have an
18 opinion.

19 The Butterfield Trail is visible in some areas,
20 and where it is, where its remnants are visible it is
21 marked, but at times and often for long stretches it is
22 just kind of the historic corridor of it.

23 And so I believe a portion of it is marked. As
24 I am reading the CEC, it mentions that includes access
25 to the ruins at Fort Bowie. And I am confident it is

1 marked there, as we did a site visit to the area. So it
2 depends, is the short answer.

3 CHMN. CHENAL: Thank you very much.

4 MS. RIETZ: And just to tag onto that, that is
5 not where -- Fort Bowie is not where the project
6 crosses. So it is actually a proposed historic trail.
7 And it goes from St. Louis to San Francisco, which is if
8 you want to know that.

9 So within the area is the Willcox Playa wildlife
10 area, which we talked extensively about. That's a
11 designated recreation spot. And that includes the Crane
12 Lake. And then, it has been presented in other
13 testimonies, and then I am going to talk about it again
14 later in my testimony.

15 BY MR. GUY:

16 Q. Thank you, Ms. Rietz.

17 What were your conclusions regarding the
18 project's impact on recreational purposes?

19 A. Yes. We concluded that there would be
20 short-term impacts, especially during construction, to
21 any of these recreational opportunities, especially with
22 the construction, the large equipment, things like that,
23 to noise and visual. That would be eliminated after the
24 construction is gone. And the mitigation measures that
25 are proposed for Crane Lake and the improvement to

1 recreational opportunities at Crane Lake are actually a
2 positive impact.

3 CHMN. CHENAL: Member Bingham.

4 MEMBER BINGHAM: Thank you, Mr. Chairman.

5 So in terms of the recreational use of the
6 impact, what about the production of dust and so forth?
7 Will you water the area to prevent dust accumulation so
8 that's not having an impact?

9 MS. RIETZ: Yes, that is definitely something
10 that will be addressed. It is actually one of the
11 PCEMs, that there is dust control and that there is what
12 is called the SWPPP, a storm water pollution prevention
13 plan. And that includes dust control, and that is part
14 of the PCEMs.

15 MEMBER BINGHAM: Thank you.

16 CHMN. CHENAL: Member Hamway.

17 MEMBER HAMWAY: Is there a PCEM for protection
18 against invasive grasses and nonnative plants on the
19 wheels of the construction equipment?

20 MS. RIETZ: Yes. Actually there is pretty
21 extensive PCEMs on that. One of the requirements is to
22 write a document called noxious and invasive weeds
23 plans, something to that effect, and that being written
24 and that is required.

25 There is even issues -- Cara found the exact

1 one. It is on the PCEM table you guys have,
2 page B-14.109 in vegetation 6. It is about the third
3 one down. And then it also talks about others.

4 But it requires equipment will be cleaned before
5 ingress to minimize the potential for the spread of
6 invasive species. And then here again you can see, as I
7 mentioned yesterday, these PCEMs off to the right of the
8 table show when those would apply. As you can see, that
9 particular one would apply throughout the project, even
10 after construction, not just for construction, after
11 construction and during the decommissioning.

12 MEMBER HAMWAY: Okay, thank you.

13 BY MR. GUY:

14 Q. Thank you.

15 Let's move on to noise and interference. What
16 analysis did you conduct on noise and signal
17 interference along the CEC proposed route?

18 A. (BY MS. RIETZ) Yes. We did the noise analysis,
19 noise and interference. It is part of the application
20 as Exhibit I. First we identified the sensitive noise
21 receptors in the project vicinity. Those include
22 residential areas, schools and daycare facilities,
23 hospitals and long-term care facilities, places of
24 worship, libraries, parks, and recreational areas
25 specifically known for their solitude and tranquility.

1 And in our analysis, we found that the majority
2 of the new build as it passes through the rural and open
3 areas, that those are where most of the noise sensitive
4 receptors, the sensitive noise receptors were.

5 Q. Thank you.

6 Would you please describe any potential impacts
7 that might result from the construction of the project.

8 A. (BY MS. RIETZ) Yes. The impacts would be both
9 temporary and permanent.

10 Temporary impacts would be during construction
11 due to the equipment, the vehicle usage during
12 construction. It would also continue through the
13 operation and maintenance of the line, but much less
14 frequent than during construction. There is also corona
15 noise that would occur during the operation of the line.

16 CHMN. CHENAL: Could you explain what corona
17 noise is.

18 MS. RIETZ: Describe corona noise?

19 CHMN. CHENAL: Corona noise.

20 MS. RIETZ: Corona noise is just the sound of
21 electricity as it moves through the line. It is more
22 intense right under the line. As you move away from the
23 line and then further away from the right-of-way, it
24 decreases dramatically.

25 And then we also looked at communication

1 interference with the EMF, the electromagnetic field.
2 There is the nearby facilities, Buffalo Soldier
3 Electronic Testing Range, that we talked about
4 yesterday, and the interference that the DOD was
5 concerned about there. And then the radio signals, the
6 local farmers were concerned that perhaps the
7 transmission would interfere with some of their radio
8 signals and their -- I guess they use it for irrigation,
9 for crop irrigation.

10 BY MR. GUY:

11 Q. Thank you.

12 Please describe the conclusions you reached
13 regarding noise and interference impacts.

14 A. (BY MS. RIETZ) Yes. For the project we did
15 a -- we specifically modeled the noise. And the noise
16 is, as you probably know, greater during foul weather,
17 rain, and things like that. And that is the condition
18 that was used during the -- for the model, for the
19 project specific model. And the results indicated that
20 even in the foul weather conditions, that it would be
21 52.4 dBa at the edge of the right-of-way. And that is
22 below the guidelines that are set by the Noise Control
23 Act.

24 We also concluded that with using the PCEMs --
25 and there are PCEMs for noise -- that that would

1 definitely minimize the impacts from the project.
2 Specifically one is requiring working with the Fort
3 Huachuca for the interference through the Buffalo
4 Soldier training, and we found that there would be no
5 interference to the local radios as the farmers were
6 concerned.

7 I just wanted to mainly point you to some of the
8 noise PCEMs that we have on the table. On
9 page B-14.106, there are noise PCEMs listed. They are
10 down at the bottom of the page. And then they are
11 carried -- there is more at the top of the following
12 page, and they range from anything from construction to
13 minimizing trips, you know, the trips for the trucks and
14 quite a bit --

15 CHMN. CHENAL: Member Bingham.

16 MEMBER BINGHAM: Thank you, Mr. Chairman.

17 Reference to your last bullet -- sorry I didn't
18 stop you before you moved into your exhibits -- but how
19 did you determine that it would not impact the local
20 signals? Was it through simulation, or did you actually
21 run beta tests to determine impacts?

22 MS. RIETZ: There was simulation, and I don't
23 know if -- it was via simulation. We are going to see
24 if there is something we could point specifically to,
25 but simulation.

1 MEMBER BINGHAM: Given that in the simulation,
2 if it turns out after simulation that the simulation was
3 incorrect, what will be done there? How will the local
4 farmers have any recourse?

5 MS. RIETZ: I don't think that's addressed in
6 any of the mitigation, any of the PCEMs. I don't know.

7 MR. GUY: For the record, the list of PCEMs is
8 Exhibit STL-30.

9 BY MR. GUY:

10 Q. Let's switch to biological resources. And could
11 you please describe the biological resource analysis
12 that was conducted for the application.

13 A. (BY MS. RIETZ) Yes. We conducted the analysis
14 of the areas of biological wealth, Exhibit C in the
15 application, and then biological resources, Exhibit D.

16 Q. What areas of biological wealth did you identify
17 in the CEC proposed route?

18 A. (BY MS. RIETZ) For the biological wealth, we
19 looked at -- we reviewed the data that was included in
20 the EIS for the Willcox Playa, the important bird areas,
21 wildlife linkages, and the Pima County conservation land
22 system. And we updated all that data from the EIS. We
23 updated by looking at any endangered species to see if
24 there is any new species listed, or any that were
25 delisted. We also narrowed our focus to the CEC

1 proposed project.

2 The factors that we used to determine areas of
3 biological wealth, we evaluated the presence or absence
4 of a suitable habitat. We looked at the potential for
5 direct mortality to a species, and we looked at habitat
6 fragmentation.

7 Q. Thank you.

8 And what did you conclude, based on your
9 analysis?

10 A. (BY MS. RIETZ) We concluded that the project
11 would have impact, a biological impact, however, that
12 the area that would be impacted is such a small portion
13 of a greater overall habitat present, and that it would
14 be minimized by all the PCEMs and the mitigation
15 measures, that it would be very, very minor.

16 Also we worked with the U.S. Fish and Wildlife,
17 and they issued a biological opinion that was issued in
18 2015. And they determined that they concluded that the
19 project was not likely to jeopardize the continued
20 existence of listed species likely to be present along
21 the project.

22 And also I want to point out in Exhibit C, there
23 is a Table C-1, and that lists all the special status
24 species that may occur in the vicinity of the project.
25 And that totals 75 species.

1 MR. GUY: Thank you.

2 And for the record, that's Exhibit C to the
3 application.

4 CHMN. CHENAL: Member Hamway.

5 MEMBER HAMWAY: Thank you.

6 Did you have any input or communication or
7 conversation with the Sierra Club? Did they come to any
8 of your meetings? Did they express concern on any
9 level?

10 MS. RIETZ: Yes, the Sierra Club did attend some
11 of the meetings.

12 Correct?

13 They commented on the project. Their comments
14 were responded to.

15 MEMBER HAMWAY: And were they part of the EIS
16 development? So are they one of the categories in the
17 EIS where they made comments and you responded?

18 MS. RIETZ: Yes. They did make comments and we
19 did respond to their comments, yes.

20 MEMBER HAMWAY: Can you give me an example of
21 one of the numbers that's from the Sierra Club?

22 MS. RIETZ: One of their comments, an example?
23 Pardon me?

24 MEMBER HAMWAY: Just in this document.

25 MS. RIETZ: Let me look. Just a moment.

1 MR. GUY: Just to clarify, Exhibit STL-28 is
2 just a portion of the analysis of the comments. That
3 exhibit only includes Mountain View comments.

4 MS. RIETZ: Yes. The full comment table on the
5 EIS is in chapter 8 of the final EIS. And that's what
6 we are looking through right now, is the final EIS, to
7 see some specific Sierra Club comments.

8 MEMBER HAMWAY: I don't mean to hold up
9 proceedings. So we can move on.

10 MS. RIETZ: Yes, they did comment and we did
11 respond.

12 CHMN. CHENAL: Member Woodall.

13 MEMBER WOODALL: Since I am looking at the tiny,
14 tiny, it'sy, bitsy print on that Table 8.1 with the
15 comments, if I wanted to search for a particular named
16 entity, are these in alphabetical order or date ordered,
17 or how are they put together?

18 MS. BELLAVIA: They are sorted -- originally
19 they were sorted by sort of how the comment, what
20 resource the comment was on, so sorted by resource
21 initially. But truthfully, based on some of the agency
22 revisions, that got a little wonky at times. So there
23 really actually is not an elegant way to search a paper
24 copy.

25 MEMBER WOODALL: I appreciate your telling me

1 that. I am up for some eye strain, so thank you very
2 much. At least I wouldn't have tried to look and
3 discern some logical order. Thank you, ma'am.

4 MR. GUY: And just -- I know it is not
5 convenient in this hearing, but the full exhibit, the
6 full EIS and full table is provided in electronic form
7 on the flash drives we distributed the first day, and we
8 do have paper copies to my left. But the electronic
9 copies can be word searched.

10 MEMBER WOODALL: So that's great. Thank you
11 very much.

12 CHMN. CHENAL: Member Noland.

13 MEMBER NOLAND: Yes, Mr. Chairman.

14 I appreciate that comment. The only problem is
15 I didn't bring my laptop, and my iPad doesn't have that
16 capability. So you taught us a lesson, to bring an
17 alternate source so we can do that. So it is not like
18 we don't want to, it is just we don't have that ability.
19 Some of us weren't smart enough to do that, being me.

20 MR. GUY: I understand. I learned a lesson as
21 well. Thank you.

22 If it makes sense, we could move on with
23 Ms. Rietz to the next part of her testimony, while
24 Ms. Bellavia searches to address the previous question.

25 CHMN. CHENAL: I think Member Hamway has

1 basically withdrawn the request offering specific Sierra
2 Club comments, and just --

3 I am going to say Madam Rietz. I have got it
4 all wrong. I have heard Miss, Mrs., Ms. I mean in
5 France it's mademoiselle or madam. So I am just going
6 to say Madam Rietz.

7 MS. RIETZ: Hey, you.

8 BY MR. GUY:

9 Q. Please describe what is shown on the screen at
10 Map 19 and Slide 36.

11 A. (BY MS. RIETZ) Yes. Map 19 is a map of the
12 areas of biological wealth in the vicinity or beyond the
13 vicinity of the project. So just to orient you, on
14 Map 19 we have the project coming in from the state line
15 from the east, as you have seen by now many times, going
16 down on the east side of Willcox Playa, then in a
17 different substation in the upgrade section.

18 So this map shows we have -- we have the yellow.
19 And to look at my notes here, the large yellow areas are
20 identified as potential linkage zones. The blue areas
21 are identified as important bird areas, and that would
22 be like Willcox Playa. That would be close, close to
23 the project.

24 Red is important riparian areas. And as you can
25 imagine, those would be linear along washes. And that

1 is something from Pima County. And you can see there is
2 no red here beyond east of the county, Pima County line.
3 All of the red is in Pima County. And they are long
4 linear -- along riparian corridors. And then also just
5 in Pima County, and that's in green, that's the
6 biological corridor management areas. So that's from
7 Pima County specifically.

8 Then in the insets, you have got at the top,
9 just so you can see a little bit better, the
10 Saguaro-Tortolita area, and then Vail down at the
11 bottom.

12 Q. Thank you.

13 And Ms. Rietz, what biological resources did you
14 identify along the CEC proposed route?

15 A. (BY MS. RIETZ) The biological resources were
16 studied and presented as Exhibit D to the application.
17 And we looked at, we used, which is common, we used D.E.
18 Brown's Biotic Communities of the Southwestern United
19 States and Northwestern Mexico to identify the biotic
20 communities that are in the project area. And we found
21 there are four. And they are the semidesert grassland,
22 Chihuahuan desert scrub, the Sonoran desert
23 scrub-Arizona upland subdivision, and Sonoran desert
24 scrub-lower Colorado River Valley subdivision.

25 Q. What conclusions did you reach on this

1 environmental factor?

2 A. (BY MS. RIETZ) When we looked at that, we
3 concluded there is no designated critical habitat in the
4 project area, and that the area, again, to be impacted
5 is a small portion of the larger, broader area that is
6 to be impacted, the vegetation communities and the
7 habitat that's present, and that the PCEMs and the
8 mitigation measures will minimize impacts to vegetation,
9 wildlife, and that they were not expected to be
10 significant.

11 CHMN. CHENAL: Member Woodall.

12 MEMBER WOODALL: Ms. Rietz, Mr. Guy asked you
13 about conclusions that you reached, and you said "we"
14 determined that. Was there a separate analytic process
15 in your review of the materials that were filed in the
16 EIS that you did for this particular siting case? And
17 if so, can you describe what you did? I mean you are
18 basically looking at your own work, right?

19 MS. RIETZ: Right, right.

20 MEMBER WOODALL: Okay.

21 MS. RIETZ: We took that original work for the
22 CEC. We took that original work. We looked for any --
23 if there is updates to any of the species list. We
24 looked for any updates to any other data that was
25 incorporated into our analysis for the CEC, and then we

1 focused on the CEC.

2 MEMBER WOODALL: May I ask, as part of your
3 analytic process did you review other applications for
4 CECs?

5 MS. RIETZ: Yes, we did.

6 MEMBER WOODALL: Any ones you can name in
7 particular?

8 MS. RIETZ: Yes. We reviewed the most recent
9 one, SunZia.

10 MEMBER WOODALL: Okay. Thank you, ma'am.

11 BY MR. GUY:

12 Q. We had moved to a map on Slide 38. Can you
13 please describe what this map shows?

14 A. (BY MS. RIETZ) Yes. This is the map of the
15 areas of biological resources that we looked at. This
16 is the same extent, if you will, as the other biological
17 map. So on the east we have got the line coming in from
18 the state going around Willcox Playa, then the different
19 substations in the upgrade.

20 And as far as colors, we have got the kind of
21 darker buff color here in the new build. And that is --
22 actually, that is where it's semidesert grassland. The
23 lighter buff here in the new build mostly, a little bit
24 in the upgrade, is Chihuahuan desert scrub, kind of a
25 gold color. That is mostly in the upgrade section.

1 That is Sonoran Desert scrub, the Arizona uplands
2 subdivision.

3 And then furthest to the west in the project
4 area is the Sonoran -- is the yellow. And that's the
5 Sonoran Desert scrub, lower Colorado River Valley
6 subdivision. And you can see that's on, the project
7 itself is in the furthest west at the Tortolita and the
8 interconnection.

9 Q. Thank you.

10 Please describe the potential impacts to
11 biological resources.

12 A. (BY MS. RIETZ) Yes. Summary of impacts would
13 be that there was 91 species that were reviewed, special
14 status species that were reviewed specifically for the
15 CEC. 75 were determined to have a potential to occur in
16 the project area.

17 And we did determine that there would be impact
18 on vegetation and wildlife resources. And those impacts
19 would be due to a few factors: vegetation removal,
20 habitat fragmentation and loss, collision with species
21 or crushing by vehicles, increase in invasive and
22 noxious weeds into an area, increase in noise and
23 vibration levels, which are affected by wildlife as
24 well, the potential for bird strikes to the transmission
25 lines, ground wires, and towers.

1 However, again, with the PCEMs that are applied
2 to the project, very many of them are to reduce
3 disturbance, to use areas that have been previously
4 disturbed, to not remove vegetation, unnecessarily to
5 remove vegetation, things like that. All of those, in
6 conjunction with the conclusion by the Fish and Wildlife
7 Service, the impacts would be very minor.

8 The next slide.

9 CHMN. CHENAL: Excuse me.

10 Member Woodall.

11 Excuse me.

12 MEMBER WOODALL: You have been describing
13 impacts, and I guess my question to you is: Did you
14 submit any proposed mitigation measures that are in the
15 certificate of environmental compatibility that was -- I
16 think it is Exhibit 21 -- submitted by Southline?

17 MS. RIETZ: The list of mitigation measures and
18 the PCEMs that we are referring to are a part of the
19 application.

20 MEMBER WOODALL: No, I am sorry, I wasn't clear.
21 And I apologize. It is dental issues. I just wanted
22 sympathy, that's all.

23 The applicant has submitted Exhibit 21, which is
24 a proposed form of certificate of environmental
25 compatibility, and in it, it contains certain

1 environmental conditions. And I guess my question to
2 you is: Did you submit any of these conditions, or were
3 you consulted as it relates to these conditions? Or
4 have you even seen the proposed CEC?

5 MS. RIETZ: Any conditions in addition to the
6 PCEMs?

7 MEMBER WOODALL: Yeah. I am talking about just
8 the proposed certificate of environmental compatibility.
9 There are certain conditions in there, and I want to
10 know what role, if any, you or Ms. Bellavia had in
11 preparing or recommending these environmental
12 conditions.

13 MS. RIETZ: I did, I reviewed them, yes.

14 MEMBER WOODALL: Okay. Did you review them
15 after they were drafted, or did you provide input into
16 their presentation?

17 MS. RIETZ: Both. I mean I did both. We
18 provided input and we reviewed and helped with any
19 revisions that were needed.

20 MEMBER WOODALL: Can you name any of these
21 conditions in particular that you recommended?

22 MR. GUY: Just if I may, for the record, you
23 probably have an exhibit book in front of you. We are
24 looking at Tab 21, and the list of conditions starts on
25 page 6 of that exhibit.

1 MEMBER WOODALL: And let me just explain why I
2 am asking. There was testimony that it was a law firm
3 that prepared the application, and my assumption was
4 that the law firm prepared the form of CEC. So I am
5 trying to get a sense of whether or not any of your
6 recommendations were incorporated into this proposed
7 form of CEC or not. That's why I am asking the
8 question.

9 MS. RIETZ: The review of the document, yes. As
10 we reviewed, the conditions and things that we
11 recommended, yes, were incorporated.

12 MEMBER WOODALL: So you made specific
13 recommendations about environmental conditions to be
14 included in the form of CEC which is attached, submitted
15 as Exhibit 21?

16 MS. RIETZ: Yes. I don't recall exactly which
17 recommendations, but yes.

18 MEMBER WOODALL: Thank you very much, ma'am. I
19 appreciate that. I am sorry I had to belabor it.

20 BY MR. GUY:

21 Q. Ms. Rietz, you were going through the potential
22 impacts you have identified, and I think you were also
23 talking about potential PCEMs to mitigate those impacts.
24 And so we have put both slides up there. If you are
25 finished with that discussion, that's fine; I wasn't

1 sure where you were.

2 A. (BY MS. RIETZ) Well, this particular slide I
3 just wanted to point out, and they are actually in the
4 PCEM table, many of these. And like I mentioned before,
5 the PCEMs are sorted by resource.

6 And some of the specific ones that refer to that
7 would help with the biological resources we have under
8 vegetation, which is on page B-14.108 in your PCP table.
9 It is, vegetation starts at the bottom of the page,
10 continues to the next page, 109, and on to the following
11 page, which is B-14.110. And then for wildlife, there
12 is specific PCEMs for wildlife. Those start on
13 page B-14.111. And they continue on the full following
14 page, B-14.112 and on into B-14.113.

15 So you can see there is many, many, many PCEMs
16 to address plant and wildlife, vegetation and wildlife.
17 Some of them, just to kind of give an example, is, I
18 mentioned previously, the noxious weed plan,
19 specifically to avoid disturbance to vegetation, to
20 minimize the vegetation removal, to implement a plant
21 and wildlife species conservation plan, an aviation
22 protection plan, and then, of course, what you have
23 heard quite a bit is the funding of the moving,
24 relocation of Crane Lake.

25 BY MR. GUY:

1 Q. Thank you, Ms. Rietz.

2 Let's move to the next environmental factor, the
3 historic sites and structures and archeological sites.
4 Please describe the analysis you conducted for the CEC
5 proposed routes with respect to that, those features.

6 A. (BY MS. RIETZ) Yes. That analysis was done
7 specifically for a CEC and presented as Exhibit E-2.
8 And we looked at the previously conducted archeological
9 surveys. And that is provided -- and we focused that
10 specific for the CEC project. And those surveys within
11 the study area are in Exhibit E, Table E-1 to the
12 application. And we also looked at the previously
13 recorded. So we looked at the conducted surveys and
14 then the previously recorded sites. Those are presented
15 in Table E-2, Exhibit E of the application.

16 And so the analysis actually included looking at
17 all the archeological records. We did a records search.
18 And we found that 24 percent of the area within the
19 study area, or it is called area of potential effect,
20 that 24 percent of that has been previously surveyed.
21 And according to the programmatic agreement, which has
22 been mentioned by several others, that all of,
23 100 percent of the project area will need to be surveyed
24 before any construction can begin.

25 CHMN. CHENAL: Thank you.

1 Member Woodall.

2 MEMBER WOODALL: In connection with your
3 evaluation of historic sites and archeological sites
4 analysis, what role, if any, did the State Historic
5 Preservation Office have in connection with review?
6 Were they a participating agency?

7 MS. RIETZ: Yes. During the EIS process, yes,
8 they were. They have like an entire committee. I am
9 going to let Cara -- she is an archeologist and she
10 knows all the nuances.

11 MEMBER WOODALL: Oh, I am going to ask her where
12 I can find the best pot shards.

13 MR. BELLAVIA: I am a recovering archeologist.

14 The State Historic Preservation Office was
15 consulted per Section 106 of the National Historic
16 Preservation Act in developing the programmatic
17 agreement. They are a signatory to that agreement, as
18 is the advisory council on historic preservation in this
19 case. So yes, they were involved.

20 MEMBER WOODALL: Thank you, ma'am.

21 MEMBER BINGHAM: Mr. Chairman.

22 CHMN. CHENAL: Member Bingham.

23 MEMBER BINGHAM: Just a point of clarification,
24 make sure I understood earlier testimony. Part of that
25 process is where you had of the Tribal consultations to

1 ensure we weren't disturbing any Tribal historical,
2 cultural?

3 MS. RIETZ: The consultation to what needs to be
4 done when construction occurs, that was all during the
5 EIS process, yes. The agreement on what is going to be
6 done is the programmatic agreement. And there is many
7 signatories in that programmatic agreement. And then
8 that spells out specifically what is to be done to avoid
9 or minimize the impacts to the historical or
10 archeological sites.

11 MS. BELLAVIA: If I could add to answer, your
12 question, yes, that's when the Tribes were consulted in
13 developing the programmatic agreement.

14 MEMBER BINGHAM: Thank you.

15 BY MR. GUY:

16 Q. Ms. Rietz, please describe the programmatic
17 agreement.

18 A. (BY MS. RIETZ) Okay. So the programmatic
19 agreement looks at, as I mentioned, it is going to
20 require 100 percent of the project area be surveyed
21 before construction -- and that's what is called a
22 Class III level of survey, where the archeologists
23 actually walk the site -- and then, if there is any
24 potential effects to individual historic properties,
25 that they will be assessed in consultation with the

1 Arizona Historic Preservation Office, SHPO, as mentioned
2 with Member Woodall, any of the appropriate Tribes, or
3 any other interested parties that were named in the
4 programmatic agreement, and that all measures to avoid
5 and minimize and mitigate adverse effects will be
6 developed in consultation with those parties.

7 And avoidance is definitely the preferred
8 method. But if there are impacts that cannot be avoided
9 because of the project, then any mitigation is going to
10 be outlined in a historical properties treatment plan.

11 Q. Thank you, Ms. Rietz.

12 Would you identify any special factors that were
13 considered in the CEC application.

14 A. (BY MS. RIETZ) Yes. We did look at special
15 factors that are relevant for the Committee members to
16 make an informed decision. There was several.

17 First, which you have heard about from others,
18 the design philosophy that Southline has used throughout
19 the project, and that is paralleling existing linear
20 features on the landscape, minimizing -- when you do
21 that, you have a greater opportunity to minimize land
22 and environmental impacts. And as we attested to before
23 with different witnesses, that 98 percent of the Arizona
24 portion of the project parallels existing linear
25 features of some sort.

1 Q. Thank you.

2 Were there any other special factors considered?

3 A. (BY MS. RIETZ) Yes. That's the relocation of
4 Crane Lake. As I mentioned, that is a positive impact,
5 actually. That was through quite a bit of negotiation
6 with the Arizona Game & Fish to offset impacts to the
7 wildlife area.

8 The actual mitigation that is in the PCEMs, and
9 that was agreed to with the Game & Fish, is to fund the
10 relocation of Crane Lake away from the proposed project,
11 fund riparian emergent wetlands along Kansas Settlement
12 Road, and fund the management of nonnative vegetation in
13 that area. And as other witnesses have said, Southline
14 and Game & Fish have entered into a memorandum of
15 agreement for these.

16 CHMN. CHENAL: Member Woodall.

17 MEMBER WOODALL: Ma'am, I see on the Slide 43
18 there is a header there, Southline design philosophy.
19 Can you tell me how that was developed?

20 As a philosophy major, I am sure it has no
21 bearing on my college studies. But how was it
22 developed?

23 MS. RIETZ: My understanding of it all is when
24 Southline first started working on the project, well
25 before we were in it, and as some of their witnesses

1 spoke about the other day, from the beginning their
2 design philosophy was to locate as much of the project
3 as they could along linear features to allow them to
4 have the most minimal amount of land disturbance as
5 possible.

6 MEMBER WOODALL: But this design philosophy was
7 nothing that you helped to develop?

8 MS. RIETZ: No.

9 MEMBER WOODALL: Okay.

10 MS. RIETZ: That was before.

11 MEMBER WOODALL: Thank you, ma'am.

12 MS. RIETZ: I just wanted to -- my colleague,
13 Cara, just pointed out that in Southline's routing
14 report, which is Exhibit 27, their design philosophy is
15 outlined in that as well.

16 MR. GUY: Thank you, Ms. Rietz.

17 Mr. Chairman, that concludes our prepared
18 questions for this panel. We owe you, I think, some
19 additional information, and we are prepared to do that
20 Monday morning, I think would be the plan. But that's
21 the end of our presentation.

22 CHMN. CHENAL: Yes, Member Woodall, then I will
23 respond.

24 MEMBER WOODALL: I understand that some of this
25 information is in response to some questions that I have

1 asked with respect to prior communications, et cetera.
2 And I do know that there is a listing of the number of
3 meetings that Southline had in 2011. I see that's in
4 the application.

5 To the extent that the applicant has readily
6 available any presentation materials that it used in
7 these meetings, that would be very helpful to me. So I
8 just wanted to add that to your pile of documents for
9 you to review. Thank you.

10 CHMN. CHENAL: All right. Very fine.

11 Let's talk about next week in Willcox for a
12 moment. We will reconvene at 9:00 a.m. on Monday with
13 additional witnesses and follow-up items, information
14 that has been requested from the Committee. And we will
15 do that Monday morning, and maybe into the afternoon, if
16 necessary.

17 Then we will begin deliberation on the --
18 deliberation, normally we would do deliberation after we
19 close the case. But I think in this case, we will just
20 take it out of order and begin discussion on the CEC and
21 the conditions and things like that.

22 And then Tuesday morning we will have the tour.
23 Tuesday afternoon we will use, as necessary, to continue
24 discussion on the CEC conditions. We may need some time
25 there. But I know Member McGuire will not be available

1 to hear those and very much wants to be a part of the
2 decision-making process. So regardless of what we do
3 Tuesday, we will continue to Wednesday and have
4 additional discussion on the CEC, and then we will vote
5 and finish the matter on Wednesday.

6 So a couple items. Number one, after the tour,
7 if there are questions that arise of the environmental
8 panel, Madam Rietz and Madam Bellavia, will they be
9 available to answer any questions that come up because
10 of that tour? That's the first question.

11 MR. GUY: Yes.

12 CHMN. CHENAL: Okay. Number one.

13 Number two, and I have had discussions with
14 Mr. Guy about this, I am going to be sending Mr. Guy
15 today -- I want this on the record -- an e-mail. And I
16 will copy the intervenors. Yes, it will ultimately be
17 filed. But the e-mail will address additional CEC
18 conditions in other cases I would like to see added to
19 the proposed CEC of the applicant.

20 And I would like it in track change format so
21 that it will be clear the ones that I am asking to be
22 added with obvious changes. For example, SunZia would
23 become Southline or whatever. And there are some that I
24 actually don't have the -- that are maybe not from
25 previous cases, and I have told Mr. Guy I will utilize

1 modern technology and take pictures of it with my iPhone
2 and send it to him, which will have the information of
3 the language there. And then we can have those for
4 discussion then on Monday.

5 Question was I will be sending my request for
6 CEC conditions to the intervenor counsel as well,
7 Mr. Jackson, and, you know, the attorneys for IEDA,
8 although they really haven't participated.

9 Then when we come back, and I expect there may
10 be some additional conditions that some members may
11 have, but at least we will have a lot of the conditions
12 in a format to take care of Member Noland's concerns,
13 which I think were very legitimate in the last case,
14 that we will have ready and on hand Monday to start the
15 review process.

16 Member Noland.

17 MEMBER NOLAND: Thank you, Mr. Chairman.

18 I was looking in my mass of paperwork for the
19 proposed CEC, and I can't find mine. And I really would
20 like to have it to go over over the weekend before
21 Monday. So if you have an extra copy or whatever, I
22 will hang around for a little while, but I really would
23 like to have that, because I have got so much paperwork
24 that I just can't put my fingers on it.

25 MR. GUY: We do have extra copies and we will

1 provide that to you.

2 MEMBER NOLAND: Thank you.

3 CHMN. CHENAL: And I believe maybe some other
4 members. I don't know, is it in the exhibit book? Is
5 it a particular exhibit number?

6 MR. GUY: It is Exhibit 21. So in the
7 three-ring binders. So it should be --

8 CHMN. CHENAL: Exhibit 21. The exhibit binder
9 is --

10 MR. GUY: Volume 2.

11 CHMN. CHENAL: Volume 2.

12 MEMBER NOLAND: Volume 2, thank you.

13 CHMN. CHENAL: All right. So anything further
14 on that, on the --

15 Okay, Member Woodall.

16 MEMBER WOODALL: I was just thinking that
17 Mr. Jackson, whether he wanted to -- when did he want to
18 deliver his closing argument, whether he was
19 anticipating proceeding, I mean appearing at the
20 proceedings in Willcox.

21 MR. JACKSON: I am on Monday. Certainly I would
22 like to participate in the deliberation. I can play it
23 by ear as to how long I need to stay for that. So yes,
24 that would be ideal if I could do it. I can do it on
25 Monday, certainly, or Tuesday if need be.

1 MEMBER WOODALL: I am just looking to lower
2 legal fees for your client, so...

3 MR. JACKSON: If there was a way to participate
4 in deliberations and not be in Willcox, I would love to,
5 but that doesn't seem to be practical given the way this
6 has played out.

7 CHMN. CHENAL: And thank you, Member Woodall,
8 because I also -- I forgot, neglected to add that after
9 the close of any witness testimony on Monday, at least
10 with the additional witnesses, and I understand that
11 after the tour there may be some additional questions,
12 but we will have an opportunity after that late Monday
13 afternoon, morning or afternoon, I will hear final
14 comments from counsel at that time before we begin the,
15 you know, discussion about the CEC conditions.

16 Member Noland.

17 MEMBER NOLAND: Thank you, Chairman.

18 Mr. Jackson, if there was some kind of visual,
19 just for my own curiosity, and I know it is not in the
20 new build, but how the line runs through the development
21 and how much footage you have on either side of that
22 right-of-way before development, I would appreciate
23 that, just to serve me --

24 MR. JACKSON: Right.

25 MEMBER NOLAND: -- and my curiosity.

1 MR. JACKSON: Right. We will work on that. Is
2 there a mechanism to e-mail that such that it gets to
3 you over the weekend, or would Monday be okay?

4 MEMBER NOLAND: I think Monday would be fine. I
5 just would like some kind of visual.

6 MR. JACKSON: I will bring some on Monday.

7 MEMBER NOLAND: Thank you, Mr. Chairman.

8 Thank you, Mr. Jackson.

9 MEMBER WOODALL: Mr. Jackson, thank you.

10 When you filed your motion to intervene and
11 request for party designation, you also filed a notice
12 of limited appearance, statement of interest, and
13 statement of position. Do you have the diagrams that
14 would meet the description of what Member Noland has
15 asked for, are they in your application here.

16 MR. JACKSON: Well, I looked at that actually
17 last night with that same question in mind. I was out
18 of town the day that got filed.

19 But the short answer is I am not sure it is
20 abundantly clear where the easement lies. There is a
21 description of the subdivision and where it sits, but
22 the easement, because of the size of the exhibit, it is
23 very hard to see. So that's why I will try and bring on
24 Monday something that's expanded and shows that easement
25 location.

1 MEMBER WOODALL: Thank you. Thank you, sir.

2 CHMN. CHENAL: Anything else from counsel?

3 MR. JACKSON: One other question just for my own
4 clarification. As I understood, and I can't remember if
5 it is comments from the Chairman or when we started, but
6 procedurally, am I correct that our statement of
7 position is actually part of the record?

8 CHMN. CHENAL: Yes.

9 MR. JACKSON: That's what I thought.

10 CHMN. CHENAL: Yes. Your motion to intervene
11 was granted and your statement of position was admitted
12 as an exhibit.

13 MR. JACKSON: Okay.

14 MEMBER WOODALL: And I have a question. I know
15 that the applicant was kind enough to make a print copy
16 of the final EIS, and I just wanted to know if I could
17 purloin one of those copies to take with me.

18 MR. GUY: Of course.

19 MEMBER WOODALL: Thank you, sir.

20 CHMN. CHENAL: All right. Anything else?

21 (No response.)

22 CHMN. CHENAL: All right. Let's recess for
23 Friday, and we will see everybody in Willcox on Monday
24 starting at 9:00 a.m. Thank you.

25 (The hearing recessed at 12:16 p.m.)

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2 COUNTY OF MARICOPA)

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