

1 BEFORE THE POWER PLANT AND
2 TRANSMISSION LINE SITING COMMITTEE

3 IN THE MATTER OF THE APPLICATION OF) DOCKET NO.
4 SOUTHLINE TRANSMISSION, L.L.C., IN) L-00000AAA-
5 CONFORMANCE WITH THE REQUIREMENTS OF) 16-0370-00173
6 ARIZONA REVISED STATUTES 40-360, ET)
7 SEQ., FOR A CERTIFICATE OF)
8 ENVIRONMENTAL COMPATIBILITY)
9 AUTHORIZING CONSTRUCTION OF THE NON-)
10 WAPA-OWNED ARIZONA PORTIONS OF THE)
11 SOUTHLINE TRANSMISSION PROJECT,) CASE NO. 173
12 INCLUDING A NEW APPROXIMATELY 66-MILE)
13 345-KV TRANSMISSION LINE IN COCHISE)
14 COUNTY FROM THE ARIZONA-NEW MEXICO)
15 BORDER TO THE PROPOSED SOUTHLINE)
16 APACHE SUBSTATION, THE ASSOCIATED)
17 FACILITIES TO CONNECT THE SOUTHLINE) VOLUME V
18 APACHE SUBSTATION TO THE ADJACENT) (Pages 658 - 907)
19 AEPSCO APACHE SUBSTATION, AND)
20 APPROXIMATELY 5 MILES OF NEW 138-KV)
21 AND 230-KV TRANSMISSION LINES AND)
22 ASSOCIATED FACILITIES TO CONNECT THE)
23 EXISTING PANTANO, VAIL, DEMOSS)
24 PETRIE, AND TORTOLITA SUBSTATIONS TO)
25 THE UPGRADED WAPA-OWNED 230-KV)
APACHE-TUCSON AND TUCSON-SAGUARO)
TRANSMISSION LINES IN PIMA AND PINAL)
COUNTIES.)

17 At: Willcox, Arizona
18 Date: December 5, 2016
19 Filed: December 12, 2016

20 REPORTER'S TRANSCRIPT OF PROCEEDINGS

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23 Court Reporting, Video & Videoconferencing
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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 Willcox Community Center, 312 West Stewart Street,
5 Willcox, Arizona, commencing at 9:12 a.m. on the 5th 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
JIM PALMER, Counties, Appointed Member
13 MARY HAMWAY, Cities/Towns, Appointed Member
JACK HAENICHEN, Public Member
14 PATRICIA NOLAND, Public Member

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

17 APPEARANCES:

18 For the Applicant:

19 SUTHERLAND ASBILL & BRENNAN, L.L.P.
By Mr. James Guy
20 Ms. Marty Hopkins
One American Center
21 600 Congress Avenue, Suite 2000
Austin, Texas 78701

22 and

23 OSBORN MALEDON, P.A.
24 By Ms. Meghan Grabel
2929 North Central Avenue, 21st Floor
25 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. Thanks for coming to Willcox for resumption
3 of the Southline hearing. We were in Tucson last week,
4 and we will be in Willcox. We anticipate concluding
5 this hearing on Wednesday.

6 We will have some witnesses this morning, lunch,
7 and in the afternoon, we had discussed taking up
8 preliminary -- beginning discussions on the CEC and the
9 conditions.

10 I had asked Mr. Guy to prepare a set of
11 conditions with additional language that I had
12 requested, which I understand has been done.
13 Mr. Jackson has also submitted some conditions and some
14 recommended changes to existing conditions, and ones
15 that I had submitted. So I would ask if you could pass
16 copies of those out to the Committee at some break
17 during the morning, and then we will begin that
18 discussion this afternoon.

19 I don't -- we won't finish that. If we could
20 finish, I don't want to, even if we are close, because
21 tomorrow we have the tour. We will come back after the
22 tour and see if there is any follow-up questions based
23 on what we saw. We will probably have some downtime
24 tomorrow afternoon and finish Wednesday, because Member
25 McGuire will be back and we can deliberate and finalize

1 the process on Wednesday. And we will make sure we
2 finish it Wednesday, and we will use as much of today
3 and tomorrow to make sure we finish on Wednesday, but I
4 anticipate we will make a lot of headway between today
5 and tomorrow as necessary to kind of get through the
6 process of the language for the conditions.

7 And just to remind the parties and the
8 intervenors, the parties, the way we do it is we kind of
9 go through the language paragraph by paragraph, and we
10 vote on that. And probably that will have to be a
11 little different with Member McGuire gone, but maybe we
12 can come up with language we are comfortable with and
13 then go through the final process on Wednesday with
14 Member McGuire to kind of approve the language, but we
15 go through paragraph by paragraph, and we vote up or
16 down on the CEC. So I am very confident we will be
17 completed with the process Wednesday with no problem.

18 But I think, I think this morning we will have a
19 panel of four witnesses.

20 Do Mr. Guy and Mr. Jackson, do you have anything
21 to add?

22 I will ask if the Committee has any questions
23 before I turn it over to you.

24 Any Committee member have any questions?

25 This microphone is much better than in Tucson.

1 I am probably -- we are all used to getting right up
2 there.

3 MEMBER WOODALL: Chairman, Chairman.

4 CHMN. CHENAL: Yes, Member Woodall.

5 MEMBER WOODALL: I realize you were looking in
6 the other direction, which is why I took the liberty of
7 speaking your name.

8 Are we anticipating the close of evidence would
9 be at the conclusion of the tour and then any
10 additional, is that when --

11 CHMN. CHENAL: Yes. I know it is a little out
12 of order because we will be discussing the conditions
13 before the tour. But I just, I think that's the right
14 way to proceed at this point.

15 MEMBER WOODALL: Okay. I just wanted that on
16 record. Thank you.

17 CHMN. CHENAL: Member Noland.

18 MEMBER NOLAND: I just have a real easy
19 question. Could we shut the door? My feet are
20 freezing. At least, I mean you could leave it cracked,
21 but it is kind of cold out there. Thank you.

22 CHMN. CHENAL: All right. Any further questions
23 or matters to be raised by the Committee?

24 Mr. Jackson, let's start with you.

25 MR. JACKSON: I just want to point out I did

1 bring one exhibit.

2 MEMBER HAENICHEN: I can't hear.

3 MR. JACKSON: Is that better?

4 CHMN. CHENAL: You know, Mr. Jackson, if you use
5 the other microphone, these are good microphones, just
6 move that over, I think it will be better.

7 MR. JACKSON: How is that? Am I on?

8 This is a pretty short comment so I will just
9 lean over. I just want to point out I did bring an
10 exhibit with some maps in response to Member Noland's
11 request on Friday. So whenever it is convenient, I can
12 pass that out. It has already been marked.

13 CHMN. CHENAL: Okay. Thank you very much.

14 Member Haenichen.

15 MEMBER HAENICHEN: Mr. Chairman, at some point
16 in the proceedings I would like an opportunity, I have
17 to ask a couple of technical questions of the applicant,
18 so you might tell me when that would be.

19 CHMN. CHENAL: They will welcome that
20 opportunity, Mr. Haenichen. Certainly. After the panel
21 today, if those aren't the correct people to ask the
22 technical questions, I am sure that the Southline can
23 bring back whoever they need to answer your questions.
24 Of course we will do that.

25 MEMBER HAENICHEN: Thank you.

1 CHMN. CHENAL: Mr. Guy. Or Ms. Hopkins.

2 MS. HOPKINS: Thank you, Mr. Chairman. We have
3 a couple of housekeeping matters just this morning.
4 Your exhibit binders are behind you on the stage if you
5 need to reference those.

6 Also, we should have several jet packs that you
7 are able to get on the wi-fi through. And if you are
8 having any trouble, if you could please just, I guess,
9 raise your hand and let Janet come and -- it looks like
10 Committee Member Noland is having trouble. Let me see
11 if we can get her on the wi-fi. Thank you.

12 Then another housekeeping matter, Mr. Chairman,
13 Colette and I had an opportunity to look at the exhibit
14 list, and there are a handful of exhibits that we want
15 to make sure that we have cleaned up and are clearly in
16 the record.

17 CHMN. CHENAL: We will, we can do that now if
18 you would like. We were not going to finish the hearing
19 without going through every exhibit and making sure they
20 are all in evidence.

21 MS. HOPKINS: Okay, we can wait.

22 CHMN. CHENAL: But we won't forget to do that.
23 There might be something else that comes, Mr. Jackson's
24 exhibit.

25 I am happy to note my list and Colette's list

1 were in sync.

2 MS. HOPKINS: Ours, too.

3 CHMN. CHENAL: All right. Very good.

4 MS. HOPKINS: So with that, we will call our
5 follow-up panel, and that will be Cara Bellavia, Doug
6 Patterson, Bill Kipp, and Matt Virant.

7 CHMN. CHENAL: All right. And when they are
8 walking up, while they are walking up, let me ask if we
9 have any public comment, anyone in the audience that
10 would like to provide public comment. Let's do that now
11 as a courtesy to the people who showed up, if there is
12 any.

13 (No response.)

14 CHMN. CHENAL: And let me also remind at 6:00
15 p.m. this evening we reconvene here for public comment,
16 if there are anyone that wants to give public comment at
17 6:00 p.m.

18 Member Woodall.

19 MEMBER WOODALL: I would ask that if the
20 applicant has additional exhibits that it intends to
21 introduce, it would be helpful to have them before the
22 witness starts talking about them. And I don't mean
23 like 60 seconds before. So that would be helpful to me.
24 Thank you.

25 CHMN. CHENAL: Okay. It doesn't look like there

1 is anyone here for public comment.

2 So, Ms. Hopkins, please proceed.

3 MS. HOPKINS: Thank you, Mr. Chairman.

4 As I mentioned before, this is a follow-up panel
5 just to -- an attempt to address all of the questions
6 that were raised by Committee members that we didn't
7 have immediate answers for. So I would like -- so it is
8 a little disjointed, but hopefully we address all of
9 your concerns.

10

11 CARA BELLAVIA, DOUG PATTERSON, BILL KIPP, and

12 MATT VIRANT,

13 called as witnesses, having been previously duly sworn
14 by the Chairman to speak the truth and nothing but the
15 truth, were examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MS. HOPKINS:

19 Q. The first topic I would like to cover is the
20 linear corridors and land ownership. We have on the
21 left projector a table from Mr. Patterson's earlier
22 presentation that outlines the linear mileage of the
23 project.

24 We have heard testimony that approximately
25 98 percent of the project in Arizona parallels or

1 upgrades existing linear corridors. Some of the
2 Committee members requested additional information
3 regarding the 2 percent, approximately 2 percent of the
4 project not in Arizona, not paralleling or upgrading
5 linear corridors.

6 Mr. Patterson, could you please walk us through
7 the section of the project specifically highlighting the
8 segments that are not paralleling or upgrading existing
9 linear corridors.

10 A. (BY MR. PATTERSON) Certainly. So just to back
11 up and just give the overall, we were talking about,
12 when the question came up, on the left-hand side is just
13 a slide that was presented previously, my testimony that
14 broke out the mileage of the project, both for the total
15 project as well as for the portion in Arizona, and more
16 specifically here at the top for the CEC portion.

17 And as discussed, the CEC application is for
18 approximately 71 miles. Approximately two miles of that
19 is not following some type of existing linear corridor.
20 And there was a question about where that would be, and
21 also some general questions, I believe, just to total
22 land ownership, et cetera, which I would like to give a
23 little more color on.

24 The map on the right-hand side is the Arizona
25 portion of the project, the CEC new build, as we have

1 discussed before, from the border to Apache. And there
2 is a land ownership background in this map, which,
3 again, in yellow is BLM land, and primarily it is BLM
4 land from the border to approximately the point where
5 the route would cross I-10. And then there is a mixture
6 of state and private lands from that point until it
7 reaches Apache. And we will look to provide a little
8 more detail on that in a moment.

9 Specifically with respect to the question of
10 where are the portions of the project that do not
11 parallel an existing infrastructure, I would like to, if
12 it is possible, Ms. Livingston, if we could bring up the
13 maps from Exhibit A-3 to the application. And if you
14 could walk through some of those maps, that would help
15 clarify.

16 So there is basically, if you recall, on the
17 left-hand side you will see that there is approximately
18 a mile of private land that doesn't follow an existing
19 corridor, and approximately a mile of state land that
20 doesn't follow a linear corridor. And I would just like
21 to point out where those are.

22 The map on the right is from the application.
23 This is the existing land use map. And this is probably
24 the best map that's available that we have to show where
25 other existing corridors are with respect to where the

1 proposed route is.

2 This is Apache, which will be part of our tour
3 that you discussed before. And you can see some other
4 linear corridors here, including gas pipelines as well
5 as existing transmission line. This is the AEPCO 230kV
6 line that comes down into Apache. This is the route
7 where the Southline would be paralleling, this line, and
8 would be paralleling the 230kV transmission line into,
9 as it makes it approach into Apache.

10 There is a small segment here, less than a mile,
11 which would connect that Southline route to the proposed
12 Southline Apache facility area. And we will drill into
13 that in a little more detail in a moment, but just to
14 show you, this is part where it doesn't parallel an
15 existing corridor.

16 And then Ms. Livingston, if we could forward to
17 the next couple of these existing land view maps, we can
18 show the balance.

19 This just continues heading north from Apache.
20 And the Southline route would continue to parallel the
21 AEPCO 230 transmission line as it goes to the east of
22 the Willcox Playa, and would be following existing
23 transmission for this entire segment.

24 Can we go to the next slide.

25 CHMN. CHENAL: Member Woodall.

1 MEMBER WOODALL: Excuse me. I am having
2 difficulty locating the materials in the application,
3 unless I misunderstood where they are. Are they behind
4 Tab A?

5 MS. HOPKINS: Yes, Member Woodall, but behind
6 Tab A at A-3, Exhibit A-3 to the application.

7 MR. PATTERSON: While we are pulling that map
8 up, just to explain, try to show you --

9 MEMBER WOODALL: Oh, I see.

10 MR. PATTERSON: -- essentially the line
11 parallels the existing 230kV line in that north to south
12 direction as it approaches Apache. There is a turn in
13 the route where it heads east-west coming in from the
14 New Mexico border. That portion from the New Mexico
15 border to that turn is paralleling a gas pipeline.

16 And then the north-south direction is
17 paralleling the 230kV transmission line I mentioned.
18 The point where the route makes that turn, there is a
19 pipeline, you know, somewhat parallel. But there are
20 private lands in the area, so it is probably not fair to
21 say that that portion is paralleling. It is, but there
22 is a wider degree, it is less than a mile, and really
23 the -- so the sum of that turn where the route is
24 bending from following the pipeline to following the
25 transmission line and the access point from the route

1 into the proposed Southline Apache facilities that
2 comprises this mile that is not following an existing
3 transmission corridor.

4 And then --

5 CHMN. CHENAL: Excuse me, Mr. Patterson. Can we
6 have the map?

7 MS. HOPKINS: We seem to be having some
8 technical difficulty.

9 CHMN. CHENAL: No problem.

10 MR. GUY: Ms. Livingston is --

11 CHMN. CHENAL: She is very good. Give her the
12 time she needs.

13 MR. PATTERSON: There we go. So just for frame
14 of reference, this detail, this map, again, this is an
15 existing land use map. It has existing linear
16 infrastructure. On the right-hand side of this map the
17 proposal would be to follow a pipeline coming in from
18 the east. And then this is the existing transmission
19 line that the route would follow.

20 There is, as you can see here -- it might be
21 difficult to see. There is a pipeline also roughly
22 parallel to where the Southline route is, but really not
23 counting that as, you know, in that overall parallel
24 just because it is not directly adjacent, if you will.

25 MEMBER HAENICHEN: What is in that area? What

1 does the terrain look like?

2 MR. PATTERSON: So in terms of the land
3 ownership or --

4 MEMBER HAENICHEN: Structures.

5 MR. PATTERSON: So this, I believe -- I don't
6 have the detail, the zoomed in map, but I believe this
7 is mostly private land. But there is a fair amount of
8 state land in and around here as well.

9 I think I will have a better map to show on that
10 in a moment.

11 And then continuing eastward, the route would
12 continue to follow a gas pipeline as you approach Bowie,
13 and follow that pipeline to the south side of Bowie.
14 And continuing to head east, and really I guess from a
15 linear corridor perspective, I don't know that we need
16 to look at the rest of the maps, but it would
17 essentially parallel the pipeline for the duration of
18 the route to the New Mexico border.

19 CHMN. CHENAL: Let me just ask to confirm what
20 exhibit number we are looking at on the screen so the
21 record is clear.

22 MS. HOPKINS: Yes. I believe that's Exhibit A-3
23 to the application.

24 CHMN. CHENAL: Thank you. Excuse me.

25 Member Woodall.

1 MEMBER WOODALL: I am sorry. So this map,
2 Figure A-3D is on page A-13 of the application, is that
3 correct?

4 MS. HOPKINS: Yes, Member Woodall.

5 MEMBER WOODALL: Thank you, ma'am.

6 CHMN. CHENAL: Thank you.

7 MR. PATTERSON: Actually, Ms. Livingston, if you
8 would continue to go forward, I believe this will also
9 show -- I am sorry. Could you go back one, please.
10 Thank you.

11 Okay. So this may be a little difficult to see,
12 but on the right-hand side should be Pantano, as you
13 recall, which is an AEPCO.

14 CHMN. CHENAL: Let's have the exhibit number,
15 but, I am sorry, for the record. Hard to recall all
16 this.

17 MR. PATTERSON: This is a continuation of the
18 same A-13 of the application.

19 CHMN. CHENAL: It is page A-16 on the screen we
20 are looking at.

21 MR. PATTERSON: Okay, sorry.

22 So this map shows the Pantano station location
23 with existing infrastructure, the existing, this
24 location, existing WAPA line alignment as well as
25 AEPCO's 230kV line. Pantano is AEPCO's substation, and

1 as discussed previously, the proposal is to tie in
2 Pantano to the upgraded WAPA line.

3 The tying in of the Pantano facilities, as I
4 think Mr. Rawlins described, but just to be clear, this
5 short, less than mile segment really wouldn't be
6 paralleling directly existing infrastructure, although
7 you can see there is a lot of infrastructure in the
8 area. And this is all state lands, but I think we will
9 show land ownership with a little more detail in a
10 moment.

11 So that's basically the summary answer to the
12 question of where is the portions of the project that do
13 not parallel existing infrastructure.

14 BY MS. HOPKINS:

15 Q. Thank you, Mr. Patterson.

16 I would now like to show more detailed land
17 ownership maps around the CEC substation in response to
18 a request from Member Noland. Do you have those with
19 you today?

20 A. (BY MR. PATTERSON) Yes, I do.

21 Q. And can you identify for the record what this
22 exhibit is marked?

23 A. (BY MR. PATTERSON) This exhibit is marked
24 STL-32.

25 MS. HOPKINS: Thank you.

1 And you should have a copy of these at your
2 seats, Committee. STL-32, again for the record, is CEC
3 substation land ownership maps.

4 And, Mr. Chairman, Southline offers Exhibit 32
5 into the record.

6 CHMN. CHENAL: STL-32 is admitted.

7 (Exhibit STL-32 was admitted into evidence.)

8 MS. HOPKINS: Thank you.

9 BY MS. HOPKINS:

10 Q. Mr. Patterson, can you please walk us through
11 these maps.

12 A. (BY MR. PATTERSON) Certainly.

13 Ms. Livingston, is it possible to zoom in on the
14 left-hand side map by chance? And maybe scroll down a
15 little, please.

16 So we are looking at some maps that are trying
17 to highlight land ownership in and around the substation
18 facilities. There was some questions around what does
19 the land ownership look like.

20 The first one I would like to talk about on the
21 left-hand side is the area around Apache. So what we
22 are looking at here, the larger shape is the study area
23 that Mr. Rawlins had described. The study area we
24 looked at was roughly 180 acres. The amount of land
25 that would actually be needed would be more like 60

1 acres.

2 The breakdown of the ownership in this 180 acre
3 study area is approximately 100 acres of private land
4 shown in white, and 80 acres of state lands shown in
5 blue, and the 60-acre proposed, you know, permit area is
6 shown in hash mark here to just orient. And for the
7 rest of the map, it shows private in white, state in
8 blue, and BLM in yellow.

9 On the right-hand side are, should be --

10 Q. Mr. Patterson, could you identify what we are
11 looking at on the right-hand side, please, for the
12 record.

13 A. (BY MR. PATTERSON) Certainly. So this map is
14 labeled CEC substations. This is page 2 of 3 in the
15 handout that you should have in front of you. Again,
16 this is trying to show the land ownership at different
17 substations.

18 MEMBER BINGHAM: Mr. Chairman.

19 CHMN. CHENAL: Member Bingham.

20 MEMBER BINGHAM: Thank you, Mr. Chairman.

21 Can we just go back to the last map, the first
22 one. Just a simple question. Looking at the expansion
23 area that is touching a little bit of private and state
24 land, is that the same owner for the private land? Is
25 that one owner or multiple owners?

1 MR. PATTERSON: There is one owner who owns that
2 land as well as other land in the area, as we understand
3 it.

4 MEMBER BINGHAM: Thank you.

5 MR. PATTERSON: I believe it is agricultural
6 land. And for the tour, one of the proposed tour stops
7 is right there where we could look and you can see where
8 both the private land and the state land is with respect
9 to the existing AEPCO facilities which are across the
10 street. So we should have a firsthand view of that as
11 well.

12 CHMN. CHENAL: Member Woodall.

13 MEMBER WOODALL: Have you made application to
14 the State Land Department for rights-of-way and
15 acquisition of property needed for the substation site?

16 MR. PATTERSON: We have not made the application
17 yet.

18 MEMBER WOODALL: Okay. I am assuming the State
19 Land Department knows generally what you are proposing,
20 is that correct?

21 MR. PATTERSON: Yes. The State Land Department
22 was a cooperating agency in the EIS process.

23 MEMBER WOODALL: So you don't know if the State
24 Land Department is going to like the idea of maybe
25 taking part from private land and part from the State

1 Land Department? Because it looks to me like you might
2 want a total -- they might want a total take of that
3 entire parcel. Is that conceivable?

4 MR. PATTERSON: Well --

5 MEMBER WOODALL: I am not asking you to
6 speculate, I mean based on your experience.

7 MR. PATTERSON: I suppose the reverse is true.
8 We don't know if the private landowner at this point
9 would want it all on their lands or not want it on their
10 lands.

11 And so I think part of the concept was that
12 location was the best location really as discussed with
13 AEPCO and with WAPA from a system perspective. What we
14 wanted to do from the environmental and the analysis
15 perspective was to have some flexibility that we could
16 be accommodating with the landowners.

17 And so I think we -- we don't know the answer to
18 that, which was why we tried to have a study area that
19 was slightly larger and could accommodate the full
20 facilities on either state or private land, or some
21 combination of both, depending on what the preference of
22 the landowners were.

23 MEMBER WOODALL: Could you describe to me the
24 status of communications with that private landowner?

25 MR. PATTERSON: That landowner has been on the

1 mailing list for the materials of the EIS process. We
2 have not directly initiated discussions with that
3 landowner.

4 MEMBER WOODALL: When you say it is on the
5 mailing list, tell me what mailing list you are
6 referring to. Is that the one somewhere embedded in the
7 EIS?

8 MR. PATTERSON: Yes. I believe they have been
9 on the list from the BLM and WAPA's list for
10 communications.

11 MEMBER WOODALL: Have you received any response
12 from the landowner whatsoever?

13 MR. PATTERSON: No, we have not.

14 MEMBER WOODALL: Okay. So no telephone calls,
15 no correspondence, no contacts to your website.

16 MR. PATTERSON: Not that I am aware of.

17 MEMBER WOODALL: Hm. That's kind of
18 interesting, don't you think?

19 You don't need to respond. Anyway, thank you,
20 sir.

21 CHMN. CHENAL: Member Noland.

22 MEMBER NOLAND: Thank you, Mr. Chairman.

23 As we are looking at the red hatched area for
24 the proposed substation, I am trying to determine if --
25 let's see. Hold on. Sorry, Colette. Mine isn't

1 reaching far enough.

2 But right here, is that on a section line with
3 the state property?

4 MR. PATTERSON: Are you asking about the line
5 route?

6 MEMBER NOLAND: Yeah.

7 CHMN. CHENAL: The dueling lasers.

8 MEMBER NOLAND: Right there. Right there. Is
9 that, where the state land meets the private land, is
10 that a section line?

11 MR. PATTERSON: I would have to look, but I
12 believe if not, it is fairly close.

13 MEMBER NOLAND: Because I do know from previous
14 hearings that State Land prefers to have something that
15 would be taken on the section line or the midsection
16 line or whatever, not to have it in the middle of their
17 property and really break up that property for future
18 use.

19 So I would also like you to point me back, and I
20 believe it was in the engineer's testimony, and see if
21 we can get it up on the screen, the dimensions of the
22 proposed substation for this piece.

23 So if I remember right, I thought it was 27
24 acres that they needed in total. So if you are saying
25 that you want to be able to have it either on the state

1 land or on the private land, do you have the 27 acres on
2 either side with your 60 acre total? Does that make
3 sense?

4 MR. PATTERSON: I think it does. I might have
5 to defer, if I can. One of our engineers will be here
6 for the tour tomorrow, and if I could confer with him
7 and make sure, and we could follow up, would that be
8 okay?

9 MEMBER NOLAND: Yes. It is an important point
10 for me to nail this down and to get it so it is -- you
11 have enough room to build it but you are not asking for
12 so much that you impact two parcels of land.

13 MR. PATTERSON: Absolutely. That makes perfect
14 sense, and certainly it is not our intention to do that.
15 And I think when we are on the tour you will see that at
16 least physically, you know, from what we can tell, you
17 should be able to do either or both. Obviously it
18 depends on the landowner preferences. And if that's the
19 case for state lands, and if the private owner similarly
20 had views, we would certainly look to work with them.
21 So there is no other requirement other than we were
22 trying to find something that could work and be
23 flexible.

24 MEMBER NOLAND: Thank you.

25 BY MS. HOPKINS:

1 Q. Thank you, Mr. Patterson.

2 Let's move on to the second page of STL-32. I
3 think you started to describe the area surrounding the
4 Pantano substation on CEC substations 2 of 3.

5 A. (BY MR. PATTERSON) Yes, thank you.

6 So for this map, which is shown on the
7 right-hand side of the screen, it shows two of the
8 substations.

9 And, Ms. Livingston, I don't know if it is
10 possible to zoom in on this map.

11 These ones are actually a little easier to
12 discuss without graphics as well, so I will try and give
13 you some colors, and if we get the graphics pulled up we
14 can look at those as well.

15 Above the Pantano station we have analyzed our
16 study area of 25 acres, and we are looking at 20 acres
17 of more permanent disturbance or right-of-way needed.
18 And that is all Arizona state land. As Mr. Rawlins
19 walked through, it would be adjacent to the existing
20 AEPCO Pantano station.

21 The map on the left in your handout is a blow-up
22 of the Vail substation, where you would be -- where we
23 have looked at 27 acres of a study area of looking to
24 site or an area to site of approximately 22 acres for
25 the right-of-way. And the breakdown, really, of that

1 disturbance that we analyzed at Vail is 15 acres of
2 Arizona state trust lands and 12 acres of private lands,
3 which are TEP. And as Mr. Rawlins had described, part
4 of the expansion would include having new facilities
5 adjacent to Vail, but also working with TEP to expand
6 the existing Vail station.

7 Q. Thank you, Mr. Patterson.

8 And could you state one more time, who is the
9 owner of the private land, the white section around the
10 Vail substation that we see there?

11 A. (BY MR. PATTERSON) TEP.

12 Q. Thank you.

13 And turning to Map 3 of 3 of STL-32, can you
14 please describe what we are seeing in this map.

15 A. Certainly. So this map which is shown on the
16 left-hand side of the screen, on the left-hand side of
17 that left-hand screen is a blow-up of the Tortolita
18 area. And the white is private land and the blue is
19 state land.

20 At Tortolita we are looking at a study area of
21 16 acres, within which it is roughly ten acres of state
22 lands and six acres of private lands, working with TEP
23 there to interconnect at Tortolita.

24 The right-hand side, which was part of the tour,
25 if you recall, at DMP station, which we are looking to

1 interconnect, the existing DMP which is owned by Tucson
2 Electric, and we are looking to interconnect that with
3 WAPA's Tucson station, which is very close by. At DMP
4 we are looking at four acres of permanent disturbance
5 working with TEP in lands that they own, so all that
6 area would be private land and working with TEP on those
7 lands.

8 Q. And can you state for the record one more time,
9 who owns the private lands surrounding the Tortolita
10 substation?

11 A. Tucson Electric.

12 Q. And who owns the private lands surrounding the
13 DMP substation?

14 A. Also Tucson Electric.

15 CHMN. CHENAL: Member Woodall.

16 MEMBER WOODALL: Mr. Patterson, you indicated, I
17 think, that the mailing list was somewhere in the EIS.
18 And if Ms. Bellavia or someone else from SWCA could
19 kindly at some point identify where that is in the EIS,
20 the mailing list that you have been using, that would be
21 really helpful to me, and I think it would help complete
22 the record. Thank you. At some point.

23 MR. PATTERSON: Certainly. If I stated that
24 mailing list was in the EIS, I don't know that it is
25 technically included in the EIS. I don't know the

1 answer. I was referring to -- but I can find out.

2 MEMBER WOODALL: If the mailing list is not in
3 the record, it would be helpful to me if it could make
4 its way into the record so that the Commissioners could
5 look and just see who was getting notice.

6 And are you talking about a mailing list that
7 Southline compiled, or that was done as part of the NEPA
8 process?

9 MR. PATTERSON: There are both. I know that
10 landowner that we are talking about at least was on the
11 mailing list for -- the agency's mailing list.

12 MEMBER WOODALL: It would be helpful for me, and
13 I think for the Commissioners, if we could get those
14 mailing lists in the record so that the Commissioners
15 could look and see, okay, here is who was getting copies
16 of what and when. Thank you very much.

17 BY MS. HOPKINS:

18 Q. Thank you, Mr. Patterson.

19 I believe that covers all of the land ownership
20 surrounding the CEC upgrade section and substation, area
21 surrounding the substation.

22 I would like to focus now on just the new build
23 section. I believe you did some desktop review of
24 landowners crossed by the route in the new build section
25 based on questions from the Committee. What did you

1 find?

2 A. (BY MR. PATTERSON) Yeah. So in past testimony
3 there were some questions around the land ownership and
4 what that looked like. And to that end, I tried to go
5 back and do another desktop review since we last spoke,
6 and just wanted to provide some color.

7 Now, this review really is done from desktop
8 data. And the data may not be completely up to date or
9 comprehensive, but it is what we have at the moment, and
10 I think it might provide some additional clarity for the
11 Committee.

12 CHMN. CHENAL: Mr. Patterson, where is this in
13 the record?

14 MS. HOPKINS: Mr. Chairman, we are not actually
15 looking at anything in the record. This was done on a
16 desktop review by Mr. Patterson online over the last
17 couple of days, and he is just going to testify to that
18 review.

19 Currently on the screen we have Map 11, which is
20 in your map notebook.

21 MEMBER WOODALL: Has the map notebook been
22 introduced into evidence? I am sorry. I didn't know.

23 MS. HOPKINS: I am not sure if we have actually
24 offered the map notebook into evidence, but we will do
25 so.

1 MEMBER WOODALL: I am just thinking of the poor
2 policy advisors at the Commission trying to figure out
3 what is where. Thank you.

4 MS. HOPKINS: All the maps contained in the map
5 notebook are somewhere else in the record. And there is
6 an index at the front of the map notebook notifying
7 where those maps are in the record. But we compiled
8 this as an easy reference, sort of demonstrative. But I
9 think it makes sense to offer it into the record as well
10 so that anyone in a future hearing, Map 11 will know how
11 find it easily.

12 CHMN. CHENAL: I think that's a good idea.

13 MR. PATTERSON: So the review that we performed
14 over the last couple days was really in response to some
15 of the questions that we had. I believe that there were
16 questions about what the private land looks like really
17 inside the new build section, particularly between the
18 New Mexico border and Apache.

19 And I would like to correct a figure that I
20 provided in terms of the number of landowners following
21 this review. I believe that I had quoted a figure that
22 probably included some landowners who are on the new
23 build section in New Mexico as well. And following the
24 review that we have completed over the last couple of
25 days, looking at the 200-foot right-of-way in the new

1 build CEC portion from the New Mexico border to Apache,
2 it appears to us that there is approximately 50 unique
3 landowners whose properties would be crossed by that
4 route.

5 In looking at a more zoomed in desktop review --
6 and again, this is a desktop review and could be subject
7 to not having all the most up-to-date information, but
8 using that review, it does not appear that the CEC new
9 build route, the 200-foot right-of-way, crosses any
10 residential structures.

11 And if you widen that view, it also doesn't
12 appear that the 200-foot right-of-way crosses any -- or
13 sorry, 500 feet from the centerline of that 200, of the
14 proposed route, in other words a 500-foot corridor also
15 does not appear to cross any residential structures.

16 Just offer that in terms of trying to give a
17 little more detail about what it looks like in the area.
18 Much of the land in the area is agricultural in nature.
19 There is not a lot of residential property, although
20 there certainly is residential property.

21 But the alignment really, as I think has been
22 discussed in this area, had been determined through the
23 NEPA process, but if those particular areas are not the
24 ideal location, we would hope to have some flexibility
25 in micrositing to work with the underlying landowners.

1 But that is to just give you a little more color on what
2 the nature of the route on private lands looks like in
3 the area.

4 CHMN. CHENAL: Member Woodall.

5 MEMBER WOODALL: Mr. Patterson, I am a little
6 bit confused, which is not uncommon for me. But are you
7 correcting something in the application or something in
8 your --

9 MR. PATTERSON: My testimony.

10 MEMBER WOODALL: -- in your exhibit?

11 MR. PATTERSON: No, I am -- I believe in my
12 testimony I was asked the question about how many
13 private landowners there were, and I believe I quoted
14 approximately or less than 200, if I recall. And so in
15 this further review it looks like there is more like
16 only 50 unique private landowners in this CEC new build
17 route, and I wanted to correct that.

18 MEMBER WOODALL: Of course. I just wanted to
19 know if there were any other exhibits or sections in the
20 application that need to be amended, but apparently not,
21 okay.

22 MR. PATTERSON: I don't believe so.

23 MEMBER WOODALL: Thank you very much.

24 CHMN. CHENAL: Member Noland.

25 MEMBER NOLAND: Thank you.

1 Mr. Patterson, of the 50 -- and if you don't
2 know this, just say so; otherwise, as best you can
3 answer, please do. Of the 50, how many of those
4 currently have no utility easement through them for gas
5 line, power line, whatever? Do you have any idea?

6 MR. PATTERSON: I don't know for sure, but it
7 would be a very small number. But that's something we
8 could follow up on.

9 MEMBER NOLAND: I would like to know.

10 MR. PATTERSON: Because the entire parcel, most
11 of those parcels are larger parcels, and given that most
12 of that route is following existing corridor, you know,
13 the vast majority will have some type of easement on, I
14 believe. But I don't know for certain, is the answer,
15 but can certainly follow up on that.

16 MEMBER NOLAND: And you said most of it is
17 following an existing corridor. You mean an existing
18 right-of-way?

19 MR. PATTERSON: Yes. In this area it is either
20 following an existing transmission line or existing
21 pipeline.

22 MEMBER NOLAND: Okay. Thank you.

23 CHMN. CHENAL: Member Woodall.

24 MEMBER WOODALL: And Mr. Patterson, can you
25 confirm that all the 50 of those landowners were on

1 whichever mailing list, either the NEPA or your own?

2 MR. PATTERSON: I do not know. I cannot confirm
3 that.

4 CHMN. CHENAL: Okay.

5 MEMBER WOODALL: Okay. If there is more
6 expansive information on that, I would appreciate it.
7 And I realize I am sounding like a one-note person here
8 on this issue. But it is pretty important in terms of
9 assuring the Commission that, you know, there has been
10 an appropriate outreach, and people whose property would
11 be affected would actually know about it. So if you can
12 kind of expand on that, it would be helpful to me.

13 MR. PATTERSON: Absolutely. And later we do
14 plan to have some more information that we put together
15 for the overall outreach as well. But we hear you and
16 understand your point, definitely.

17 CHMN. CHENAL: Member Hamway.

18 MEMBER HAMWAY: Yes. This is just for Member
19 Woodall. The day you were absent I asked that question,
20 and asked whether they did land searches for the people,
21 for their land abutting the route or the right-of-way,
22 and they said they did not do that, and so anyone on the
23 mailing list are people who chose to come and put their
24 own name on the mailing list.

25 Is that correct? I just want to make sure I

1 understood you guys correctly.

2 MR. PATTERSON: That's generally correct,
3 though, as I think we will detail a little bit more in a
4 bigger discussion of outreach, given some of the
5 questions that the Committee had, there was some direct
6 mailings associated with the route variations that
7 happened. When the agencies were considering route
8 variations, for example, in this area east of the
9 Willcox Playa, and there was a mailing list, the
10 agencies put together a mailing list based on those
11 route variations since their view was those members of
12 the public hadn't had the same type of notice perhaps
13 that others had prior to those variations that were
14 being considered over in the Willcox Bench area. We
15 will endeavor to give you a little more color on that in
16 a bit.

17 MEMBER WOODALL: Ms. Hamway, thank you very
18 much. I did have the opportunity to review the draft of
19 the transcript, but the part you were talking about was
20 not in there. I didn't get to read the entirety of it.
21 But I appreciate it very much. Thank you, ma'am.

22 BY MS. HOPKINS:

23 Q. Thank you, Mr. Patterson.

24 I would now like to switch gears and address
25 some Committee members' questions about environmental

1 justice impacts.

2 Ms. Bellavia, the Committee asked if
3 environmental justice impacts were considered in the EIS
4 process. You testified that those impacts were analyzed
5 and stated you would provide maps depicting
6 environmental justice census tracts. Do you have those
7 maps with you today?

8 A. (BY MS. BELLAVIA) Yes, I do.

9 Q. Can you identify for the record what exhibit the
10 maps we just referred to is marked as?

11 A. (BY MS. BELLAVIA) STL-33.

12 MS. HOPKINS: Thank you.

13 Mr. Chairman, Southline offers STL-33 into the
14 record.

15 CHMN. CHENAL: STL-33 is admitted.

16 (Exhibit STL-33 was admitted into evidence.)

17 MEMBER WOODALL: Has that already been
18 distributed?

19 MS. HOPKINS: Just for the Committee members'
20 reference, it is maps that look like this. They are
21 kind of busy with a little yellow outline on them.

22 MEMBER WOODALL: Was that in any of our -- in
23 the application, or was that --

24 MS. HOPKINS: No. This is newly recreated this
25 weekend. And Mr. Guy should have handed it out just

1 now, I believe.

2 MEMBER WOODALL: Mr. Guy should be thrashed.

3 Thank you. Thank you very much. Appreciate
4 that, Mr. Guy.

5 MS. HOPKINS: So now I think we are all on the
6 same page.

7 BY MS. HOPKINS:

8 Q. Ms. Bellavia, why don't you walk us through what
9 the environmental justice maps marked Exhibit 33 show.

10 A. (BY MS. BELLAVIA) There are two maps as part of
11 STL-33. And the first map on top is focused on the new
12 build section in Arizona, and then as the new build part
13 of this application in Arizona. And then similarly, the
14 second map is the upgrade portion as part of the CEC
15 application.

16 And actually the title on the second map, lower
17 right corner, should be corrected. It says CEC new
18 build route. And this is on Map 2. And that should of
19 course read CEC upgrade route. So I apologize for that.

20 Starting with the information on the first map,
21 or the top map, that is, again, the new build section of
22 the project within Arizona and depicting three, you can
23 see, pretty large census tracts within Cochise County
24 that, as analyzed in the EIS, met the criteria for an
25 environmental justice population. And that was

1 considering either the minority status and/or income,
2 and whether the population within those tracts met the
3 criteria for level poverty status.

4 So these three maps in Cochise County -- I am
5 sorry, census tracts within Cochise County are fairly
6 large census tracts. One you can see is actually over
7 1300 square miles, with a fairly broad dispersed
8 population of 1700 people. Census tract 2.02 is 332
9 square miles, 3700 people in that tract. And then
10 census tract 2.03 is 340 square miles with a population
11 of 2700, so fairly large tracts with fairly dispersed
12 populations in these tracts.

13 Alternatively, the one census tract adjacent to
14 the DeMoss Petrie substation on the second map is
15 obviously much smaller. That tract, 45.04, is 3.61
16 square miles, with a population of 7,000 within that
17 tract, so much more dense and much smaller adjacent to
18 the DeMoss Petrie substation.

19 MEMBER HAMWAY: I missed the population and the
20 size of 2.02. Can you restate that?

21 MS. BELLAVIA: The population of 2.02 is the --
22 size is 330 square miles, and the population is 3700.

23 MEMBER HAMWAY: Okay.

24 CHMN. CHENAL: Member Woodall.

25 MEMBER WOODALL: I wonder, Ms. Bellavia, could

1 you summarize what is the significance of identifying a
2 potential environmental justice area and how it is
3 addressed in the federal EIS process?

4 MS. BELLAVIA: Yes. There is an executive
5 order, which I don't remember the number offhand,
6 directing federal agencies to look at potential impacts
7 of their actions on environmental justice communities.

8 As I mentioned, in the EIS we looked at
9 ethnicity or minority status and poverty, and that's
10 following guidance by the EPA. So those were our
11 criteria. And the intent of the executive order and the
12 analysis is to determine whether, one, are those
13 populations present, and then, two, two and three,
14 really, are they going to be disproportionately
15 affected, and will those effects be highly adverse.

16 So high is a part of the criteria. So, you
17 know, presence and proximity to a project is considered,
18 but then also kind of scale of impact on those
19 populations, will they be highly disproportionately
20 impacted.

21 MEMBER WOODALL: What was the conclusion of the
22 EIS with respect to these populations?

23 MS. BELLAVIA: So the conclusions were that
24 really all of the alternatives that we looked at across
25 the EIS, in addition to the ones being considered as

1 part of this application, would cross a census tract,
2 some census tract meeting one of the criteria, and that
3 it was essentially unavoidable adverse impact, so those
4 populations exist in proximity, I mean relative
5 proximity, depending on the scale of the tract, in
6 proximity to the project, that where there are
7 particularly localized impacts such as noise and air
8 quality during construction, those will be localized in
9 nature, the adverse impacts. And then obviously sort of
10 more long-term, the visual impacts of that would be, as
11 I said, unavoidably adverse, but not high, so considered
12 low to moderate depending on where you are in the
13 landscape. Primarily visual was the main factor and low
14 to moderate scale.

15 MEMBER WOODALL: So the impacts of that are not
16 disproportionate, is that correct, on these communities?

17 MS. BELLAVIA: Not disproportionately.

18 MEMBER WOODALL: Okay, thank you very much.

19 That's all I have.

20 BY MS. HOPKINS:

21 Q. Thank you, Ms. Bellavia.

22 Now I would like to move to outreach and notice.
23 And we have had lots of questions about the outreach
24 efforts that Southline undertook as a part of the
25 development of the project, so we thought that it may be

1 beneficial for the Committee to have a summary of all of
2 the outreach efforts that have been undertaken. And we
3 attempted to compile that and we have marked this as
4 Exhibit 37.

5 And I am going to ask Mr. Kipp to walk through
6 the summary of outreach efforts.

7 Mr. Kipp, can you identify for the record what
8 is marked as Exhibit STL-37?

9 A. (BY MR. KIPP) Yes. It is a packet labeled
10 Southline outreach and notice efforts.

11 MS. HOPKINS: Thank you.

12 And Mr. Chairman, we would offer Exhibit STL-37
13 into the record.

14 CHMN. CHENAL: STL-37 is admitted.

15 (Exhibit STL-37 was admitted into evidence.)

16 MS. HOPKINS: Thank you.

17 BY MS. HOPKINS:

18 Q. Mr. Kipp, please go ahead and walk through this
19 summary.

20 A. (BY MR. KIPP) Sure. I would just like to
21 preface my comments by saying this is a summary of
22 outreach efforts, some of which were undertaken by the
23 project team, some of which were undertaken by project
24 managers at the agencies, and some of which were
25 undertaken by a project management assistant consultant

1 hired by the agencies. So I will have a direct
2 knowledge of some of the outreach, but not all of it as
3 we go through this.

4 It is also a fairly lengthy document. So I am
5 going to try to give you a sense of the timeline of
6 outreach. And stop me at any point if you would like to
7 delve into particular individuals. We can discuss that
8 as well.

9 CHMN. CHENAL: I just want to make the point
10 this is something that, well, this Committee focuses on,
11 and the Corporation Commission focuses on. So I think
12 it is good that we are doing this, laying the record. I
13 mean it is something that is very important to both the
14 Committee and the Corporation Commission. So this is
15 not window dressing by any means.

16 MR. KIPP: Understand. Okay.

17 MEMBER WOODALL: Could I ask one question?

18 CHMN. CHENAL: Sure, Member Woodall.

19 MEMBER WOODALL: So Mr. Kimball is an attorney
20 at Gallagher and Kennedy?

21 MR. KIPP: Yes, ma'am.

22 MEMBER WOODALL: Is his specialty government
23 relations?

24 MR. KIPP: I believe so. I am not certain. He
25 acted as a consultant to the project.

1 MEMBER WOODALL: I mean it is not uncommon for
2 lobbyists, slash, regulatory affairs folks to undertake
3 these sorts of meetings, is it?

4 MR. KIPP: No, I believe it is not.

5 MEMBER WOODALL: Okay. Thank you. I just
6 wanted to get on the record who Mr. Kimball is. Thank
7 you.

8 MR. KIPP: Yes.

9 So beginning with the period 2009 to 2011, call
10 this period the project origination and pre-NEPA portion
11 of the timeline, I am going to break it down into
12 different types of outreach, and you will see these
13 headers coming through as we go through the document.

14 So relating to transmission planning, we began
15 initial transmission planning with regional utilities in
16 '09 and went through '11 in this period. We began the
17 WECC project coordination and path rating process in
18 2009, and, again, continued in this period through the
19 end of the period.

20 We gave quarterly presentations to WestConnect's
21 open transmission planning process during this period.
22 We had regular interaction and updates with ACC Staff,
23 including Prem Bahl, Toby Little, Ed Stoneburg, Jeff
24 Francis, Zack Branum. And we participated in the ACC
25 Biennial Transmission Assessment process in 2010. As

1 you will see, we participated in a number of these going
2 forward.

3 CHMN. CHENAL: Member Hamway.

4 MEMBER HAMWAY: Yes. What is the difference --
5 so when you say you participated in the BTA, did you
6 file a plan? Because you didn't file your 10-year plan
7 until January of 2015. So what does it mean to
8 participate?

9 So if I were looking at the BTA, would I know
10 that Southline was planning on a route? I know it
11 wouldn't have been finalized, but did you just sit
12 through the meetings, or did you actually file a plan?

13 MR. KIPP: With your permission, actually Doug
14 Patterson presented, and if he could characterize the
15 presentation briefly.

16 MR. PATTERSON: Sure. So in those meetings we
17 attended we provided presentations to each of the, I
18 believe, 2010, 2012, 2014. There are references to the
19 project in the presentations that we made in those BTA
20 plans.

21 You know, as we discussed before, we filed a
22 10-year plan in 2015, but we had been participating in
23 the BTA process since 2010. And you would find in the
24 record, and we are happy to pull those out if that would
25 be helpful --

1 MEMBER HAMWAY: No, I don't need them.

2 MR. KIPP: Moving on to political/legislative
3 outreach during this time, in June of 2011, Mr. Kimball,
4 with Gallagher & Kennedy, began some contact with a
5 variety of public officials, including Commissioner Bob
6 Stump and his policy advisor, Gary Pierce, as well as
7 Brenda Burns, and then State Land Commissioner Maria
8 Baier, as well as Kevin Kinsall and Leisa Brug with the
9 governor's office, and it is my understanding that
10 followed up these conversations with a project fact
11 sheet.

12 MS. HOPKINS: Mr. Kipp, let me just interrupt
13 you quickly. We have also marked Exhibit STL-34 as the
14 project fact sheet that you referenced. So if you
15 could, find that document in your materials in front of
16 you there.

17 MR. KIPP: You have to forgive me. I thought we
18 had a packet up here. I left it in my suitcase.

19 I have got one here. Thank you.

20 MS. HOPKINS: It is a single page, eight and a
21 half by 11.

22 MR. KIPP: Got it.

23 MS. HOPKINS: Looks like this, for the Committee
24 members.

25 BY MS. HOPKINS:

1 Q. So again, could you identify for the record
2 Exhibit STL-34.

3 A. (BY MR. KIPP) Yes. This is the Southline
4 Transmission Project fact sheet.

5 Q. And is this a document that was provided to the
6 State Land Commissioner and the ACC Commissioners and
7 the governor's office in June of 2011?

8 A. (BY MR. KIPP) Yes, it is.

9 Q. Thank you. Please continue.

10 A. (BY MR. KIPP) Let's see. David Kimball was
11 also tasked with keeping officials apprised of the
12 project and its progress, including local state
13 legislative delegations. And at the bottom of page 1, I
14 am happy to read through them for the record if
15 required. It is: Made introductory phone calls and
16 e-mails to Steve Smith, David Stevens, Gail Griffin,
17 Peggy Judd, Terri Proud, Vic Williams, Macario Saldate
18 IV, Olivia Cajero Bedford, Sally Ann Gonzales, Bruce
19 Wheeler, Paula Aboud, Daniel Patterson, Frank Pratt,
20 Linda Lopez, Matt Heinz, John Fillmore, David Gowan Sr.,
21 Ted Vogt, Frank Antenori, Sylvia Allen, Andy Biggs, Al
22 Melvin, Brenda Barton, Chester Chandell, Ed Farnsworth,
23 and Steve Urie.

24 Later in that year, August, there was another
25 visit with Leisa Brug at the governor's office. And in

1 September they had, Mr. Kimball had calls with
2 legislator Matt Heinz. Finally, in November, he
3 sent out an e-mail update to legislators Daniel
4 Patterson and Matt Heinz.

5 CHMN. CHENAL: Member Woodall.

6 MEMBER WOODALL: When you say e-mails. Were
7 these e-mails that were from Mr. Kimball, as far as you
8 are aware?

9 MR. KIPP: Yes.

10 MEMBER WOODALL: Okay. So they weren't coming
11 from Southline project or --

12 MR. KIPP: Correct.

13 MEMBER WOODALL: Okay. They are e-mails that
14 came from Mr. Kimball.

15 MR. KIPP: Yes, ma'am.

16 MEMBER WOODALL: Okay. Thank you.

17 MR. KIPP: Moving on to what we call the
18 pre-NEPA scoping period here conducted by Southline,
19 Southline project team held pre-NEPA stakeholder
20 meetings in 2011. I won't go through all of the dates,
21 but these took place in July through September of 2011.
22 We met with Southwest Transmission Cooperative, Fort
23 Huachuca, the Cascabel Working Group, Tucson Audubon,
24 the Community Watershed Alliance, Empire-Fagan
25 Organization, the City of Willcox, Arizona State Land

1 Department, Tucson Metropolitan Chamber of Commerce,
2 Cochise County, Arizona -- several Arizona
3 nongovernmental organizations, Arizona Department of
4 Environmental Quality, Natural Resources Defense
5 Council, and Pima County.

6 CHMN. CHENAL: Member Woodall.

7 MEMBER WOODALL: Sir, on this list on the
8 pre-NEPA scoping conducted by Southline, first of all,
9 how did you determine who the attendees were going to
10 be? In other words, did you select them? Was there a
11 notice published? How did these folks end up
12 participating in this?

13 MR. KIPP: Sure. You know, this is a number of
14 years ago. To the best of my recollection,
15 Mr. Patterson and myself had done quite a bit of
16 outreach as we pulled the project together. You know,
17 before it even had a name we were trying to solve this
18 problem of improving the grid in this region.

19 So I think a variety of these organizations were
20 provided this very early outreach when we were, you
21 know, shaking hands and making phone calls. I think
22 other parts of it came from the agencies themselves.
23 And I think, finally, we had recommendations from Kearns
24 & West, who at this point had helped us with public
25 outreach as we went into the NEPA process.

1 MEMBER WOODALL: What was your strategy for
2 informing landowners or agricultural landholders in the
3 area?

4 MR. KIPP: At this point we were really focused
5 on governmental organizations.

6 MEMBER WOODALL: Sure. Thank you.

7 MR. KIPP: And NGOs, I should say.

8 As a result of some of these meetings, we held a
9 pre-NEPA routing workshop in 2011. That was in
10 September in Tucson, and had about 25 attendees. Again,
11 these are local counties and jurisdictions, federal
12 agencies, and NGOs.

13 CHMN. CHENAL: Member Woodall.

14 MEMBER WOODALL: Were any contacts made to try
15 to inform landowners? I mean is there an agricultural
16 group? I just don't know if there is organizations that
17 agricultural landowners would participate in, like a
18 ranchers association or something.

19 MR. KIPP: I don't recall. I apologize for
20 that. In our mind it is one project. I do recall a
21 couple of ranching organizations in New Mexico. I am
22 struggling, though, to remember what we did in Arizona.

23 MEMBER WOODALL: I am just wondering. And also,
24 how did you publicize this workshop?

25 MR. KIPP: This workshop we invited particular

1 invitees. This was --

2 MEMBER WOODALL: Okay.

3 MR. KIPP: -- not a town hall meeting. This was
4 a, you know, really an effort to -- excuse me -- work
5 closely and get ideas out about routing sensitivities,
6 we really get a lay of the land, things we should be
7 thinking about as we came up with routes, things we
8 should be avoiding, areas that might be improved from,
9 you know, current alignments. So it was a real
10 workshop. We had, you know, maps and boards and
11 markers, but it was not an open house.

12 MEMBER WOODALL: Thank you.

13 And I note, if I might, since it might be
14 pertinent to this inquiry, I know on page 3 you talk
15 about your pre-NEPA public meetings in 2011. And I see
16 you have some bullets that indicate attendees included
17 local landowners, business groups, et cetera. And I see
18 that you provided notice on the project website and
19 published in the newspapers.

20 What kind of participation did you get at the
21 public meetings? How many people showed up, if you have
22 a ballpark figure?

23 MR. KIPP: Yeah. Let me -- I have to kind of go
24 back in time and get back, so --

25 MEMBER WOODALL: I mean 100 people? Less than

1 50? Less than 25? I am just trying to get an idea.

2 MR. KIPP: To my recollection there was a -- as
3 we went through different meetings, there was quite a
4 variance in the number of people who came.

5 To provide an answer that I may have to correct
6 slightly later, because I believe we may have some, you
7 know, some actual numbers, I believe it was on the order
8 of a dozen to, you know, many dozen. But I don't recall
9 more than 100 ever being in attendance.

10 MEMBER WOODALL: Sure. Five years ago is a long
11 time. Thank you.

12 MR. KIPP: You alluded to some of these public
13 meetings. I will just briefly say that in September,
14 November, we were in Arizona, Willcox, Tucson, Marana,
15 and Benson, with these pre-NEPA public meetings.

16 And these meetings were noticed on the project
17 website as well as newspapers. And here you can see a
18 list of some of the publications, or actually the list
19 of publications that we advertised in, the Casa Grande
20 Dispatch, Navajo-Hopi Observer, Eastern Arizona Courier,
21 the Sierra Vista Herald, Bisbee Daily Review, Arizona
22 Daily Star, the La Estrella -- I believe it may also be
23 known as Copper Era; I am not sure, I am not certain,
24 Sierra Vista Herald, Bisbee Daily Review, Arizona Daily
25 Star, La Estrella de Tucson, Explorer Newspapers, Tucson

1 Weekly, Willcox Range News, and The Navajo Times.

2 And we also sent out an e-mail distribution.

3 And I am certain I am not going to have all of the
4 information about the e-mail list that you may want, but
5 I would like to characterize it as a list that we
6 developed in conjunction with Kearns & West that, as you
7 will see, grew consistently over time. At this point it
8 was 624 recipients.

9 And Kearns & West used research of local
10 stakeholder groups, Tribal groups, local, state, and
11 federal agencies to create this list. And they also
12 conducted a stakeholder assessment which included
13 interviews to determine if there were additional groups
14 that should be contacted or included.

15 CHMN. CHENAL: Let me ask, just for the benefit
16 of the audience, if this exhibit could be put up on the
17 screen that Mr. Kipp is reviewing, STL-37.

18 MS. HOPKINS: We will get that put up,
19 Mr. Chairman.

20 CHMN. CHENAL: All right. Thank you.

21 MR. PATTERSON: Mr. Chairman, may I add
22 something, too?

23 CHMN. CHENAL: Certainly. Go ahead,
24 Mr. Patterson.

25 MR. PATTERSON: Just a little context to

1 Mr. Kipp's testimony. So at this stage in the process,
2 these meetings, really the purpose, I think they have
3 been discussed before, but at those meetings we had
4 presented the concept of what we were trying to do, and
5 had presented some potential opportunities and
6 constraints of different ways to do it.

7 And really we were asking the question of what
8 might make sense, where are there problems, where are
9 there issues. We were looking for feedback before we
10 went into the formal process. But that was the scope of
11 these public meetings.

12 CHMN. CHENAL: Understood. Thank you very much.

13 MR. KIPP: One other brief comment as we get it
14 up on the board. As we began to work with BLM and
15 Western, they made it clear that pre-NEPA we could
16 continue with our philosophy of outreach and meet with
17 lots of people, you know, gathering information. They
18 made it clear, though, that once the NEPA process began,
19 they wanted to avoid confusion with the public, and they
20 wanted to, you know, essentially be in the driver's seat
21 in terms of outreach.

22 So anything we did relating to the public during
23 the NEPA process we had to essentially clear with them.
24 It was sort of a change in who was in the driver's seat
25 in terms of outreach at this point.

1 MEMBER WOODALL: So are you saying you
2 understand that you were forbidden from conducting
3 outreach without the consent of the NEPA agencies
4 handling the NEPA process?

5 MR. KIPP: Not forbidden, but encouraged to
6 coordinate with them such that there wouldn't be, you
7 know, two sets of notices or any sort of sense on behalf
8 of the public that we were representing the agencies or
9 that they were representing us. They wanted to make
10 sure that all the standards were met as they went
11 through the process.

12 MEMBER WOODALL: After that testimony I am even
13 more interested in knowing about the mailing lists,
14 since it appears that there might have been a practical
15 limitation to your efforts.

16 MR. KIPP: We will go through it and you can see
17 how our own mailing list grew, their mailing list grew.
18 You know, we will go through it and answer some
19 questions.

20 MEMBER WOODALL: Thank you.

21 MR. KIPP: Now we are into the NEPA scoping
22 period. This is 2012. Again, scoping is the period
23 where we are formally outlining different paths and
24 getting feedback from the public, but still undergoing
25 transmission planning at this point, going through the

1 WECC path rating process.

2 Continued to make quarterly presentations to
3 WestConnect, and, again, had regular interaction with
4 and updates to ACC Staff with the same individuals that
5 I mentioned before, including Prem Bahl, Toby Little,
6 Mr. Stoneburg, Mr. Francis, and Zack Branum. And as
7 Doug mentioned, we, again, participated in the ACC
8 Biennial Transmission Assessment process in 2012.

9 CHMN. CHENAL: Member Woodall.

10 MEMBER WOODALL: But again, I am not sure, I
11 think Ms. Hamway brought this up, but you hadn't filed
12 your 10-year plan when you were having these meetings
13 with Staff at the Commission, correct?

14 MR. KIPP: That's correct.

15 MEMBER WOODALL: Thank you.

16 MR. KIPP: So formal BLM and WAPA outreach, in
17 April through June of 2012 there was notification --
18 this is an e-mail distribution, but there was
19 notification of the scoping comment period that went out
20 to 653 individuals. In June there was notification of
21 an extended comment period, the list was then 790, and
22 notification of scoping comment period, that was 788.

23 CHMN. CHENAL: Member Woodall.

24 MEMBER WOODALL: Do you happen to know if the
25 Commissioners of the Arizona Corporation Commission were

1 on this list?

2 MR. KIPP: I do not know.

3 MEMBER WOODALL: Okay, okay. Or Staff of the
4 Commission, were they on this list, do you know?

5 MS. BELLAVIA: So I don't know if it was via
6 e-mail or letter, but I know that the Line Siting
7 Committee, the 11 members at the time were notified
8 about the start of scoping. But I don't know whether,
9 specific to your question, whether it was this
10 particular e-mail, or I don't know if they were on the
11 e-mail, but I know they received a letter.

12 MEMBER WOODALL: And again, as I think I
13 mentioned previously, the Line Siting Committee is
14 established by the Commission, but it is not the
15 Commission. So that's the reason I am being so precise
16 in my questioning.

17 MS. BELLAVIA: Understood.

18 MR. KIPP: And these e-mail lists were to give
19 you a sense of how they came about. A large portion of
20 them were based on our pre-NEPA efforts as the Southline
21 team, agencies, government representatives, and special
22 interest groups from previous projects, and contractor
23 research added to the list, permittees from the BLM, the
24 DOE NEPA stakeholders directory.

25 MR. PATTERSON: Member Woodall, just one point

1 that I thought of. I believe your question was about
2 was there any notification or outreach to cultural
3 research or grazing lists of BLM. So I believe that
4 part of those permittees would have been formed at least
5 at this point in time, if not prior, but Cara may have
6 more color on that.

7 MS. BELLAVIA: My understanding as well, again,
8 having not personally developed this mailing list, is
9 that any BLM permittees in the sense of allottees with
10 grazing allotments are required to be notified as part
11 of NEPA process, so they were included in the
12 notification.

13 MEMBER WOODALL: But we don't know if the
14 private landowners were contacted because they don't
15 have grazing leases, correct?

16 MS. BELLAVIA: Correct.

17 MEMBER WOODALL: And tell me, I have looked at
18 Exhibit 37, and it looks to me like you had meetings
19 with the Commissioners in 2011, e-mails were sent to
20 Commissioners and advisors in 2012, and an e-mail was
21 sent in 2014, and then it was not until October 12th,
22 2016 that there were actual meetings scheduled with the
23 Commissioners, is that correct?

24 MR. KIPP: I believe so.

25 MEMBER WOODALL: I just want to get all my

1 issues in one sentence in one question so I wouldn't
2 have to torment you further.

3 MR. KIPP: Understood.

4 MEMBER WOODALL: Thank you.

5 MR. VIRANT: If I could add to that.

6 MEMBER WOODALL: Yes.

7 MR. VIRANT: If I could add to that response by
8 Bill. The dates you mentioned in '11 and '16 are, in
9 fact, correct. When we started the NEPA process in
10 2012, Mr. Kimball continued that outreach throughout
11 that time. But we didn't request specific meetings with
12 the Commissioners or their Staff.

13 MEMBER WOODALL: Sure. The only thing I see in
14 Exhibit 37 is references to the e-mails that I
15 previously mentioned. So if there was something else
16 going on, it isn't in Exhibit 37?

17 MR. VIRANT: Yes, ma'am.

18 MEMBER WOODALL: Thank you.

19 MR. KIPP: Let's see. Then moving on to the
20 bottom of page 4, BLM and WAPA distributed postcards
21 relating to scoping in April and May of 2012. The
22 agency and public postcard notice of scoping was 626
23 postcards. In April 25th it was supplemented by another
24 64 two days later. And then May 1st it was, the permit,
25 the BLM permittees postcard of the 206, they were sent

1 notice of scoping period.

2 And again, these would be permittees. At this
3 point there would be a variety of routes that the
4 agencies were examining.

5 From the Southline team perspective, we sent an
6 e-mail with information about the initiation of the NEPA
7 process and the scoping period to our database. This
8 had been created in 2011 and continuously updated to
9 anyone who reached out through e-mail, our phone line,
10 personal contact during our meetings.

11 We sent an e-mail with information about scoping
12 meetings to Southline, to the Southline contact database
13 on May 3rd of 2012, so April 4th and May 3rd.

14 Then again, legislative and political outreach,
15 David Kimball continued his outreach efforts on behalf
16 of the Southline, and I probably, unless somebody would
17 like me to read through these names --

18 CHMN. CHENAL: No.

19 MR. KIPP: -- May 14th, to the list of officials
20 listed there in the middle of page 5.

21 CHMN. CHENAL: Member Hamway.

22 MEMBER HAMWAY: How do you choose which
23 Commissioners to do outreach to? Because there are two
24 missing. So it is not an open meeting effort. So I am
25 just curious.

1 MR. KIPP: I do not know. I would have to ask,
2 you know, Mr. Kimball. I apologize.

3 MEMBER HAMWAY: That's all right.

4 CHMN. CHENAL: All right. Let's consider taking
5 the morning recess. I see we are starting a new section
6 of the exhibit, 2014 period. Maybe this is a time to
7 take a 15-minute break, and then we will resume in 15
8 minutes. Thank you.

9 (A recess ensued from 10:39 a.m. to 10:58 a.m.)

10 CHMN. CHENAL: Let's resume the morning session
11 here in Willcox.

12 Ms. Hopkins.

13 MS. HOPKINS: Thank you, Mr. Chairman.

14 BY MS. HOPKINS:

15 Q. I would like to back up just briefly. We were
16 talking about the public meetings that were held in 2011
17 in Willcox, Tucson, Marana, and Benson. Was there
18 materials that were provided to the public during those
19 meetings?

20 A. (BY MR. KIPP) Yes, there were. It is STL-35.

21 MS. HOPKINS: Thank you.

22 And we provided copies of this material to you,
23 the Committee members, this morning, that's STL-35, and
24 would offer that into the record at this time.

25 CHMN. CHENAL: And that's the constraints,

1 opportunities and constraints map is STL-35.

2 MS. HOPKINS: Yes, in addition to two, I
3 believe, PowerPoint presentations. It is an entire
4 packet of material.

5 CHMN. CHENAL: Okay. I wasn't clear what those
6 PowerPoint presentations were. They weren't marked.

7 MS. HOPKINS: It is intended to be Exhibit 35.
8 There is four, let's see, three stapled documents, two
9 11-by-17 color maps that look like this, and then two
10 additional slide show type presentations.

11 CHMN. CHENAL: All right. STL-35 is admitted.
12 (Exhibit STL-35 was admitted into evidence.)

13 MS. HOPKINS: Thank you.

14 MR. KIPP: One point of clarification. There
15 are maps, and then there is a slide presentation. The
16 last packet is actually copies of some poster boards
17 that were posted around the meeting hall.

18 And additionally, there was a GIS station where
19 people could go up and let us know where their subject
20 property might be, and give them a printout of a map to
21 show where the line would be coming closest.

22 BY MS. HOPKINS:

23 Q. Thank you, Mr. Kipp.

24 Skipping back to 2014, we were on page 5 of
25 Exhibit STL-37 regarding Southline's outreach efforts.

1 And we left off at the break at the 2014 draft EIS
2 comment period. And we are going to attempt to speed
3 this along, but wanted to go ahead and walk through the
4 rest of the highlights of the notice and outreach
5 efforts. So if you could please begin in 2014, draft
6 EIS comment period.

7 A. (BY MR. KIPP) Sure. I am just going to say
8 that the transmission planning process continued.

9 One other point of clarification, Doug
10 Patterson, who attended these meetings, wanted me to
11 point out that the list of ACC Staff, that was the list
12 of Staff over the course of each of these WestConnect
13 meetings, some of the Staff has been there the entire
14 time, some joined later. But we did not take out -- we
15 didn't associate the particular names with the
16 particular meetings. This is just the Staff that we
17 spoke with.

18 So in terms of agency outreach, BLM and WAPA
19 drafted, again, another e-mail distribution in April
20 through July. They sent out, I am just going to read
21 the numbers, they sent to 998, 998, 997, 1,049, 1,061,
22 and 1,059.

23 And I would like to also say that there have
24 been a couple of questions about the particular people
25 who were e-mailed. Again, there is a couple of

1 different e-mail lists. There is the list that we
2 developed, and then there is the list the agencies
3 developed, which includes our list. But I spoke with
4 Kearns & West at the break, and we think we should be
5 able to get you the names on the list at least as of
6 2014 going forward, and do that rather quickly.

7 CHMN. CHENAL: Member Woodall, then Member
8 Noland Woodall.

9 MEMBER WOODALL: I don't mean to be unkind. I
10 am really not interested in contacts with folks in New
11 Mexico, if the list is separated that way. So no
12 disrespect to our sister state here, but I am more, and
13 I am particularly focused on the private property
14 owners.

15 MR. KIPP: Understand. I think it would be
16 difficult to separate them out.

17 MEMBER WOODALL: I am just trying to make it
18 easiest for you. Thank you.

19 CHMN. CHENAL: Member Noland.

20 MEMBER NOLAND: Mr. Chairman, just a little
21 perspective, and I want to see if I am correct on this.
22 Having been in the legislature, having worked on 5,000
23 issues in any one day with everybody wanting to see you,
24 contact you, I am assuming that most of these people
25 that you have on your list on page 5 that were

1 legislators, Corporation Commissioners, so on, were
2 probably those that wanted to stay informed. Would that
3 be an accurate assumption?

4 MR. KIPP: I believe that is true, but again, I
5 would have to ask David Kimball to characterize it.

6 MEMBER NOLAND: Because really you would say get
7 back to me when you have something concrete, I don't
8 need a thousand more e-mails about this just letting me
9 know that you are proceeding, when you have something
10 concrete, get back to me. That's how I would operate.
11 And if it wasn't anywhere in my area of constituency, I
12 would say really you need to talk to whoever is the
13 legislator from that area to be sure that they stay
14 informed.

15 And from these names, there are some that were
16 in that area and the area of the upgrade, but very few
17 in the area of the new build that I can see. But there
18 were very few legislators in those areas. They are, you
19 know, Cochise County and so on. There is probably maybe
20 six to eight that would be in that area of the new build
21 between New Mexico and the first substation, the Apache
22 substation.

23 CHMN. CHENAL: Member Palmer.

24 MEMBER PALMER: Actually there are only three.
25 And I believe they are all on here, so...

1 MEMBER NOLAND: Thank you. I was giving credit
2 for more.

3 MR. KIPP: Then, again, a subsequent mailing
4 distribution, not e-mail, that was between -- during
5 April three mailings went out, this would be a postcard,
6 but 998. Then permittees, again, that was 268 were sent
7 a notice. And then Tucson property owners and residents
8 along the route, that was, again, a postcard of 2056
9 sent by the agency.

10 And then in December, this is, again, after some
11 additional route variations were introduced, there was a
12 subsequent mailing of approximately 1100 sent to
13 property owners and residents in the vicinity of Tucson
14 and Willcox where these variations impacted residents.

15 One thing that's not on this document, and it
16 struck me, was that some of these route variations I
17 mentioned briefly in the map tour went on across the
18 Willcox Bench, and it turned out to be quite
19 controversial, especially to the wine industry there.

20 And I don't remember the exact date, but early
21 in 2015, at the invitation of Greg Gonnerman and Mark
22 Jorve and some other wine growers in the area, Arizona
23 Game & Fish and Doug and myself made a visit and took a
24 tour and saw where the, you know, firsthand how the
25 viewsheds might be impacted, and tried some wine.

1 This isn't going to be a stop on the tour, but
2 we can show you, give you a sense of why the route got
3 first moved from Crane Lake to possibly on the other
4 side of the playa over to the bench and then back to
5 Crane Lake. This was part of the outreach.

6 And let's see. The Southline team, we sent an
7 e-mail about the DEIS to the contact database. And we
8 have discussed how we developed that over time.

9 BY MS. HOPKINS:

10 Q. And just for the record can you identify what
11 the DEIS is?

12 A. (BY MR. KIPP) I apologize. Draft environmental
13 impact statement.

14 Q. Thank you.

15 A. (BY MR. KIPP) And Dave Kimball continued his
16 work with the, I won't say usual suspects, but the list
17 of legislators there.

18 All right. Then on to 2015, the final EIS. So
19 in the NEPA process and very broadest strokes you have
20 the scoping, draft, final. Now we are at the final.
21 Transmission planning, you know, continued, including
22 the interaction with ACC Staff, BLM and WAPA outreach.
23 We sent out, the agency sent out a postcard inquiry.
24 Again, the list had grown at this point to 1387. And
25 then Regina Romero, the City of Tucson, Ward 1, provided

1 a list of Tucson property owners.

2 And regarding the distribution of the final EIS,
3 that was an additional 1060. The final EIS distribution
4 in November of 2015 we were trying to save some trees,
5 but the agency sent out a lot more CDs than hard copies,
6 but 229 CDs and 54 hard copies to agencies and the
7 public people who had requested it. We sent out, or
8 they sent out I should say, 37 CDs to Tribes and 17 hard
9 copies to Tribes.

10 And then again, our own outreach, we sent an
11 e-mail with information about the final EIS to our
12 contact database. At this point it was 891 recipients.
13 Janet Thompson wanted me to indicate that the reason
14 sometimes the database shrinks versus grows, people opt
15 out of, you know, receiving updates.

16 And political and legislative outreach continued
17 per before. But in February of 2015, we had our initial
18 contact with Toby Little regarding our 10-year plan and
19 CEC application. And then in December of 2015, a year
20 ago, we reached out to the Chairman of the ACC Line
21 Siting Committee regarding our CEC application, and
22 spoke with Lisa Romeo and Chairman Chenal.

23 Finally, after the EIS comes the Record of
24 Decision and CEC. We are up to 2016. Again continued
25 with transmission planning. We, the agencies --

1 MR. PATTERSON: Bill, could I just add one quick
2 thing.

3 We mentioned transmission planning a lot, but in
4 case you are not aware, these are quarterly regular
5 meetings. The utilities come, but they are public
6 meetings. They are open, not that a lot of the public
7 wants to come and go to transmission planning meetings,
8 but certainly there are times when folks do. It is one
9 of the key regular points of contact that is available
10 and that is open public. And all the presentations are
11 stored on WestConnect's website and made available, you
12 know, for our project and all others now and in the
13 future.

14 MR. KIPP: Regarding agency outreach at this
15 time, in May of 2016, there was -- the agencies
16 distributed the ROD, or the Record of Decision; agencies
17 and public, 273 copies, and Tribes 37. And our own
18 outreach, again, we sent an e-mail about the Record of
19 Decision to our database, 878 contacts.

20 Okay. At the formal CEC pre-application meeting
21 on October 3rd of 2016, there were a number of meeting
22 attendees. And these are a new list. So I will run
23 through it briefly, but WAPA; Grand Canyon State
24 Electric Co-op; Arizona Game & Fish; SunZia; Arizona
25 Corporation Commission, of course, Commission Staff;

1 Arizona State Land Department; BLM; Pinal County;
2 Galileo Project; the -- I think we have got BLM in there
3 twice -- and Fort Huachuca.

4 We invited 33 affected jurisdictions,
5 cooperating agencies, and potential intervenors.

6 CHMN. CHENAL: Member Woodall.

7 MEMBER WOODALL: Mr. Kipp, how did you determine
8 who the entities would be that you are going to invite
9 to the prefiling meeting?

10 MR. KIPP: I may not be the best person because
11 I didn't create the list. But perhaps I could confer
12 with counsel and get you a better answer.

13 MEMBER WOODALL: Sure. That's fine. Thank you.

14 MR. KIPP: I will do that quickly.

15 Then with ACC Staff on October 3rd, in advance
16 of filing our CEC application, attendees were Member
17 Woodall; Elijah Abinah, the Deputy Director of the
18 Utilities Division; Charles Hains, Staff attorney;
19 Zachary Branum, Utilities Division; and Del Smith,
20 Utilities Division.

21 And the meetings with ACC Commissioners and
22 governor's office in preparation for our expected CEC
23 application filing on October 12th, Commissioner Andy
24 Tobin, Commissioner Bob Burns, Matthew Rowell, Brandon
25 Nelson, Hunter Moore as -- oh. And David Kimball in

1 November continued his outreach efforts to a variety of
2 officials listed there.

3 The formal CEC notice of hearing, we published
4 the Notice of Hearing, CEC application, prefiling and
5 prehearing transcripts on the project website. And we
6 published Notice of Hearing in the following newspapers,
7 five of them, briefly, and again this is October, late
8 October of this year, Arizona Republic, Arizona Daily
9 Star, San Pedro Valley News, Willcox Range News, The
10 Explorer Newspaper.

11 And Southline provided notice of hearing via
12 CMRRR to the following jurisdictions, Cochise County,
13 Pima, Pinal, City of Tucson, City of Willcox, Arizona
14 Game & Fish, and Arizona State Land Department.

15 CHMN. CHENAL: And CMRRR is what?

16 MR. KIPP: I was hoping I wouldn't be asked.

17 MR. VIRANT: Certified mail return receipt
18 requested.

19 CHMN. CHENAL: Very good. I didn't think you
20 would be able to answer that, Mr. Kipp.

21 MR. PATTERSON: That's why we have a panel.

22 CHMN. CHENAL: You hesitated when you got to
23 that when you started reading the initials.

24 Okay, go ahead.

25 MR. KIPP: We also posted notice of hearing

1 signs along the proposed route in six different places.
2 These were put up on November 9th. I think we saw a
3 couple of these on the first part of the tour, but near
4 Tortolita substation, near DeMoss Petrie, near Vail,
5 near Apache, there is one near the Willcox Playa
6 wildlife area you will see tomorrow, and then between
7 Bowie and San Simon along the actual route of the line,
8 which I am not sure we will see tomorrow.

9 MR. PATTERSON: And Member Woodall, I believe
10 you asked a question whether there was a phone number.
11 And just to confirm, there is. And since you weren't
12 able to attend at the field trip, I just wanted to note
13 because we could see it at the DMP site.

14 MEMBER WOODALL: I think I had a follow-up
15 question, did you get any calls. And I think the answer
16 was I don't think so, or we will find out.

17 MR. KIPP: We did not get any calls. And I
18 tested it. It is working.

19 MEMBER WOODALL: I mean was this sign designed
20 to be seen from cars on the roadway or --

21 MR. KIPP: I would characterize it as a large
22 headline to let you know that there is a notice. But
23 there is a lot of information on it. So you would be
24 required to, you know, pull over to read it.

25 MEMBER WOODALL: Okay. Thank you.

1 BY MS. HOPKINS:

2 Q. Mr. Kipp, do you know the dimensions of the
3 sign?

4 A. (BY MR. KIPP) I think it is eight feet by four
5 feet.

6 Q. Please continue.

7 A. (BY MR. KIPP) The formal CEC Notice of Hearing.
8 We posted the Notice of Hearing and the CEC application,
9 prefiling and prehearing transcripts on the website.

10 Q. I think you have covered that, you are right.
11 Let me direct you. We posted the signs along the CEC
12 proposed route, and then, at the bottom of page 10,
13 Southline provided a hard copy of the application to --

14 A. (BY MR. KIPP) Got it. Hard copy of the
15 application in November 2016, the ACC Power Plant and
16 Transmission Line Siting Commission, the ACC Legal
17 Division, Utilities Division, ACC Tucson, Cochise
18 County, Pima County, Pinal County, City of Tucson, again
19 Arizona Game & Fish and Arizona State Land. And we
20 arranged to have a hard copy of the CEC application and
21 prefiling and prehearing transcripts available at
22 libraries in Willcox and Benson.

23 Q. Thank you, Mr. Kipp.

24 I would now like to switch gears again to
25 address some follow-up questions by Member Williams, I

1 believe, regarding Crane Lake.

2 A. (BY MR. KIPP) Okay.

3 Q. Member Williams asked you to double-check the
4 township and range information on Exhibit STL-26. Did
5 you do so?

6 A. (BY MR. KIPP) Member Williams was correct,
7 there was an error, a transposition of township and
8 range. It is Township 15, Range 25, Section 11.

9 Q. And can you tell us about the current well that
10 fills Crane Lake.

11 A. (BY MR. KIPP) I can. Again, this comes from
12 interviews with the manager, George Hayes, who works
13 with Arizona Game & Fish. He is the manager of the
14 current Crane Lake facility. These numbers vary
15 slightly from the official well registration that's
16 online, but as I understand it, the well registration
17 number is, as Member Williams indicated, 628226 at the
18 Arizona Department of Water Resources.

19 It was drilled in 1970. And it is listed as 500
20 feet deep, but according to Mr. Hayes it is 850 feet
21 deep, and the pump currently set at 600 feet. It pumps
22 450 gallons per minute. And it takes about 22 days to
23 fill up the current Crane Lake. He just tested it last
24 month.

25 And I believe that there was a reference in your

1 question to the potential for a well to deteriorate over
2 time due to a falling water table. I asked Mr. Hayes
3 about that. Evidently he had a video analysis done of
4 the well because it has dropped off somewhat in recent
5 years. And again according to Mr. Hayes, the dropoff
6 was not due to the water table, but because they are
7 having issues with casing collapsing, which Arizona Game
8 & Fish believes is the primary cause of the decreased
9 output. That is one of the reasons that we are drilling
10 a new well.

11 CHMN. CHENAL: Casing of -- pipe casing,
12 Mr. Kipp?

13 MR. KIPP: I think they have got a 16-inch
14 casing. It is steel, but it was drilled in 1970 and
15 occasionally -- you know, it is a deep well -- casing
16 can collapse or rust a little bit and falls apart.

17 BY MS. HOPKINS:

18 Q. Mr. Kipp, can you tell us more about the well
19 Southline is proposing to drill.

20 A. (BY MR. KIPP) Sure. So we have been speaking
21 with Arizona Game & Fish for quite awhile. Of course,
22 drilling a new well of this size is not an inexpensive
23 endeavor, so we, you know, examined repairing the old
24 well and ultimately decided that a new well adjacent to
25 the existing well was the best plan of action.

1 We would likely be, you know, at least the same
2 depth. And it would be, based on a draft hydrology
3 report, trying to understand the output of the well,
4 assuming that it matches the current well, 450 gallons
5 per minute, it looked like between the fish pond, the
6 ephemeral wetlands, and Crane Lake itself, again, these
7 are going to be managed by Arizona Game & Fish, but if
8 they were to keep them all full for the maximum length
9 of time possible in the plans, based on their needs, it
10 would take just over 200 acre feet each year.

11 And the decommissioned well would be used for a
12 few years at a rate of under 35 gallons per minute for
13 drip irrigation to establish some of the new plantings,
14 but the idea would be -- again, I am not a
15 hydrologist -- but the plan would be to replace the
16 existing well and then use this, what would be an exempt
17 well, for a short time to establish the plants before
18 turning it off permanently.

19 Q. Thank you, Mr. Kipp.

20 Member Williams also asked about filing a permit
21 or impact study on the well. Do you have additional
22 information about those items?

23 A. (BY MR. KIPP) Again I was revealing my
24 ignorance. My understanding is, because it is adjacent
25 to the existing well and it would be replacing an

1 existing well, a new permit would not be required, but
2 we would have to file, or Arizona Game & Fish would have
3 to file a notice of intention, and I believe the
4 appropriate code is R-12151308.

5 MS. HOPKINS: Thank you, Mr. Kipp.

6 Committee, I would like to switch gears and
7 discuss the alternatives that were developed.

8 CHMN. CHENAL: We have a few questions here.

9 MEMBER WILLIAMS: Thank you for finding
10 all that information out for me. And the reason I asked
11 as many questions is I was a little concerned, but it
12 was because I was confused.

13 I read in C-8 of one of the submissions that
14 there were two lakes that were effluent fed, and those
15 were Cochise or Twin Lakes. And I was under the
16 impression those were the ones that were going to be
17 moved. So I was concerned that we were replacing an
18 effluent use with a new groundwater use. But that's not
19 the case, right? Because this well was already there
20 and already serving this Crane Lake, right?

21 CHMN. CHENAL: Can you answer, Mr. Kipp, or
22 Mr. Patterson, verbally?

23 MR. KIPP: That's correct. And I would just add
24 that the old Crane Lake, after there is an adjustment
25 period so the cranes get used to the new place, they

1 would decommission the old lake. So there is not a new
2 additional.

3 MEMBER WILLIAMS: I believe also the new Crane
4 Lake, the total water surface area was going to be about
5 the same as the existing. So then my only concerns
6 would be that we would look for a condition in the
7 permit where someone would need to measure those
8 withdrawals annually using an approved measuring device
9 or method, and that those withdrawals would be reported
10 to the Department of Water Resources planning division
11 each year.

12 But other than that, you have addressed my
13 concerns. Thank you.

14 CHMN. CHENAL: Let me just, before we get to
15 Member Hamway or Member Noland, Member Williams, you
16 talked about a condition in the permit. I would almost
17 like to see a condition in the CEC that addresses your
18 point. So I don't know who the best person is to draft
19 that, if the applicant understands it and can come up
20 with some language, or if you could draft it and we can
21 consider it later. I think that would be very helpful.
22 Okay.

23 MEMBER WOODALL: Mr. Chairman, I think there is
24 a general provision in the CEC that requires the
25 applicant to comply with all pertinent regulations of

1 governing agencies and the like. So maybe if we, if you
2 wanted to detail it more, maybe there it could be
3 expanded in that particular condition.

4 CHMN. CHENAL: That would be fine. But I think
5 have a little language specific to the permit with --
6 the permit, who issues the permit, Game & Fish or ADWR?

7 MEMBER WILLIAMS: The permit for the well?

8 CHMN. CHENAL: Yes.

9 MEMBER WILLIAMS: That's DWR.

10 CHMN. CHENAL: Okay, DWR. And maybe we should
11 have some language that's specific on that. I think
12 that would be a better way to go.

13 Member Noland, did you have a question? Oh, I
14 am sorry. I saw a bunch of hands go up before when
15 Ms. Hopkins said let's move on to the next subject, and
16 there was a flurry of hand activity and I didn't know
17 who besides Member Williams.

18 MEMBER NOLAND: I had talked to Member Williams
19 about drafting a condition in the CEC, but I would also
20 like to have it include that it would be also mailed to
21 the Corporation Commission for information sake. And we
22 have done that in past hearings that regarded water
23 usage that was of concern to the Committee. And so it
24 not only goes to DWR, but it also goes to the
25 Corporation Commission.

1 CHMN. CHENAL: Very good. Good suggestion.
2 Member Hamway.

3 MEMBER HAMWAY: You said that the lakes would be
4 filled; you didn't give a number of days per year. And
5 so this is just an assumption on my part, and I have
6 never seen Crane Lake and the current playa. So the new
7 area, you are kind of refurbishing, you are adding
8 benches, making it more of a visitor destination, so are
9 you increasing the number of days that this will be
10 filled and increasing the amount of tourism?

11 MR. KIPP: I am going to give you my best answer
12 based on what I know, and potentially to be corrected by
13 Game & Fish. But currently, Crane Lake is filled when,
14 I think, you know, the cranes are starting to show up.
15 And this year I think it was late October. And I think
16 they plan on keeping it full through March.

17 And the hydrology report, we planned on filling
18 it up at the beginning of September, just, you know, to
19 stress it, to make sure there was a margin.

20 And to give you just a sense of the lake, it is,
21 you know, 30, 35 acres, very open, no brush around it.
22 That will be maintained. The cranes like, again,
23 evidently like to have a good viewshed themselves to
24 watch out for predators, but...

25 CHMN. CHENAL: When the crane loafing islands,

1 we want to make sure they have good views.

2 MR. KIPP: Basically it is, you know, it is a
3 foot and a half deep. We measured it. We were assuming
4 we would fill it to two feet in this analysis. But, you
5 know, it is a foot, foot and a half deep. And keeping
6 it full any longer than the six or seven months a year
7 wouldn't really attract waterfowl or serve a purpose
8 other than maybe some wildlife.

9 And we actually talked about having a couple of
10 rainwater catchments for wildlife as part of this as
11 well so we wouldn't need it -- you know.

12 Yeah, there was a second part to your question
13 but -- oh, tourism.

14 MEMBER HAMWAY: One other quick question. Is
15 the lake lined?

16 MR. KIPP: Very good question. It is currently
17 not lined. We did some geotech analysis and, of course,
18 Murphy's law, where we planned to build Crane Lake, the
19 infiltration rates were significantly higher than where
20 the ephemeral wetlands are. But after they did the
21 grading analysis, essentially the current plan would,
22 subject to change upon further analysis, would be to
23 take the spoils from the fish pond and the ephemeral
24 wetlands, which are more clayey and better pond bottom,
25 and moving those over to create a layer in the bottom of

1 Crane Lake. And it should satisfy without using a
2 man-made liner. We told them if a man-made liner is
3 required, you know, so be it. But they require quite a
4 bit of maintenance and they tend not to be very durable
5 in the long term.

6 CHMN. CHENAL: Member Woodall.

7 MEMBER WOODALL: I don't know if this came out
8 in the testimony, but are these cranes a protected or
9 sensitive species in some way?

10 MR. KIPP: They are actually game, a game
11 species now.

12 MEMBER WOODALL: Great, because I saw hunters at
13 my hotel this morning in their 3-D camouflage suits
14 telling me they are going out shooting Sandhill cranes.
15 Now I know I don't need to report them to anyone. Thank
16 you.

17 MR. KIPP: There will be no hunting at Crane
18 Lake. And in terms of tourism, one of the reasons that
19 the thought went into, you know, bathroom facilities and
20 these campsites and this enhanced signage is to make
21 it -- and moving it closer to Kansas Settlement Road, is
22 to make it much easier for the general population,
23 including those with disabilities, to access it. As you
24 will see tomorrow, if you really want to see cranes, to
25 see them at the current facility you walk a long way to

1 get there.

2 MS. HOPKINS: If there are no other questions,
3 we will move on to the next topic.

4 CHMN. CHENAL: Please proceed.

5 BY MS. HOPKINS:

6 Q. Switching to alternatives.

7 Ms. Bellavia, I am going to direct these
8 questions to you now in the beginning here. Let's start
9 with how the alternatives were developed.

10 A. (BY MS. BELLAVIA) Sure. So just a refresher
11 from my previous testimony, so I will kind of be brief,
12 and if you have questions, interrupt me.

13 As we mentioned before, Southline, through their
14 pre-NEPA routing efforts, ended up developing and
15 proposing two routes to the BLM and WAPA, and we called
16 them the proponent referred and the proponent
17 alternative. Those two routes were what was proposed to
18 the public during the initiation of the scoping process,
19 so those were presented for feedback.

20 As a result of that feedback during the scoping
21 period, and that was comments from the public and
22 agencies, we developed really what turned out to be very
23 specific local alternatives around specific issues,
24 whether it was in New Mexico -- although I know it is
25 not of interest to this Committee, Lordsburg Playa was

1 sensitive, so we looked at alternatives around that
2 specific geography. So those local alternatives were
3 pretty geographically specific to solve a particular
4 problem.

5 The two routes as proposed by Southline
6 initially, and those local alternatives, were what was
7 analyzed in detail in the draft EIS. And then, again
8 based on comments from the public and agencies on the
9 draft, as Mr. Kipp mentioned, the agencies looked at a
10 little different solution around Willcox Playa and some
11 of the concerns specifically with regard to cranes by
12 looking at some alignments that extended down into the
13 Willcox Bench -- we called those route variations -- and
14 again, as Mr. Kipp mentioned, some significant concerns
15 from the winery folks in particular about those routes.

16 But those and another little one, another little
17 variation in Tucson, as suggested by Pima County, were
18 added to the final EIS and analyzed in that final
19 document.

20 Q. Thank you, Ms. Bellavia.

21 You testified earlier about the alternatives
22 that were analyzed in detail in the EIS that are
23 depicted on Map 9 in the Committee's map notebook, and
24 also on the 11-by-17 laminated map that was provided to
25 the Committee last week.

1 The Committee asked for additional information
2 regarding the consideration that was given to these
3 alternatives. Can you please provide that additional
4 information?

5 A. (BY MS. BELLAVIA) Yes. Again, as I mentioned,
6 so the color coding on that Map 9, and that's consistent
7 with the way we depicted alignments in the environmental
8 impact statement, is, again, so green, proponent
9 preferred; red, proponent alternative; and then anything
10 in purple was a result of BLM and WAPA's efforts and
11 responding to concerns.

12 The best place to find this summary of impacts
13 to all these alternatives, as I kind of previously
14 walked us through, was in chapter 2 of the environmental
15 impact statement. And that chapter is not short, but it
16 includes a summary of all the alternatives in detail,
17 geographically.

18 There is also additional information about
19 portions of the routes that parallel infrastructure and
20 some calculations of mileage. I know that has been of
21 interest. And it describes all the alternatives as
22 depicted on this map that were analyzed in detail in the
23 EIS.

24 Q. Thank you.

25 So every alternative shown on this map was given

1 equal weight, and all 20 environmental resources you
2 testified to earlier were analyzed for each alternative,
3 is that right?

4 A. (BY MS. BELLAVIA) That's correct. These
5 alternatives were all treated equally throughout the
6 analysis; the same level of detail and analysis was
7 applied to all.

8 Q. Thank you.

9 Is there a table included in the final EIS that
10 provides a comparison summary of the alternatives
11 analyzed?

12 A. (BY MS. BELLAVIA) Yes. Table 2-16 in
13 particular in the final environmental impact statement
14 describes -- it is a comparison of the impacts by
15 alternative; in fact, it goes into detail by segment of
16 the alternative. So it is a long table, but it provides
17 consideration detail.

18 Q. Thank you.

19 And can you identify for the record what is
20 marked as Exhibit STL-39 in front of you.

21 A. (BY MS. BELLAVIA) I don't have it in front me.

22 CHMN. CHENAL: Before we do that, what
23 Ms. Bellavia just discussed was what has been marked as
24 STL-38?

25 MS. HOPKINS: No, Mr. Chairman. We are looking

1 at Table --

2 CHMN. CHENAL: Right, I understand that. But I
3 thought there was a discussion about section 2.6 which
4 is marked STL-38.

5 MS. HOPKINS: Sure. Let me address that first.
6 So Ms. Bellavia was describing generally what was
7 included in chapter 2 of the final EIS and, as we have
8 marked as Exhibit STL-38, specific excerpts from chapter
9 2 that we think the Committee may find helpful in
10 conjunction with the table that we are about to discuss.

11 BY MS. HOPKINS:

12 Q. So Ms. Bellavia, if you could take a look at
13 Exhibit STL-38.

14 A. 39?

15 Q. Hold on just a second.

16 CHMN. CHENAL: Let's give the Committee a moment
17 to get the exhibits.

18 CHMN. CHENAL: So, STL-38 is excerpts of the EIS
19 on alternatives and table, and STL-39 for identification
20 is Table 2, or 2-16, of the environmental impact
21 statement with regard to alternatives.

22 MS. HOPKINS: Yes. Thank you, Mr. Chairman.
23 And Southline would offer both Exhibit STL-38 and
24 Exhibit STL-39 into the record.

25 CHMN. CHENAL: Okay, STL-38 and STL-39 are both

1 admitted.

2 (Exhibits STL-38 and STL-39 were admitted into
3 evidence.)

4 MS. HOPKINS: And again, STL-38 is really just
5 for the Committee members' reference. If in later
6 discussions you don't remember what the sub route 2.1
7 proponent referred is, you can find that information in
8 those excerpts, hopefully.

9 But Ms. Bellavia is going to walk us through
10 Table 2-16 from the final EIS that's marked STL-39 now.

11 A. (BY MS. BELLAVIA) And just regarding STL-38, it
12 essentially is just a summary of what I just described
13 as far as the iterative. So if you see terms that you
14 can't remember, then this is, as Ms. Hopkins mentioned,
15 a good reference summarizing what I already mentioned,
16 and also helps connect to the table that I am going to
17 mention.

18 Okay. Regarding Exhibit STL-39, that's a table
19 in the final environmental impact statement. And it is
20 what I just mentioned, where -- and this particular
21 table, 2-16, is describing or providing a comparison of
22 impacts for routes within route group 2.

23 So I have not previously, nobody has previously
24 testified what route group 2 is. So for context,
25 essentially we took the project and it is kind of

1 quartered up, not necessarily equally, but using
2 substations as connection points to try and break the
3 analysis down a little more geographically and for
4 disclosure in the EIS. And so route group 2 is any of
5 the alternatives connecting the Hidalgo substation in
6 New Mexico to the Apache substation in Arizona. So
7 there are portions of New Mexico reflected in this
8 table, just for context.

9 So again, route group 2 is looking at
10 alternatives between the Hidalgo substation and Apache
11 substation, which includes the new build portion of the
12 route, talking about before you. So this table shows --
13 so across the top are really any of the alternatives,
14 and then their segments, as they are broken down.

15 So if you look at the first column, really the
16 first column with information, sub group 2.1, proponent
17 preferred, when you are looking at a map, that's always
18 going to be green. When you see sub route 2.2,
19 proponent alternative, that's always going to be red.
20 And then anything else up to the very last column up to
21 but not including the very last column, and that's all
22 the local alternative segments and the route variations,
23 that's always purple.

24 And then the agency preferred alternative on the
25 very last column is the agency preferred as indicated in

1 the final EIS, which was ultimately what was
2 memorialized in the agency decisions. So that last
3 column is the best sort of summary of the final agency
4 preferred route. So that's kind of your -- across the
5 horizontal axis there, that's how you can find
6 information about a particular segment and connect it to
7 the map.

8 CHMN. CHENAL: So Ms. Bellavia, is the agency
9 preferred alternative -- well, agency preferred
10 alternative, that's the last column that summarizes
11 everything, but what was the approved? Was it the --

12 MS. BELLAVIA: Agency preferred alternative is
13 what was approved.

14 CHMN. CHENAL: So the color on Map 9 is green?
15 Or is there any indication on what the agency approved
16 alternative is on the Map 9?

17 MS. BELLAVIA: I can't see it and I don't have
18 the laminate in front of me. I know that in the -- what
19 you are now asking about Map 9, I will have to answer
20 that question when I can look at it.

21 But in the EIS, wherever we had the agency
22 preferred alternative, it is indicated on every map
23 usually in gray. So it is kind of like you can see
24 green with gray if it included part of the proponent
25 preferred or green -- or purple with gray. So there is

1 usually a gray line sort of associated with it. And it
2 is always marked on maps in the EIS.

3 MS. HOPKINS: So Mr. Chairman, just some
4 additional information on top of what Ms. Bellavia has
5 testified to. Map 9 and the 11-by-17 map that you are
6 looking at only includes the alternatives. And the
7 selected route is primarily the proponent preferred, but
8 as Ms. Bellavia talked about earlier, there was some
9 slight changes to certain segments. And so the selected
10 route is reflected in exhibit, or excuse me, not
11 exhibit, but Map 11 in your map notebook.

12 And more specifically, the Arizona, that's the
13 Arizona portion, Map 11. And also Map 10 reflects the
14 selected alternative.

15 CHMN. CHENAL: Okay. Thanks very much. That
16 clarifies it, because the placemat has a lot of lines on
17 it, but none of them reflect the actual route.

18 And that's just to clarify the record. Thank
19 you.

20 MS. BELLAVIA: Okay. So again kind of using
21 the -- or you want to refer to a specific, that was
22 analyzed. You can look across the top. And then over
23 the next several pages, kind of continuing on the
24 vertical axis, you know, you can see here it starts with
25 the length of the segment. Then we broke it down by

1 land ownership in terms of, you know, how much of each
2 segment crosses, for example, BLM land or EIA or Forest
3 Service.

4 Then there is also a breakdown of ground
5 disturbance, temporary and permanent. And then again it
6 kind of goes, it is essentially, after BLM, RMP
7 conformance. So it is BLM, and then that's resource
8 management plan conformance. That's the fed's land
9 management plan.

10 And then really beginning on the next page of
11 that exhibit, which is listed as page 158 of the EIS,
12 really then it goes into each of the resource categories
13 that I previously mentioned that we analyzed in detail
14 in the EIS. So all those are listed along the left.
15 And then, again, you can find information about the
16 comparison of impacts by alternative per resource as you
17 read through this table.

18 And then some of those topics, for example,
19 biological resources, that analysis is very long. And
20 so those are, some of those impacts are broken down
21 further into some subheaders like impacts to migratory
22 birds or state species of concern, et cetera.

23 So this table is, although itself rather long,
24 the best source of information to really give you an
25 overview of impacts by segment by resource. The one

1 thing that is not in this table, but the EIS actually
2 has an executive summary also, not particularly short,
3 it is approximately 25 pages, that provides a narrative
4 kind of around this table and summarizes the 2,000 plus
5 pages of analysis.

6 So if tables aren't your thing, then the
7 executive summary is also a handy reference for -- and
8 it is also broken down similarly by air quality and
9 noise and all those same headers, topics. So this table
10 and the executive summary are really excellent
11 references to summarize the long document.

12 BY MS. HOPKINS:

13 Q. Thank you, Ms. Bellavia.

14 So after extensive analysis, as you have
15 testified to, BLM and WAPA chose the agency selected
16 route, which is also reflected on Map 2 in the
17 Committee's map book, and that's for the entire project,
18 not just Arizona. And we have got that up on the
19 projector. And also for reference, it is Figure A-1 in
20 the Southline application.

21 MEMBER NOLAND: Mr. Chairman.

22 CHMN. CHENAL: Member Noland.

23 MEMBER NOLAND: Thank you, Mr. Chairman.

24 At the lunch break do you think you could move
25 those screens a little closer to us? I even put on my

1 good glasses. And it would help, rather than running
2 back and forth to our map books and our other five
3 books, if you could just move it maybe five or six feet
4 closer. Thank you.

5 MS. HOPKINS: Sure.

6 BY MS. HOPKINS:

7 Q. Mr. Patterson, I would now like to ask you if
8 you could please explain why Southline only submitted
9 one route in its CEC application.

10 A. (BY MR. PATTERSON) Certainly. So --

11 CHMN. CHENAL: May I ask a question,
12 Mr. Patterson, before you begin? Just back to the
13 Exhibit 39, just one question. We had a lot of
14 discussion about the BLM right-of-way. And if we look
15 at the first page of Exhibit 39, BLM, just second --
16 well, second column from the left it talks about land
17 ownership and miles crossed, and you see BLM there. And
18 then you read it across, it starts with the proponent
19 preferred is 28.3 miles, but walk it all the way over to
20 the far right column, the 34.3, the agency preferred
21 alternative. So that's 34.3 land miles of BLM land.

22 The legal issue, the FLPMA -- I love saying that
23 word -- the Federal Land Policy Management Act, we talk
24 about 1.5 miles of right-of-way that, you know,
25 dovetails into that issue, which I don't know, and we

1 may touch on it when we get to deliberations, but what I
2 am getting at, you have got apparently 34.3 miles of BLM
3 land, but for purposes of the analysis there was only
4 1.5 miles of BLM right-of-way that would be subject to
5 that. I would just like a little clarification as to
6 why it is not more than 1.5 miles.

7 MS. HOPKINS: And if I could answer that
8 question, Mr. Chairman.

9 CHMN. CHENAL: Please, please.

10 MS. HOPKINS: The table that we are looking at
11 here in STL-39 just includes the CEC new build portion
12 of the route. And so that 34.3 miles is actually
13 extending from the Hidalgo substation in New Mexico over
14 to the Apache substation in Arizona.

15 CHMN. CHENAL: Right.

16 MS. HOPKINS: And so the 1.5 miles of BLM land
17 that we have been discussing that is subject to FLPMA is
18 actually on the CEC upgrade route from Apache to
19 Saguaro.

20 CHMN. CHENAL: That makes sense. Thanks very
21 much. Thank you.

22 BY MS. HOPKINS:

23 Q. Please continue, Mr. Patterson.

24 A. (BY MR. PATTERSON) Sure. Actually, and before
25 we answer that, it reminded me of a question that I

1 believe Mr. Bingham had asked when we were looking at
2 alternatives previously.

3 But the maps that Ms. Bellavia was showing that
4 had the alternatives, and if you recall, there was the
5 proponent preferred essentially in this new build area
6 that came along the east side of the Willcox Playa and
7 the proponent alternative came along the west side of
8 the Willcox Playa, and I believe there was a question
9 from Member Bingham about the relative amount of private
10 land. And I just wanted to note that, you know, I did
11 look that up, and I believe the proponent preferred was
12 probably about 20 percent less private land than the
13 alternative. So the east side of the playa would cross
14 less private land than going on the west side, which is
15 reflected in the table, but I just wanted to note it
16 since you asked the question.

17 And I think there might have been a question
18 also, there was a route variation, I believe it is
19 called WC1, that was considered in the process as well.
20 And that really paralleled, I believe, more like I-10,
21 and that alternative, which you can see, would have had
22 a lot more impact through private and the Town of
23 Willcox, bringing it closer to the population. So I
24 just wanted to frame that in terms of the conversation
25 around private lands and the assessment of these

1 different alternatives.

2 But to Ms. Hopkins' question, so the reason that
3 Southline submitted just one route in our CEC
4 application was that there had been a number of
5 alternatives that had been thoroughly analyzed in the
6 course of the EIS and NEPA process -- and that NEPA
7 process was a coordinated effort that included the
8 involvement of many of Arizona's key agency and
9 jurisdictional agencies and organizations, as well as a
10 broad public involvement that we walked through.
11 Southline has, we also have, since, we presented the
12 information about the alternatives that had been
13 considered but not taken forward or rejected really in
14 the EIS process, and how those decisions were made, in
15 an effort to really show the Committee all the pertinent
16 information. In fact, BLM granted a right-of-way and
17 WAPA issued their ROD that really established the start
18 and stopping points or end points, at least on -- from
19 those federal decisions. And so that was the context in
20 which we submitted the route that we have in the CEC
21 application.

22 Q. Thank you, Mr. Patterson.

23 I would also like to clear up for the record the
24 various commitments that Southline and WAPA have made on
25 the project. The Chairman asked us to compile a

1 one-pager or something that would summarize where that
2 information can be found. We have done that, and marked
3 it as Exhibit STL-40.

4 And for the record, can you please describe what
5 STL-40 includes?

6 A. (BY MR. PATTERSON) Sure. So this exhibit is a
7 summary, as mentioned, of the significant BLM and WAPA
8 ROD conditions, and the applicability of those
9 conditions to the Southline project.

10 Q. And are there excerpts from the BLM ROD, or are
11 there excerpts included behind this summary?

12 A. (BY MR. PATTERSON) Yes, there are.

13 CHMN. CHENAL: Member Woodall.

14 MEMBER WOODALL: Excuse me, sir. Could you tell
15 me who prepared Exhibit 40?

16 MR. PATTERSON: The Southline team prepared it,
17 really. I mean our attorneys, with the rest of the team
18 helping as well.

19 MEMBER WOODALL: Whenever I hear team, I think
20 group thing. So can we tighten that down? Did the
21 environmental consultants provide information and
22 lawyers reviewed it? And I don't want to get into work
23 product issues, but I would like to know whose work
24 product this is.

25 MR. PATTERSON: I believe the drafting was with

1 the legal team, and then the rest of the team helped
2 contribute and review.

3 MEMBER WOODALL: Okay. So what witness can tell
4 me that these are, in fact, a summary of significant BLM
5 and WAPA ROD conditions and the applicability of those
6 conditions to the Southline project? Is that you?

7 MR. PATTERSON: That's me.

8 MEMBER WOODALL: And that's what your testimony
9 is?

10 MR. PATTERSON: Yes, ma'am.

11 MEMBER WOODALL: Thank you, sir.

12 CHMN. CHENAL: I will have some follow-up
13 questions, and I think we will get to that, you know, to
14 those documents and just make sure we are clear what
15 underlies this summary, which is consistent with my
16 understanding, by the way. But we will, we will after
17 lunch probably have to get into that just a little.

18 MR. PATTERSON: Okay.

19 BY MS. HOPKINS:

20 Q. So Mr. Patterson, I would just ask that you walk
21 us through, succinctly through what the commitments are
22 that have been made and to what portion of the project
23 those commitments apply.

24 A. (BY MR. PATTERSON) Sure. I will summarize, and
25 we can dive in deeper if desired.

1 But essentially the BLM Record of Decision
2 includes a detailed plan of development. The plan of
3 development commits Southline and WAPA to really
4 extensive construction, environmental, and mitigation
5 measures. Those are what have been called the proponent
6 committed environmental measures, the PCEMs that we have
7 discussed. And those apply to all BLM land.

8 The WAPA ROD also commits WAPA to the same PCEMs
9 that are detailed in that plan of development to the
10 entire WAPA upgrade section. Separately, Southline
11 independently committed to following the BLM ROD plan of
12 development throughout the non-WAPA portions of the
13 project, including specifically the CEC proposed route.

14 BY MS. HOPKINS:

15 Q. Thank you, Mr. Patterson.

16 CHMN. CHENAL: Member Woodall.

17 MEMBER WOODALL: So with respect to the
18 documentation on Exhibit No. 40, there is a reference to
19 the NEPA plan of development and framework plans, and
20 then there is proponent committed environmental
21 measures, and then there is a historic properties
22 treatment plan, and then there is a reference to the
23 programmatic agreement. How voluminous are these
24 documents or sub documents? Hundreds of pages or --

25 MS. BELLAVIA: The BLM Record of Decision

1 includes the plan of development as an attachment, and
2 that complete package is on the order of 600 pages.

3 MEMBER WOODALL: But with reference to the
4 mitigation measures, that's what I am focusing in now
5 that are specifically called out in Exhibit 40.

6 MS. BELLAVIA: The PCEMs, I believe.

7 MEMBER WOODALL: It says NEPA plan of
8 development and framework plans, then it says committed
9 environmental measures. Then there is a reference to
10 NEPA POD dated March 16th -- March 2016, which I don't
11 know if that's different because it is dated in one
12 section but not in another, and then there is a
13 reference to programmatic agreement, and then
14 basically --

15 Here is what I am looking for. It would be
16 helpful to me if these documents could be filed -- let's
17 assume for purposes of discussion that a CEC is issued
18 and that the Commissioners issue a decision
19 acknowledging that. How difficult would it be to file
20 these documents in the docket? And I don't need the
21 entirety of the ROD. I am just referring to the
22 mitigation measure topics that are called out in
23 Exhibit 40.

24 MS. BELLAVIA: To answer, to the ROD, the PCEM
25 table was previously submitted as an exhibit. So

1 that's what I would imagine, and I will defer to the
2 attorneys to answer the rest the question about filing.

3 The programmatic is not particularly long, maybe
4 15 or 20 pages. So I think those materials could be
5 provided, if that is all right with Ms. Hopkins.

6 MEMBER WOODALL: Ms. Hopkins, here is what I am
7 looking for. I mean, I see this here, but basically I
8 would like people to have one place where they could go
9 and see where these plans, framework plans, programmatic
10 agreements are. And since we are not talking about the
11 entirety of the ROD, those are not called out here on
12 Exhibit 40, it would be helpful to me if the applicant
13 would agree to file copies of those in the docket in
14 this matter within a number of days after any decision
15 is issued. And that way anyone who wants to know what
16 you have committed to do will at least be able to look
17 at the Commission website and read it.

18 Would that be problematic?

19 MS. HOPKINS: No, Member Woodall, I don't
20 believe so. I would like to note that the entirety of
21 the BLM Record of Decision, plan of development is
22 included in our application.

23 MEMBER WOODALL: Yes, ma'am.

24 MS. HOPKINS: Of 3, I believe.

25 MEMBER WOODALL: I know that. But as I am sure

1 Ms. Bellavia will agree, navigating and finding specific
2 documents within those four volumes could be a little
3 bit challenging, particularly to those of us who don't
4 have perfect vision.

5 So I am just trying to make it easy so, if
6 somebody would say what are they telling us to do, they
7 can see there it is. So could you do that?

8 MS. HOPKINS: Yes.

9 MEMBER WOODALL: And could you consider crafting
10 a condition that would require you to do that?

11 MS. HOPKINS: We have, in fact, done so.

12 MEMBER WOODALL: How exciting. Thank you.

13 MS. BELLAVIA: Can I just -- one point of
14 clarity. Member Woodall mentioned the historic
15 properties treatment plan is referenced here. And that
16 is a condition of the programmatic agreement. And it
17 has not yet been prepared --

18 MEMBER WOODALL: Yes.

19 MS. BELLAVIA: -- and likely wouldn't be
20 postable anyway due to concerns about sensitivity.

21 MEMBER WOODALL: You would have super secret
22 sites on it.

23 MS. BELLAVIA: Exactly.

24 MEMBER WOODALL: I think people know where I am
25 coming from. Thank you.

1 CHMN. CHENAL: Just a couple follow-up
2 questions, then break for lunch.

3 Mr. Jackson, did you have --

4 MR. JACKSON: On this particular topic I have a
5 couple questions. I can wait until the panel is done or
6 I can ask them now, as you prefer.

7 CHMN. CHENAL: I think we are getting close to
8 lunch, so I mean a lot of this can wait until after
9 lunch. How about if we take our noon recess now, and
10 then we can come back and get into these issues.

11 I just wanted a few clarifications. I
12 appreciate the applicant putting together Exhibit 40.
13 It is a little difficult to find everything. It was for
14 me, anyway, as I wrestled with it and tried to find the
15 conditions and get an understanding of it. I think this
16 is very clear, it helps me, clarifies it. And I am
17 talking about Exhibit 40.

18 And it confirms kind of what I thought, which
19 the basic premise was, is all these agreements and
20 requirements seem to apply to the BLM land and not to
21 the non-BLM land, but Southline has agreed to follow
22 those on all the non-WAPA portion of the project.

23 And I think that was what I was hung up on, is,
24 yeah, you have these requirements, but over what portion
25 of the line do they apply. And I think there were gaps.

1 And I think the testimony of Southline Transmission was
2 we are going to do all this. I don't think it was
3 required necessarily by the documents. It was more an
4 offering of the applicant to make those applicable.

5 And it is hard to kind of see the legal
6 framework as to where the gaps were, and I think this
7 clarifies it a lot for me. So at least when we come
8 back from lunch -- and, Member Noland, we will get to
9 you in a second -- I will just kind of ask a couple
10 clarifying questions on this document, Exhibit 40. And
11 then we will have Mr. Jackson ask some questions.

12 Member Noland.

13 MEMBER NOLAND: Thank you, Mr. Chairman.

14 I just want to say that the Exhibit 39 is
15 particularly helpful for me in looking at the preferred
16 route and the alternatives and the impacts of all the
17 varying areas. So thank you very much for that. That
18 really helps drill down to a lot of my concerns.

19 CHMN. CHENAL: Member Woodall, and then we will
20 get to Member Haenichen.

21 I always like Member Haenichen's reaching
22 because I think it always is going to add a little
23 excitement.

24 MEMBER WOODALL: I just wanted to indicate that
25 I had briefly talked about the form of the CEC, and

1 typically there was an Exhibit A which was a visual
2 depiction of the route. And is there something in the
3 record that you are planning on using?

4 MS. HOPKINS: It is not in the record, Member
5 Woodall. We created a new document that we believe
6 addresses the Committee's concerns. And we have copies
7 of that here and expect to provide it to you as soon as
8 it makes sense.

9 MEMBER WOODALL: It might make sense to me to
10 have it now if it is available. Thank you.

11 CHMN. CHENAL: Member Haenichen.

12 MEMBER HAENICHEN: Member McGuire said you
13 better say something dramatic.

14 Mr. Patterson, I am just curious. Was there any
15 point in the development of this project, right from the
16 get-go up until recently, that the applicant possibly
17 felt that, because of the NEPA process and all that, it
18 was not even required to come before this Committee?

19 MR. PATTERSON: Well, I would say that it was
20 not known how and what the scope would be, and there was
21 a lot of uncertainty, particularly with respect to how
22 it would -- what Western's position or interest in the
23 project would be and how that would frame out,
24 particularly early on before we developed in depth the
25 participation type of principles that we had discussed

1 earlier. It just wasn't known.

2 And so there was a period of time particularly
3 that when we knew that we -- we knew Western couldn't
4 make any decisions before going through the federal NEPA
5 process, whether it was with respect to routing or
6 whether it was with respect to more commercial type of
7 decisions as well. And so we knew that we had to work
8 through that process before we could have the framework
9 to know what the appropriate state applications would
10 be.

11 So I don't know if that's fully responsive, but
12 that's how I lived through it.

13 MEMBER HAENICHEN: Well, about when did you come
14 to this realization then that you should present it
15 here? A year ago? Two years ago?

16 MR. PATTERSON: I am just trying to think of the
17 time frame. I mean the discussions have been ongoing.
18 I think that all along we tried to be very clear that we
19 fully intended to comply with whatever requirements
20 there were. We weren't sure what the requirements would
21 be. And so trying to put a time frame on that, I don't
22 know how to answer that.

23 MEMBER HAENICHEN: It is not that important.
24 But we are glad you are here.

25 MR. PATTERSON: Well, thank you. It is a very

1 interesting process. Glad to be here.

2 CHMN. CHENAL: A few more questions from Member
3 Haenichen and it will be a very interesting process.

4 Was part of the thought process, though, that if
5 Western had more of a role with the new build portion of
6 the line that there might be a feeling by the applicant
7 that it would be preempted and wouldn't have to go
8 through the CEC process?

9 MR. PATTERSON: I mean I think that was a
10 potential discussion. But frankly, I don't think any of
11 us really were pursuing, you know, or thinking that that
12 would likely be the case. It just, you know, for a lot
13 of reasons, it didn't seem like that made sense.

14 But, you know, the trickier part, frankly, I can
15 only speak to my own mind on this, so to me it has
16 always been clear the new build you have new
17 infrastructure, and WAPA is not involved in, so it seems
18 that the siting authority clearly resides with the
19 state, and should be. Upgrading the existing WAPA line
20 in my own mind was a little trickier and how would that
21 work. And yet from going through the need and how it
22 evolved, trying to -- the reason that there are those
23 other connections, upgrading the WAPA line was to serve,
24 you know, these other purposes, a key part of the
25 project.

1 And so trying to figure out really the scope of
2 that was, at least what I found, challenging. And I am,
3 you know, glad we found a scope that I think makes
4 sense. But it is just my own perspective.

5 CHMN. CHENAL: In my mind, and given the legal
6 issues we have discussed, I think with WAPA funding,
7 constructing, owning, and operating the upgrade portion
8 of the line, that WAPA portion of the line, I think that
9 makes the legal analysis a lot easier. It would be a
10 little messier if it was more of a joint project with
11 multiple parties owning that portion of the line.

12 But Member Woodall.

13 MEMBER WOODALL: So before you entered into the
14 NEPA process, did you have an environmental consultant
15 assisting you?

16 MR. PATTERSON: Yes. And I mean before and
17 leading into, yeah.

18 MEMBER WOODALL: Okay. So was this
19 environmental consultant tasked with identifying what
20 permits would be necessary for the project?

21 MR. PATTERSON: Yes, they were. And I think a
22 CEC approval has been on the table all along, as I
23 recall.

24 MEMBER WOODALL: Okay. Thank you.

25 CHMN. CHENAL: Any other questions from the

1 Committee?

2 (No response.)

3 CHMN. CHENAL: If not, let's break for lunch. I
4 note that it is a little after -- well, it is 12:11.
5 Let's meet back at 1:00, if that's okay. We can begin
6 the proceeding at 1:00.

7 (A recess ensued from 12:11 p.m. to 1:10 p.m.)

8 CHMN. CHENAL: Okay, everyone, let's commence
9 with the afternoon session.

10 Are there any housekeeping items we should
11 address before we begin?

12 MS. HOPKINS: Yes, Mr. Chairman. I have handed
13 out another demonstrative laminated map, very colorful
14 laminated map. It is Figure A-1, referred to as the
15 project overview map in the CEC application.

16 So this is just a blow-up 11 by 17. And I have
17 handed it out in response to the Chairman's comment
18 about having the colorful map with the alternatives, but
19 not the project route, the selected route. This map
20 reflects the selected route.

21 CHMN. CHENAL: Did you have this at the ready?
22 It would be terrifying to think this was produced over
23 the noon hour.

24 MS. HOPKINS: We had it.

25 CHMN. CHENAL: All right. Very good.

1 MR. JACKSON: Mr. Chairman, I spoke with Mr. Guy
2 and I will just hold my questions until the panel is
3 done.

4 CHMN. CHENAL: All right. Very good.

5 I might just have a couple follow-up questions
6 on Exhibit STL-40, the conditions and applicability of
7 those conditions to the Southline project. So this
8 document, and, again, I appreciate the applicant and the
9 team, you know, putting this together, it kind of
10 confirms my concern listening to the testimony and my
11 review of the documents, which was that it would only
12 apply to BLM lands, you know, on the new build and the
13 upgrade section. And so there would be gaps. And I
14 believe this document basically confirms that, but with
15 the additional avowal or commitment by Southline to
16 apply the plan of development, the PCEMs and other
17 requirements that would cross the entire line, not just
18 the BLM administered properties.

19 So just a couple follow-up questions. The first
20 indented paragraph on the first page, it says Southline
21 and WAPA must follow construction procedures and
22 mitigation measures in the NEPA plan of development and
23 framework plans.

24 Framework plans, I have seen that word, you
25 know, framework plans in a number of documents, and I am

1 curious if someone could explain to me what those are,
2 either the counsel or anyone on the Committee, I mean
3 the panel.

4 Ms. Bellavia.

5 MS. BELLAVIA: I can answer the question about
6 what the framework plans are. They are sort of broken
7 down between construction considerations and then
8 environmental plans. So the construction
9 considerations, the framework plans included there are a
10 flagging, fencing, and signage plan, geotechnical
11 investigation report, project construction details,
12 special construction techniques, description of
13 construction workforce, and then an environmental
14 compliance management plan. So those apply to sort of
15 the construction portion of it.

16 Then there is -- these are really the substance
17 of the framework plans as referenced. And they are an
18 access road plan; a traffic and transportation
19 management plan; a storm water pollution prevention
20 plan; spill prevention control and countermeasures plan;
21 a historic properties treatment plan; a blasting plan;
22 plant and wildlife species conservation measures plan;
23 erosion, dust control, and air quality plan; hazardous
24 materials management plan; emergency preparedness and
25 response plan; noxious weed management plan; fire

1 protection plan; stream, wetland, well, and spring
2 protection plan; soil management plan; reclamation,
3 vegetation, and monitoring plan; health and safety plan;
4 avian protection plan; a few more, waste management
5 plan; helicopter -- excuse me, helicopter flight plan;
6 flight and safety plan; and a decommissioning plan. So
7 that second list really are the ones that form the
8 framework plans.

9 CHMN. CHENAL: And where do you find the
10 framework plans or the requirement for Southline to
11 enter into these framework plans? Is that part of the
12 plan of development?

13 MS. BELLAVIA: Those are attachments to the POD,
14 which is an attachment to the BLM's ROD.

15 CHMN. CHENAL: Okay. So a requirement for
16 Southline to comply with the terms and conditions of the
17 plan of development would include the framework plans,
18 is that correct?

19 MS. BELLAVIA: Yes.

20 CHMN. CHENAL: Okay. Now, if you could turn to
21 one of the attachments to the summary, at the bottom it
22 says B-14.44. And the beginning at the first full
23 paragraph, this is going to get into the issue of
24 overseeing implementation and compliance. See, the
25 second sentence of that first full paragraph says for

1 non-BLM.

2 So BLM administered lands, who will be the lead
3 federal agency overseeing implementation and compliance
4 with the PCEMs and other protections? Would that be the
5 BLM?

6 MS. BELLAVIA: The question is who would oversee
7 the enforcement on BLM lands?

8 CHMN. CHENAL: Yes.

9 MS. BELLAVIA: Yes.

10 CHMN. CHENAL: That's what I assumed. So the
11 sentence says, it says for non-BLM administered lands,
12 Western will likely be the lead federal agency
13 overseeing implementation of the compliance with the
14 suite of PCEMs and other environmental protections
15 identified in the EIS and supporting documents.

16 So will there be an ongoing obligation, as you
17 understand it, for Western to oversee implementation and
18 compliance?

19 MS. BELLAVIA: My understanding, if the question
20 is posed to me, and perhaps --

21 CHMN. CHENAL: I will ask it to the panel, but
22 let's start with you.

23 MS. BELLAVIA: My understanding is certainly
24 Western will be required to oversee that compliance on
25 the upgrade portion of the project which they actually

1 currently manage. As to the applicability of that
2 statement to the non-Western system, I don't know if you
3 have a different perspective on that.

4 CHMN. CHENAL: Well, we will get into that. But
5 for the -- well, it says for non-BLM administered lands,
6 Western will likely be the lead federal agency. And I
7 am curious if you know whether that's just the upgrade
8 or it includes the new build as well.

9 MS. BELLAVIA: I am not aware that Western would
10 extend their enforcement to the non-Western portion of
11 their system. But that's my personal understanding.
12 Again, I don't know if Mr. Kipp or Mr. Patterson have a
13 different understanding.

14 MR. PATTERSON: I don't. I don't know.

15 MR. KIPP: Sorry. I don't know either.

16 CHMN. CHENAL: You can see where we are going
17 with this. I am on the new build section, the portion
18 for which the application has been filed. I guess the
19 crux of the matter is that these requirements, I will
20 just use the word generally, requirements, really apply
21 to BLM land. So for non-BLM land, there is really no
22 requirement for these. There is no requirement, so
23 there is really no one that's going to oversee the
24 implementation and oversight of it.

25 So the sentence in this report I just read is

1 interesting to me, for non-BLM administered lands
2 Western will likely be the lead federal agency
3 overseeing implementation of the compliance with these
4 requirements. So it seems intuitive that Western
5 wouldn't, if it did that, undertook that obligation, it
6 would do so on the upgrade portion and not the new
7 build.

8 So let's talk about the new build and
9 Southline's commitment to follow these requirements on
10 the new build. Who would oversee the implementation and
11 compliance of these requirements on the portion for
12 which the application has been filed?

13 MS. BELLAVIA: So you are saying who would
14 oversee implementation of those measures on non-BLM land
15 in the new build? That's your question?

16 CHMN. CHENAL: That's really the question, yeah.

17 MS. BELLAVIA: I don't know the answer to that
18 question personally.

19 MR. PATTERSON: I am not sure I know the
20 question either -- or the answer either, but my
21 understanding was, at least conversations with WAPA that
22 I have had, is that they would view the right-of-way
23 agreement with the underlying landowner as really
24 governing. And so the landowners would, which I think
25 it mentions here, would adopt or not adopt the measures.

1 I don't know if that's responsive. And given that, in
2 order to seek a right-of-way, we need approval from this
3 Committee, I mean I wonder, is it, you know, we can --

4 CHMN. CHENAL: Let me help you out a little.
5 You can anticipate in the conditions one of the
6 conditions I offered, which we will start to review,
7 would require that all these requirements apply to the
8 portion that you are applying for for a CEC, and that
9 goes over, you know, BLM land, state land, private land.
10 I mean it is a potpourri of different lands, as we have
11 reviewed it.

12 It is unclear to me from reading the document I
13 just read who is going to oversee the, you know,
14 implementation and compliance of that possible
15 requirement. I mean Southline has already, it is not
16 really a major leap because Southline has already
17 committed to following those requirements on the route,
18 the CEC route. But who is going to monitor that?
19 That's the kind of question I have got.

20 MS. BELLAVIA: And I think the short answer to
21 your question is there is nothing that I am aware of
22 defined in BLM's Record of Decision or WAPA's that
23 addresses the specific issue of compliance over that
24 portion you are asking about, the non-BLM or non-WAPA.

25 CHMN. CHENAL: I think that's probably correct.

1 The only thing I could see -- and I haven't read the
2 entire document -- was Western was suggested to be the
3 federal agencies over non-BLM land. It didn't
4 reference, you know, upgrade versus new build, so that's
5 kind of an ambiguous sentence to me, but anyway...

6 Member Woodall.

7 We will come back to that, too.

8 MEMBER WOODALL: So there will be a construction
9 company that will be retained to actually build this,
10 correct?

11 MR. PATTERSON: Yes.

12 MEMBER WOODALL: Okay. And so part of the
13 contract of the construction company is going to be
14 compliance with these requirements, is that correct?

15 MR. PATTERSON: That is correct. And that was
16 one of the reasons that the PCEMs were developed, so
17 that in one place they could be provided to that
18 construction contract.

19 MEMBER WOODALL: So was there going to be any
20 independent person on-site during construction to
21 confirm that the construction contractor is doing what
22 is required in the PCEMs?

23 MR. PATTERSON: Yes, as I understand it.

24 MEMBER WOODALL: Okay. And who or what is that?

25 MR. PATTERSON: I have forgotten the name of the

1 entity.

2 Do you remember?

3 MS. BELLAVIA: So there is one of the PCEMs in
4 the exhibit. Which number I don't recall, so
5 Ms. Hopkins will supplement that number.

6 But in the table on the bottom of the first
7 page, and also throughout the narrative of the EIS,
8 should you want to read 2,000 pages, indicates that it
9 is, the last one on the first page of Exhibit --

10 MS. HOPKINS: STL-30.

11 MS. BELLAVIA: -- STL-30, page B-14.102
12 indicates the process by which the BLM, Western, and
13 Southline, and its construction contractor will conduct
14 environmental monitoring compliance and reporting
15 activities during construction will be described in a
16 project compliance plan that will be prepared by CIC,
17 which stands for the construction inspection contractor,
18 after the CIC has been selected and reviewed by BLM.

19 That says BLM specifically in the narrative, but
20 my understanding is WAPA would participate in that
21 selection as well.

22 MEMBER WOODALL: So there is going to be an
23 officially designated person on-site that will be
24 reviewing these activities and that presumptively will
25 be reporting any no-nos to the federal agencies?

1 MS. BELLAVIA: Yes. In fact, it goes to answer
2 that question, and says after issuance of the notice to
3 proceed, a CIC designated by the BLM and Western will
4 provide environmental oversight and compliance
5 monitoring on, specifically here, BLM managed lands
6 during project construction to ensure compliance with
7 all design features and mitigation measures. So
8 again --

9 CHMN. CHENAL: We are back to the same problem
10 that BLM managed lands is a portion of the line, not the
11 entire line. So we will have a CIC person who will be
12 monitoring compliance only on the BLM managed lands and
13 not on the non-BLM managed lands in the CEC route. I
14 will call it like that.

15 So we have a -- yeah, I am thinking out loud
16 now. We will have a condition that will require
17 Southline to follow what its commitment is because they
18 have already committed to this. But I am struggling a
19 little with who's going to monitor that.

20 Member Noland.

21 MEMBER NOLAND: Well, Mr. Chairman, why don't we
22 just add a condition that says that Southline will
23 contract with the same person that is utilized by BLM
24 and WAPA to monitor the private land portions of the new
25 line?

1 CHMN. CHENAL: Nothing escapes --

2 MEMBER NOLAND: Would that take care of that
3 concern?

4 CHMN. CHENAL: I think it would, the non-BLM
5 managed, to have something like that for the non -- that
6 may be something -- we can talk about that. That may
7 solve some of the problem, yeah.

8 Member Haenichen.

9 MEMBER HAENICHEN: This might be a segue into
10 the things I spoke to you earlier about that I wanted to
11 bring up. I for one am in a bit of a conundrum on this
12 whole process, just because of the fact that we, the
13 Committee, only have cognizance or the ability to rule
14 on a portion of it and yet we have been exposed to
15 things that are going to go on in the other portion.

16 And our underlying feeling, at least mine, and I
17 think it is true of all the Committee members, is this
18 is our state and these are our people and we want to be
19 sure that things are done in a way that's fair to all.

20 So in order to just give you an example of what
21 I mean, maybe I can have a little dialogue with
22 Mr. Patterson here.

23 Let's take just the physical structures and
24 transmission line portion itself. And I am talking
25 about a portion of it that's going to be 230kV, for

1 example. And there is obviously federal and state
2 requirements about how low the lowest portion of the
3 line can be under full load when it is sagging and so
4 forth. And that depends on a couple of things, I would
5 think. One would be the height of the points where the
6 line fastens to the tower itself, and the line spacing,
7 the tower spacing. If that were greater and greater,
8 there would be more sag and you would probably have to
9 be higher.

10 So in terms of, I don't know, the viewshed
11 issues that always come up with these projects, how do
12 you decide in any particular sensitive area of the line,
13 A, what kind of towers you are going to use, and, B, how
14 tall they are going to be? How are you going to juggle
15 those compromises we just articulated?

16 And then as an adjunct to that, could you tell
17 me the difference between the cost of a monopole and the
18 other more obtrusive structures per mile, for example.

19 MR. PATTERSON: Sure. I will try to take what I
20 can, and I may have to confirm with our engineering lead
21 and come back to you on costs in particular. I don't
22 have that off the top of my head for the different
23 structures.

24 But in terms of the process for determining the
25 more detailed design, as I understand it, really the

1 next step would be to initiate contact for right of
2 entry to where the engineering design folks could get
3 on-site, see what the realm of constraints are and what
4 the possibilities are, and then to begin some of the
5 more detailed analysis, I think, to see what is
6 physically possible.

7 But then there would be a need to balance, if
8 there are other non-engineering or operation or safety
9 or maintenance type concerns, as you mentioned, if there
10 are environmental or other issues, to try to look at
11 those and balance what is possible versus what is
12 required for other reasons.

13 So as I understand it, I think it would be a
14 process of really moving into detailed design work and
15 working within that, or, and comparing, contrasting, and
16 looking at that versus the environmental or other issues
17 that are known or are relevant to that particular area.
18 I don't know if that really answers your question.

19 MEMBER HAENICHEN: Well, it does. And it
20 creates a problem, because I know you have to do that,
21 otherwise you couldn't even answer the question. But
22 unfortunately, we have to decide on this line tomorrow.
23 And so a lot of it is just on good faith that you are
24 going to be a good citizen and try to make people as
25 happy as possible. Because, let's face it, these things

1 are big and you can see them. So I just urge you to use
2 good judgment on that vis-à-vis people who are
3 potentially bothered by this.

4 MR. PATTERSON: Absolutely. And we fully intend
5 to pursue all reasonable measures to do exactly that. I
6 mean we want to have the best relations we can, and we
7 will need that in order to acquire the land rights that
8 we will need for the project. And so that will need to
9 be a conversation that we will have. And I think it is
10 particularly relevant in the new build section where
11 there are a number of larger parcels.

12 So I think there are a lot of discussions to be
13 had. To your point, are there particular areas that the
14 landowner is more or less sensitive to, do they have
15 particular constraints on, you know, or trying to
16 understand the height versus span type issue, and if
17 that is important in that particular situation, then,
18 you know, my understanding is that is a process that
19 will have to work through with landowners. And the
20 outcome of that hopefully will be to come to
21 right-of-way agreements that, you know, that document
22 and memorialize what we need and what they want.

23 MEMBER HAENICHEN: Well, I am sure you
24 understand that oftentimes to come up with a solution
25 that's acceptable it might cost a little more, too.

1 MR. PATTERSON: We have learned that.

2 CHMN. CHENAL: Member Woodall.

3 MEMBER WOODALL: Okay. So there is nothing that
4 would prevent you from voluntarily agreeing to apply
5 certain of the either BLM or WAPA provisions with
6 respect to mitigation measures to private lands, is
7 there?

8 MR. PATTERSON: No. And, in fact, we earlier
9 committed to doing it on the new build section. We
10 can't commit WAPA for their portion. But I think, you
11 know, for our position we did commit to implementing the
12 BLM ROD and to --

13 MEMBER WOODALL: Throughout the project.

14 MR. PATTERSON: Throughout the portion of the
15 project that we are in control of.

16 MEMBER WOODALL: Sure. And following up on
17 this, Member Noland's really brilliant idea, so you
18 would consider engaging a person whose function would
19 be, a separate third-party contractor whose function
20 would be to ensure compliance?

21 MR. PATTERSON: Yes. I think Ms. Bellavia
22 outlined that is a role contemplated necessary for the
23 BLM portion, to extend that to the non-BLM lands, seems
24 like.

25 MEMBER WOODALL: So you wouldn't object to a

1 condition that memorializes that undertaking in the CEC?

2 MR. PATTERSON: I wouldn't. And I don't know --

3 MEMBER WOODALL: So maybe scriveners could start
4 scrivening as it relates to that? Do I see ascent,
5 Mr. Guy, Ms. Hopkins?

6 MS. HOPKINS: Yes.

7 CHMN. CHENAL: Okay.

8 MEMBER WOODALL: Okay. Grand. Thank you.

9 CHMN. CHENAL: There is a leverage sitting here,
10 yes.

11 MEMBER WOODALL: I just wanted to say I did note
12 that in the document that you talked about the summary
13 there was a discussion about working with landowners
14 because it was like maybe they want a little something
15 here or there. So it sounded like there is some
16 flexibility in the process. So I would not be
17 anticipating that your language would say "and we are
18 absolutely going to follow this 100 percent" if the
19 landowner, you know, has a twitch about something or the
20 other. Does that sound sensible to you?

21 MR. PATTERSON: Yes.

22 MEMBER WOODALL: You could say no if you wanted.
23 Thank you.

24 CHMN. CHENAL: Member Noland.

25 MEMBER NOLAND: Well, Mr. Chairman, I would

1 assume that if the landowner had a twitch about
2 something that had to be done, under state law, federal
3 law, whatever, that it would have to be explained to
4 them. But as far as the language, I liked Member
5 Woodall's suggestion of hiring a third party, not just
6 the same one that's doing BLM or whatever, but a
7 qualified third party to monitor the conditions on
8 private land.

9 CHMN. CHENAL: We can talk further when we get
10 to that language and see. Maybe there is some relative
11 pros and cons for that. But yeah, I think conceptually
12 it sounds like a, I will say an elegant solution to a
13 knotty problem.

14 Ms. Woodall.

15 MEMBER WOODALL: I am just wondering, does this
16 CEC have a requirement that the applicant file a
17 compliance document annually?

18 MR. GUY: The current draft does, yes.

19 CHMN. CHENAL: Okay. So presumptively that
20 would include that you have hired someone to act as the
21 third party, so we will know, or at least the Commission
22 would know?

23 MR. GUY: Yes. And it sounds like we can be
24 explicit on that point.

25 MEMBER WOODALL: Okay. Thank you.

1 CHMN. CHENAL: So let me summarize just, again,
2 the conclusions in Exhibit 40. Because I think I went
3 through it a little too fast there.

4 But it seems like that the BLM ROD requires all
5 those terms, conditions, stipulations, we will just say
6 requirements, apply to the BLM managed portion of that,
7 the BLM managed portion of both the upgrade and the new
8 build sections. I believe that's correct. Is that --

9 MS. HOPKINS: That's correct.

10 CHMN. CHENAL: Okay. And then as noted in the
11 document, all the requirements described above apply to
12 Southline on all BLM land within the CEC upgrade and CEC
13 new build sections -- you have got to agree with that
14 because that's out of your document -- and to WAPA on
15 all BLM land within the WAPA upgrade section. So that
16 seems obvious under the BLM ROD.

17 Now, under the WAPA ROD, the language, I just
18 want to confirm that the WAPA ROD commits both WAPA and
19 Southline to implement the PCEMs identified. And again,
20 that would be on the, on which portion of the WAPA line?
21 All the WAPA line?

22 MS. HOPKINS: Yes, Mr. Chairman.

23 CHMN. CHENAL: Okay. And then the sentence, the
24 PCEMs apply to both Southline and WAPA on the CEC
25 upgrade and WAPA upgrade sections respectively, and I

1 believe that's pretty obvious as well.

2 Well, the PCEMs apply to Southline on the CEC
3 upgrade, what portion? Is that just on the BLM managed
4 properties? It says the PCEMs apply to Southline on the
5 CEC upgrade. It seems the PCEMs would apply to --

6 MR. PATTERSON: Everything.

7 MS. BELLAVIA: Yes. It is, Western's record of
8 decision indicates that the PCEM's identified in the EIS
9 in Table 2-8 apply to the whole upgrade --

10 CHMN. CHENAL: Okay.

11 MS. BELLAVIA: -- regardless of land ownership.

12 CHMN. CHENAL: All right. So the WAPA and the
13 BLM RODs are a little different. The WAPA RODs, all the
14 requirements apply to the entire line, to both Southline
15 and Western, correct?

16 MS. HOPKINS: Yes.

17 CHMN. CHENAL: But then on the BLM ROD it
18 applies to BLM managed lands, and that creates some gaps
19 in the CEC application property.

20 MS. HOPKINS: That's correct.

21 CHMN. CHENAL: Okay. All right. We will
22 endeavor to fill in those gaps with a condition, and use
23 some of the concepts we talked about here for at least
24 implementation.

25 Overall compliance in the future, I am not sure

1 what can be done there. Western will ensure compliance
2 going forward for portions of the requirements. I am
3 not sure what we do about ongoing future compliance with
4 the requirements on the CEC portion.

5 Does that make sense, Mr. Guy? You are shaking
6 your head and I want to make sure I am clear on that.

7 MR. GUY: I think it makes perfect sense. But
8 my understanding is all CECs, or at least many CECs have
9 conditions, and I assume the Commission considers those
10 conditions to be enforceable. So it seems to me, if
11 there is a condition in the CEC, then that's something
12 that the company would be bound to comply with.

13 CHMN. CHENAL: Well, be bound to comply with it,
14 but let's -- there are certainly a lot of framework
15 plans, a lot of obligations that would continue ongoing.
16 And once a CEC is issued and approved by the Corporation
17 Commission, and the line is constructed, who is
18 responsible for compliance down the road to make sure
19 that all these requirements are being complied with
20 going into the future? And I am just not sure what the
21 answer is on that.

22 I guess Western can oversee compliance, and I
23 think there is some language in this that suggests that.
24 I am just not sure, you know, what we can do there,
25 but...

1 Member Woodall.

2 MEMBER WOODALL: One of the things I was
3 thinking of in terms of what you were talking about and
4 having someone ensure compliance, is it possible that
5 you could -- let's assume that this Committee issues a
6 CEC. Let's assume further that the Corporation
7 Commission approves it.

8 What would the applicant think about sending out
9 a notice to either folks on your magical mailing list or
10 your e-mail list or property owners, letting them know
11 that the Commission issued a CEC and the terms and the
12 conditions that are set forth in the certificate and in
13 this docket, so that if people wanted to know what the
14 requirements are, they would know where to go to find
15 them? Does that sound like a workable thing?

16 MR. GUY: I believe so, yes.

17 MEMBER WOODALL: Perhaps people could scriben.
18 Thank you.

19 CHMN. CHENAL: Okay. I don't have any further
20 questions. I appreciate the answer. I know it was
21 laborious to go through that. But this is a complicated
22 area to me with who is responsible for what and what
23 documents impose those requirements. And I think this
24 is very helpful. This will help when we get to discuss
25 the conditions, I think.

1 I am finished with any follow-up questions I
2 had. So I don't know, Ms. Hopkins, if you were finished
3 with maybe Mr. Patterson and if you had other areas you
4 wanted to get into. Or when you are finished, we will
5 have Mr. Jackson maybe ask some follow-up questions.
6 But go ahead.

7 MS. HOPKINS: We just had one brief topic that
8 we hadn't hit quite yet, and it was related to a
9 question abandoning the existing right-of-way on the
10 115kV structures, line, and right-of-way. So we wanted
11 to just get that in the record. And I have provided a
12 copy of excerpts from the final EIS, marked as Exhibit
13 STL-36.

14 BY MS. HOPKINS:

15 Q. And again, just for frame of reference, the
16 Committee asked for evidence that the 115kV lines that
17 WAPA intends to upgrade will be removed and the
18 unnecessary right-of-way abandoned. Mr. Patterson, can
19 you please refer to the exhibit that I just mentioned,
20 Exhibit STL-36, and read from that document indicating
21 the response to that question?

22 A. (BY MR. PATTERSON) Sure. So these are excerpts
23 from the final environmental impact statement regarding
24 the construction methods of upgrading the existing
25 Western transmission line.

1 And one of two methods for construction for the
2 upgrade section would be used, depending on right-of-way
3 constraints, either the tear down and rebuild in place
4 method, or construction of the new facilities adjacent
5 to existing facilities.

6 In locations where possible, the new 230kV line
7 would be built 50 feet away from the edge of the
8 existing 100-foot right-of-way parallel to the existing
9 line. A total of 50 feet of additional right-of-way
10 would be obtained, where possible, in order to
11 accommodate this construction method. This would allow
12 the existing line to remain in service until the new
13 line is energized, at which point the existing line
14 would be decommissioned and removed.

15 75 feet of the existing 100-foot right-of-way
16 would be abandoned, and the remaining 25 feet would,
17 adjacent to the new transmission line, would be
18 incorporated to form the new 150-foot permanent
19 right-of-way. This is the preferred method of
20 construction as it would minimize outage time on the
21 existing line and the risk of outages for local
22 consumers during the upgrade process.

23 Most of the disturbance in the old right-of-way
24 would occur within 50 to 75 feet of the existing
25 centerline to remove the old structures and conductors,

1 and Western would work with private landowners during
2 the micrositing process to minimize potential impacts to
3 landowners.

4 In places such as the Bar V Ranch in Pima
5 County, congested urban areas, including Del Bac
6 substation through Tucson to the Rattlesnake substation,
7 it may not be physically possible or prudent to
8 construct the upgrade line in this manner. In these
9 cases, a tear down and replace and rebuild in place
10 method would need to be used, centered on the existing
11 100-foot right-of-way. The old line would need to be
12 taken out of service and torn out, and the new line
13 constructed in the original 100 foot, or somewhat
14 expanded, right-of-way. This work would likely be
15 subject to seasonal restrictions to minimize the outage
16 impacts on system reliability.

17 And just to add, to give a little color on that,
18 you may have noticed in your drive out here, but much of
19 the area from kind of Vail substation to Apache, a lot
20 of it is in rather open areas, and not all, and clearly
21 there are some areas where rebuilding and in place will
22 be necessary or prudent as well.

23 I think we mentioned that there had been a
24 community meeting in the Benson area, J-6 Mescal. And
25 in that meeting WAPA, you know, indicated that that area

1 was also an area where they would look to rebuild in
2 place.

3 Even though I didn't read it, it wasn't in this
4 text here, but the point really is WAPA would look to do
5 what is possible, you don't necessarily have to have 150
6 foot, but it would be preferable for the operating and
7 system reasons mentioned, and if it can't be done, then
8 look to rebuild it in place in an existing 100-foot
9 right-of-way.

10 But I just wanted to confirm really to the
11 question, that, you know, there is really no
12 consideration of leaving the old line in place for any
13 material amount of time. It is a transition. The
14 reason to build it next to it is so you don't have to
15 take the outage, and it is to minimize that disruption.
16 Once the new line was energized or -- I don't know the
17 exact timing, but there is no consideration of leaving
18 those old structures in place long term.

19 CHMN. CHENAL: Member Noland.

20 MEMBER NOLAND: Thank you, Mr. Chairman.

21 So after that's all done, the plan is to
22 decommission and to not utilize that 75 feet of the old
23 right-of-way, correct?

24 MR. PATTERSON: Yes, where possible.

25 MEMBER NOLAND: Who are you going to give it to?

1 The adjacent landowners? Will it be deeded to the
2 adjacent landowners?

3 MR. PATTERSON: That's existing right-of-way.
4 So I think WAPA would be, I don't know what the right
5 term is, relinquishing or --

6 MR. KIPP: Abandoning it.

7 MR. PATTERSON: Abandoning that right-of-way.

8 MEMBER NOLAND: Well, abandoning is not a good
9 word.

10 MS. HOPKINS: Member Noland, I think the
11 easement would revert back to the underlying landowner.
12 So the easement rights would revert back to the
13 underlying landowner.

14 MEMBER NOLAND: That sounds better, and I like
15 that wording a lot better than abandoning, which could,
16 you know, mean it is uncared for, unanything. Now, it
17 may be state land, it may be BLM land, but some of it
18 may be private land, too.

19 MS. HOPKINS: And it will, of course, depend on
20 the easement itself, because each easement may have
21 different terms and conditions, but all of the easement
22 will likely include some type of reverter clause in the
23 event of abandoning the right-of-way what happens.

24 MEMBER NOLAND: Right. For instance, I have an
25 easement through the middle of the back of my property

1 between my garage and my house. And if they were to
2 abandon that, I wouldn't want this like area that I
3 couldn't do anything, I couldn't drive over, or I
4 couldn't seed, I couldn't take care of. And so I would
5 hope that would be the same way that this would be
6 handled by WAPA.

7 MS. HOPKINS: I believe that's the intent.

8 CHMN. CHENAL: Member Woodall.

9 MEMBER WOODALL: If you were going to abandon or
10 discard the easement, wouldn't it be likely that WAPA is
11 going to file something in the county at the recorder's
12 office indicating that so that the title records would
13 be clear?

14 MS. HOPKINS: Yes, Member Woodall, I am sure
15 WAPA would do that.

16 MEMBER WOODALL: Yeah, thank you.

17 And I have a 60-inch City of Phoenix water line,
18 a 33-foot easement through my backyard which the city
19 doesn't need anymore, but they won't abandon. Thank
20 you.

21 MS. HOPKINS: Mr. Chairman, that's all that we
22 have for the follow-up panel on direct.

23 CHMN. CHENAL: Nothing for Mr. Virant to add?

24 (No response.)

25 CHMN. CHENAL: Okay. Good. Does the Committee

1 have any questions of the panel?

2 (No response.)

3 CHMN. CHENAL: Mr. Jackson, I understand you
4 have some questions of the panel.

5 MR. JACKSON: I do. Thank you, Mr. Chairman,
6 some of which you have covered or touched on. I will
7 try not to be repetitive. And in some fashion or other
8 I think these all go to a jurisdictional record or
9 record relating to the jurisdiction decision. I will
10 try to limit it to that.

11

12 CROSS-EXAMINATION

13 BY MR. JACKSON:

14 Q. But to follow-up on where we left off in terms
15 of the right-of-way configuration, let me ask you this.
16 What you have described is your understanding of WAPA's
17 intentions, correct?

18 A. (BY MR. PATTERSON) Yes, as published in the EIS
19 and as indicated in other public forums, like the
20 meeting I mentioned.

21 Q. Okay. And I guess my first question is: Is it
22 documented in any kind of contractually binding
23 agreement with Southline or otherwise that you are aware
24 of?

25 A. (BY MR. PATTERSON) Well, what I had described

1 as -- with respect to the particular locations or the
2 method? Or maybe if you could focus --

3 Q. Yes. You described a process and their
4 intentions in terms of, for example, the decommissioning
5 of the old line, which of the two methods they are going
6 to use and the impact on the right-of-way. And I am
7 trying to understand if that is documented in some kind
8 of binding agreement, as far as you are aware.

9 A. (BY MR. PATTERSON) Well, it is documented in
10 the final environmental impact statement.

11 Q. Okay. Anything other than the environmental
12 impact statement?

13 A. (BY MR. VIRANT) To the extent the WAPA route
14 covers it is the only additional thing I can think of.

15 MEMBER NOLAND: I didn't hear you. I am sorry.

16 MR. VIRANT: Perhaps in the WAPA ROD.

17 BY MR. JACKSON:

18 Q. The WAPA ROD is in the record, so we don't need
19 to argue about it, debate it. But is there something in
20 particular in the ROD that you have in mind, and you
21 don't need to read through, it is in the record, but is
22 there something in particular in the ROD that you think
23 binds them to that approach on the right-of-way
24 configuration?

25 A. (BY MR. VIRANT) I did not have anything

1 specific.

2 Q. And then is there anything that has been
3 established as to whether or not, if there is this
4 alteration in terms of the position of the right-of-way,
5 as to whether that will be to the north or the south of
6 the existing right-of-way? And the reason I ask, that's
7 a substantial consideration and concern of my client,
8 given the configuration.

9 A. (BY MR. VIRANT) Understood. I don't believe
10 there is. I think it would be subject to the detailed
11 design that still needs to be done.

12 Q. Okay.

13 A. (BY MR. VIRANT) There may have been some areas
14 that have been previously mentioned in the environmental
15 impact statement, but not that I am aware of.

16 Q. Okay. And just so I am clear in understanding
17 this, at least according to what we have been describing
18 as the anticipated configuration, the minimum permanent
19 right-of-way contemplated in this description would be
20 150 feet, correct?

21 A. (BY MR. VIRANT) Well, the minimum would be 100.

22 Q. Okay.

23 A. (BY MR. VIRANT) Oh, you are saying in the
24 adjacent construction method?

25 Q. Yeah, in the adjacent construction method. The

1 ultimate, after a part of it is abandoned, what would be
2 left is, what is contemplated is a 150 foot wide
3 easement?

4 A. (BY MR. VIRANT) Yes.

5 Q. Okay.

6 A. (BY MR. VIRANT) I don't know if that's minimum.
7 That may be up to 150 feet, but 150 feet, as I
8 understand it.

9 Q. As things stand today that's what is
10 anticipated?

11 A. (BY MR. VIRANT) Correct.

12 Q. And then there can also be an additional 75
13 feet, and that would be during the construction phase,
14 for example, for a period of time, whatever period of
15 time this process takes, the total impact would be 225
16 feet?

17 A. (BY MR. VIRANT) Yes, that's correct.

18 Q. And I understand there is a jurisdictional
19 issue, which I will touch on in my closing comments, but
20 from Southline's standpoint, is there any objection or
21 operational reason that Southline would have an
22 objection to a condition that requires the applicant to
23 use all feasible options in consultation with the
24 landowner to minimize the impact of these options that
25 have been discussed?

1 MS. HOPKINS: Objection, Mr. Chairman. I don't
2 believe that Mr. Patterson is the appropriate witness to
3 answer that question. I don't think that Southline can
4 bind WAPA to any commitments other than they have
5 testified what is included in the documents. But
6 outside of binding WAPA to a condition to include in the
7 CEC, I don't believe Mr. Patterson can answer that
8 question.

9 CHMN. CHENAL: Okay. Mr. Jackson.

10 MR. JACKSON: I am only asking if Southline
11 itself, and I will talk in closing about my view on
12 whether you can bind WAPA or not in the context of this
13 kind of project, and I think there is some law on that
14 that you may find interesting, but for present purposes,
15 I just am asking whether from Southline's perspective as
16 somebody that's going to participate in the design and
17 pay for this project, if they, themselves, would have
18 any objection to that kind of condition that applies.

19 Ultimately the Commission will decide whether or
20 not that they have the jurisdiction to impose that on
21 WAPA or not. But I think for the record, it is a
22 pertinent question.

23 CHMN. CHENAL: Well, let me see if I can clarify
24 that a little. Is your question does Southline -- would
25 Southline agree to -- it is hard to use the word

1 condition if it applies to WAPA, but would Southline
2 agree to a request to WAPA to minimize the impact,
3 however you put that, or is it would Southline be
4 agreeable to constructing it with the minimal
5 disturbance that you are seeking, irrespective of what
6 is required on the WAPA line, as long as it is not in
7 violation of any requirements?

8 MR. JACKSON: I guess the question maybe is a
9 little different. And I don't want to jump ahead to
10 closing argument here, but what we are going to be
11 asking you are some requirements that bound Southline.
12 And we think ultimately, when the jurisdictional
13 decision is made at the Commission level, the law
14 supports asserting jurisdiction over this entire
15 project, including the WAPA portion.

16 Obviously we don't have a WAPA witness here, but
17 I am simply, because this is a partner in the project, I
18 would like to know if, from their perspective, whether
19 there is any operational reason that they would object
20 to a condition that requires the use of all feasible
21 options in consultation with the owner to minimize the
22 impact of this right-of-way configuration and process.

23 MS. HOPKINS: Mr. Chairman, I would also like to
24 object to the use of "partner" in this process. Those
25 facts aren't in evidence.

1 CHMN. CHENAL: Yes, I think that's a good
2 objection.

3 Mr. Jackson, I am not trying to be difficult
4 with you here, but I am trying to understand. The
5 question is would they have, would Southline have an
6 objection to a condition that is X. The X is what I am
7 talking about. All feasible options, I mean
8 undergrounding might be a feasible option, but, you
9 know, it is not necessarily a realistic one. So what is
10 the condition?

11 MR. JACKSON: The condition that I am seeking
12 would be -- I haven't wordsmithed this in my notes.

13 CHMN. CHENAL: We are talking concepts.

14 MR. JACKSON: I am sorry. The gist of it would
15 be that there would be a condition that, in consultation
16 with the landowner, that all -- and pick your word --
17 feasible within, you know, reasonable parameters to
18 minimize the impact in choosing amongst these options in
19 consultation with the landowners. I am just asking if
20 operationally they see any difficulty with that.

21 CHMN. CHENAL: Okay. Would it be to -- okay.
22 Would the landowner have a veto over that portion of the
23 project, or would it be just to enter into good faith
24 discussions with the landowner?

25 I mean it is an important distinction. The way

1 you read it, it almost means the landowner would have a
2 veto power over that portion of the project. The flip
3 of that would be, you know, just would they agree to a
4 condition that would require Southline to negotiate with
5 or mediate with the landowner to see if there could be
6 an acceptable solution.

7 MR. JACKSON: Well --

8 CHMN. CHENAL: I mean, there is a difference.

9 MR. JACKSON: Trying to avoid getting ahead of
10 ourselves here, I can tell you what my argument is going
11 to be in closing. Just the ability to speak to
12 Southline isn't what my client is looking for. They are
13 looking for something with a little teeth that has an
14 enforceability component to it, so when they say can you
15 do it and they say no, we don't want to, there is
16 something more to it that binds them other than talking
17 with us.

18 CHMN. CHENAL: And that's how I read your
19 proposed condition, that it is a little more than just
20 good faith negotiation, that if it didn't work out and
21 Southline would go ahead and build, the way I read your
22 condition was you have basically a veto power over, you
23 know, that portion of the line.

24 MR. JACKSON: Consistent with engineering
25 standards, of course, and safety standards.

1 CHMN. CHENAL: I think it is important that
2 that's clarified.

3 I see we have some members -- I will ask some
4 questions, but when you ask, you know, Southline, do you
5 have any objection to a condition, well, it is one thing
6 to say a condition that requires you to negotiate in
7 good faith with us. It is another thing to say would
8 you have an objection to a condition that basically
9 gives you, you know, a contractual right to stop the
10 project going through that development.

11 Let's see what the members have to say.

12 Member Woodall.

13 MEMBER WOODALL: I had a question, Mr. Jackson.
14 I understand what your legal position is. But is there
15 any reason why you and the applicant could not sit
16 together and try to come up with another condition that
17 would require Southline to make good faith efforts with
18 Western Area Power Administration to take into
19 consideration, subject to good engineering practices,
20 the desires of your client?

21 MR. JACKSON: That would certainly be a
22 fallback.

23 MEMBER WOODALL: Well, that's -- yeah, I am
24 thinking ahead.

25 MR. JACKSON: Not, that's not a first choice.

1 MEMBER WOODALL: And of course this would be
2 something that Southline would agree to. So I think it
3 might be helpful if we could get to see however we could
4 move the parties together, because I understand your
5 legal argument, but a fallback, for example, is always
6 nice.

7 MR. JACKSON: Right. And my client reminds me
8 of a point that's important that I think may be
9 important for closing. And I appreciate the suggestion.
10 What I don't want to do, because it would be -- being a
11 lawyer, I am really cognizant of waivers --

12 MEMBER WOODALL: You wouldn't waiving.

13 MR. JACKSON: But as an alternative, if we are
14 not -- if what we are seeking is not accepted, then,
15 yes.

16 And just to tell you what the concern is, it is
17 from a real estate sales standpoint there is a big
18 difference between telling a buyer that the utility
19 company has agreed to negotiate with us in good faith
20 and telling them that the utility company is required to
21 do X, Y, Z. That's of great significance to my client.

22 MEMBER WOODALL: Of course it is. But I am just
23 suggesting that, you know, good faith has a meaning in
24 law, as I am sure you are well aware. And the terms of
25 this certificate, if they are violated, would void the

1 CEC. So I mean there is a little bit of leverage there
2 for you to consider.

3 I am not saying the Commission would or would
4 not do anything. But it is not -- it is not illusory is
5 what I am getting at. So I just suggest that you might
6 want to take that opportunity, and it would be very
7 clear because you have already made it clear for your
8 record that you are not waiving your position.

9 MR. JACKSON: Understood.

10 CHMN. CHENAL: Excuse me. Member Noland.

11 And we are going to get back to your question,
12 because there is a question pending of the witness. We
13 will ask you to clarify. But let's hear from Member
14 Noland.

15 MEMBER NOLAND: Well, Mr. Chairman, this
16 Committee has decided that we will only consider the new
17 build portion of the line. So possibly, listening to
18 both sides and knowing that there are private property
19 owners along the new build portion, we might be able to
20 do a more general condition in the CEC that would say
21 that Southline, or the project, would consider the input
22 by landowners to help minimize the impacts on adjacent
23 properties. And -- let me finish. And then if, in
24 fact, the Commission felt that they had some hold over
25 WAPA, then that would cover also the private properties

1 adjacent to the line on the upgrade portion.

2 CHMN. CHENAL: Ms. Hopkins.

3 MS. HOPKINS: I was going to point the Committee
4 members to what is currently drafted as paragraph 16 in
5 the proposed certificate. And it currently reads:

6 The applicant will pursue -- I apologize for the
7 spelling error there -- reasonable efforts to work with
8 private landowners on whose property the approved route
9 right-of-way will be located to mitigate the impacts of
10 the location, construction, and operation of the project
11 on private land. A description of these reasonable
12 efforts shall be included in the annual compliance
13 certification letter.

14 And it is citing a prior line siting case, 170.

15 MEMBER WOODALL: And of course -- I am sorry,
16 Chairman.

17 CHMN. CHENAL: Member Woodall.

18 MEMBER WOODALL: And of course, this is
19 referring to Southline's efforts to acquire
20 right-of-way.

21 MS. HOPKINS: That's correct. This is the
22 applicant, Southline.

23 MEMBER WOODALL: I think we have a different
24 issue here with Mr. Jackson's client. So while it might
25 be a useful model, and I can see how Member Noland might

1 want this particular provision expanded somewhat, I
2 think we are talking about something a little different
3 when we talk about Mr. Jackson's client. So...

4 MS. HOPKINS: Understood.

5 CHMN. CHENAL: All right. There was a question
6 and an objection and a lot of discussion. I think for
7 purposes of the record I will allow the witness, over
8 the objection, to answer the question if anyone on the
9 panel can. Well, any Southline representative can.

10 But understanding that, you know, there is
11 serious jurisdictional issues with respect to our
12 ability, in my view, to impose any conditions on
13 Southline as to the WAPA owned portion that goes through
14 Mr. Jackson's client's subdivision.

15 I think, Mr. Jackson, let's go back to you and
16 have you ask the question. We understand the objection.
17 I think we have discussed at length, you know, some of
18 the legal issues we have. But go ahead and ask the
19 question, and see if there can be an answer.

20 And I know it is extended, but we are getting
21 into the very thing we are going to be talking about
22 when we get to the conditions. So we are not wasting
23 time on these issues.

24 MR. JACKSON: And I will try and formulate it as
25 close to as I asked it before, and it won't be perfect.

1 CHMN. CHENAL: Okay.

2 BY MR. JACKSON:

3 Q. From an operational standpoint, is there any
4 reason that Southline would have to oppose a condition
5 or requirement that it use all reasonably feasible
6 options, in consultation with the landowner, to minimize
7 the impact of the right-of-way configuration? Let's
8 start with that.

9 CHMN. CHENAL: Over the upgrade section.

10 MR. JACKSON: Yes, that's what I am talking
11 about, is the upgrade section.

12 MS. HOPKINS: And Mr. Chairman, I might request
13 that that be limited to Mr. Jackson's client, not the
14 entire upgrade section.

15 CHMN. CHENAL: I think that would be helpful,
16 Mr. Jackson. I mean you are most concerned about your
17 client's property.

18 MR. JACKSON: That's true. That's fine.

19 CHMN. CHENAL: I think that's fair.

20 MR. PATTERSON: Is there any reason to oppose
21 that condition as stated, that there is a requirement to
22 consult with the landowner to pursue reasonably feasible
23 options to minimize impact? Is that a fair --

24 BY MR. JACKSON:

25 Q. It is a little different. And I apologize, I am

1 a lawyer through and through, but there may be a subtle
2 difference there.

3 What I am asking is: Is there any operational
4 reason that Southline would object to a requirement that
5 it use all feasible, reasonably feasible options, in
6 consultation with the owner, to minimize the impact of
7 the right-of-way configuration as it relates to my
8 client's parcel?

9 A. (BY MR. PATTERSON) Not that I can think of, no.

10 Q. All right. Let me see if I can maybe zero in on
11 some of the things that may be pertinent to the
12 jurisdictional discussion.

13 MEMBER BINGHAM: Actually --

14 CHMN. CHENAL: Member Bingham.

15 MEMBER BINGHAM: Thank you, Mr. Chairman.

16 So I am going back to STL-36, to the upgrade of
17 existing -- of the transmission line. And in that
18 second paragraph, and I don't know if it is Bar V, Bar 5
19 Ranch, but can you explain to me what took place in that
20 situation where it is being clearly stated that method 2
21 is going to be used and sought for this particular
22 ranch, what led to that condition?

23 MS. BELLAVIA: Well, that's a good question.
24 Good question. I could put a finer point on that
25 answer, I believe, if I refer to the EIS. But from

1 memory, I believe that Bar V, Bar V Ranch, is Pima
2 County conservation lands -- okay? Good memory -- and
3 that essentially because it is conservation lands, WAPA
4 really wouldn't be able to extend the right-of-way
5 through those conservation lands.

6 And so they -- and based -- I believe that was
7 based on comments by Pima County on, I believe, the
8 draft EIS and a revision we made between the draft and
9 final to address that specific concern by Pima County
10 regarding their conservation lands.

11 MEMBER BINGHAM: So it was a distinction why it
12 is separate from the conversation we are having now?

13 MS. BELLAVIA: Yes.

14 MEMBER BINGHAM: Thank you.

15 BY MR. JACKSON:

16 Q. I guess to follow up on that, to anybody's
17 knowledge has there been any outreach specifically to
18 landowners, private landowners, to arrive at this kind
19 of configuration, a decision on configuration prior to
20 this hearing? In particular I am interested in my own
21 client.

22 A. (BY MR. PATTERSON) Well, it has been discussed,
23 you know, through a lot of the outreach that happened
24 before and through the NEPA process. I believe that
25 Mountain View did come and participate in many of those

1 meetings. I don't know if that's --

2 Q. My question is a little more specific than that,
3 and I recognize there is a document in the record in
4 regard to the responses to that question.

5 I gather there hasn't been any kind of design
6 work that's detailed with respect to the right-of-way
7 configuration within my client's property.

8 A. (BY MR. PATTERSON) No, because really WAPA
9 can't initiate that kind of activity until the federal
10 NEPA process is completed.

11 Q. Okay.

12 A. (BY MR. PATTERSON) So, you know, while there is
13 some high-level activities that could take place to help
14 frame the analysis, the detailed design couldn't really
15 be initiated.

16 Q. Mr. Patterson, let me just try and get to the
17 nub of it. There has not been any specific discussions
18 with my client with respect to which of these
19 right-of-way configuration methods will be used or any
20 specifics in that regard, has there, sir?

21 A. (BY MR. PATTERSON) Not to my knowledge.

22 Q. All right. Now, getting to some of the
23 jurisdictional issues, and --

24 CHMN. CHENAL: Excuse me.

25 Member Woodall.

1 MEMBER WOODALL: I am sorry, Mr. Jackson, but I
2 wanted to ask the witness.

3 How familiar are you with the federal
4 right-of-way acquisition processes?

5 MR. PATTERSON: Not that familiar.

6 MEMBER WOODALL: Is there anyone on the panel
7 that is?

8 MR. PATTERSON: I don't believe so.

9 MEMBER WOODALL: I guess what I was going to ask
10 is if anyone had a sense that if the federal government
11 wanted to acquire lands and if there was going to be a
12 likely argument that the acquisition would cause a
13 diminution in the value of the remaining property, which
14 is typically titled severance damage, that the
15 right-of-way agent is always looking for a way to
16 minimize those damages, and that it is not uncommon for
17 them to take into consideration mitigation measures that
18 would result in less damage to the remaining property.
19 But it doesn't sound like there is anyone here that can
20 answer that question for me. So thank you.

21 CHMN. CHENAL: Member Noland.

22 MEMBER NOLAND: Well, therein lies the crux of
23 this issue. First of all, I don't think we have
24 jurisdiction over the new build -- the rebuild portion.
25 WAPA isn't here. I don't see how Southline can commit

1 anything for WAPA that they would say yes, we are going
2 to do that.

3 I understand you are trying to make the record
4 and see what we can put in there if there is a different
5 decision at some point. But I am kind of confused as to
6 where we stop and where Southline can commit or not
7 commit on the rebuild.

8 MR. JACKSON: And I want to be respectful of the
9 Committee's time. I don't know. I guess my impression
10 from the discussion thus far is that this Committee is
11 leaning towards and/or has decided that it does not have
12 jurisdiction to assert any conditions with respect to
13 the portion that impacts my client. It is my
14 understanding also that the Corporation Commission may
15 revisit that legal determination, or at least has the
16 right to.

17 My thought is, rather than have to have factual
18 testimony in connection with that, I am trying to move
19 quickly and just get a few points into the record, with
20 a recognition that that may have to be taken up another
21 day.

22 So I am cognizant of that, Member Noland, and I
23 will try not to waste time.

24 CHMN. CHENAL: And yes, I think that is the
25 crux. I think it is fair to say at this point we have

1 ruled that, you know, we don't have jurisdiction to
2 require WAPA to do anything in particular over the
3 portion that goes over your client's property.
4 Requesting, you know, the parties to meet and confer or,
5 you know, it may be an option, but, you know, now, I
6 want the record to be clear.

7 So I will give you the opportunity to ask the
8 questions, Mr. Jackson, but I will also give the
9 opportunity to make an offer of proof.

10 MR. JACKSON: Okay.

11 CHMN. CHENAL: Okay. So just so the record is
12 completely clear, don't feel like you have to make all
13 your points by asking the witness questions. I will
14 give you an opportunity to make a complete offer of
15 proof.

16 MR. JACKSON: Okay. And that will likely cover
17 a lot of this. I am trying to find the right balance
18 between what I need on the record and what I can do that
19 way.

20 CHMN. CHENAL: Sure, sure.

21 MR. JACKSON: So I will continue to work towards
22 that.

23 Give me just a minute.

24 CHMN. CHENAL: Sure, absolutely, no problem.

25 MR. JACKSON: I am trying to limit this a little

1 bit.

2 CHMN. CHENAL: I want to be fair with your
3 client. I don't want to limit you because I want the
4 record to be clear, because the Corporation Commission
5 will relook at these legal rulings and may have a
6 different ruling of it. So I don't want your client to
7 be prejudiced in any way, so we want to make sure it is
8 a good record.

9 BY MR. JACKSON:

10 Q. Okay. With that in mind, Mr. Patterson, or
11 anyone else on the panel, it is my understanding from
12 the ROD issued by WAPA that decisions concerning the
13 ownership, operations, maintenance, marketing,
14 financing, and land acquisition have not yet been made
15 by WAPA or agreed to between WAPA and Southline in a
16 participation agreement. Am I right so far?

17 A. (BY MR. PATTERSON) We have been working towards
18 a participation agreement; it has not been executed.

19 Q. Okay. All right. And just so the answer is
20 clear, no, there have been no decisions made in a
21 participation agreement in that regard?

22 A. (BY MR. VIRANT) Yes, with regard to a
23 participation agreement, that's correct.

24 Q. Okay. All right. Outside of the participation
25 agreement, have there been any legally binding

1 determinations made with respect to the items that WAPA
2 has listed as undecided at this time in its ROD?

3 A. (BY MR. VIRANT) Not in a formal document.

4 Q. Okay.

5 A. (BY MR. VIRANT) But that's more a function of
6 development. And a lot of this and what is outlined
7 here in the ROD is, the ROD, in choosing the agency
8 selected alternative and implementing these PCEMs, will
9 allow some of that development, those future agreements
10 to be completed.

11 Q. Okay. So --

12 A. (BY MR. VIRANT) For example, the --

13 Q. I don't mean to interrupt. Go ahead.

14 A. (BY MR. VIRANT) This Record of Decision in
15 selecting the route will allow engineering work to be
16 done on that route, which will feed future development,
17 including this process, the O&M considerations,
18 et cetera, et cetera.

19 So while there isn't a signed binding document,
20 it is more a function of development rather than the
21 role of WAPA and the project.

22 Q. Okay. I saw a reference in the FERC order,
23 which I believe is Exhibit 18, to a participation
24 principles agreement that was nonbinding and
25 confidential. And my question is: Is that document

1 still considered confidential, or is that available for
2 review by the Committee?

3 A. (BY MR. VIRANT) Yeah, we have -- that document
4 is being held as confidential under 5 USC 552(b)(4).
5 And that's also the answer that WAPA provided in its
6 customer meeting, which is in STL-24.

7 Q. Have there been any discussions with WAPA in
8 connection with this conceptual participation
9 arrangement with respect to long-term leases in favor of
10 anybody other than WAPA for the sections of the line
11 outside of what is defined as the CEC upgrade that is
12 before this Committee?

13 A. (BY MR. VIRANT) I don't think I understand your
14 question.

15 Q. Right. I am talking specifically with respect
16 to the upgrade section that is not within the CEC
17 upgrade section that has been defined in the
18 applications. In other words, what we have kind of
19 referred to as the WAPA section of the upgrade section,
20 that's the segment of the line I am asking about.

21 And my question is: Have there been any
22 discussions with WAPA with respect to the granting of a
23 long-term lease relating to those portions of the line?

24 A. (BY MR. VIRANT) Between WAPA and Southline?

25 Q. Let's start with that.

1 A. (BY MR. VIRANT) Not to my knowledge. The WAPA
2 upgrade facilities are owned by WAPA today, and they
3 would be constructed, operated, maintained by WAPA in
4 the future.

5 Q. Okay. Would they be constructed, operated, and
6 maintained with funds supplied by Southline or any of
7 its affiliates?

8 A. (BY MR. VIRANT) Yes.

9 Q. Okay. And is the expectation as it stands now
10 that those costs would be 100 percent funding by
11 Southline or its affiliates?

12 A. (BY MR. VIRANT) Could I back up to the last
13 question? So the capital costs as outlined in the PDO,
14 the WAPA customer meeting, and several other documents
15 that are in the record would be funded by Southline.
16 The O&M, or operations and maintenance expenses, would
17 be shared amongst the parties in accordance with the
18 capacity rights.

19 Q. That's all right. So I understand what you just
20 said, the expectation of the build is that will be
21 funded entirely by Southline, correct?

22 A. (BY MR. VIRANT) I am sorry, one more time.

23 Q. Yeah. I want to just break it into pieces with
24 respect to the construction of the expansion and the new
25 structures within the project that affects my client.

1 The expectation as we sit here today is 100 percent of
2 those costs would be paid by Southline, right?

3 A. (BY MR. VIRANT) Yeah, of the incremental costs
4 to build the project, yes.

5 A. (BY MR. PATTERSON) But WAPA would be
6 contributing value as well in terms of, you know,
7 contributing their existing right-of-way and, you
8 know -- so I don't know that it is accurate to say
9 100 percent of all the funding. It is the proposition
10 that Southline would be funding the capital costs for
11 the capital expenditures.

12 BY MR. JACKSON:

13 Q. And I am asking about dollars, checks written.
14 That would all come from Southline, right?

15 A. (BY MR. PATTERSON) Yes.

16 Q. Okay. Now, with respect to the operation and
17 maintenance going forward, if I understood you
18 correctly, Mr. Virant, that those costs would be funded
19 commensurate with the capacity, the incremental -- or
20 the allocation of capacity on the expansion, right?

21 A. (BY MR. VIRANT) Not -- they would be shared in
22 accordance with capacity rights, not with the expansion
23 of capacity rights.

24 Q. Okay.

25 A. (BY MR. VIRANT) So on the section that there is

1 today, the upgrade section where WAPA, they currently
2 have capacity rights, they would continue to have those
3 capacity rights, and then they would get incremental
4 capacity rights on that existing line.

5 Q. Okay. And in terms of the new capacity that
6 results from this project, has there been any
7 determination of what percentage of those would remain
8 with WAPA as opposed to be in the control of Southline
9 or its affiliates?

10 A. (BY MR. VIRANT) Not a final one. That's part
11 of the customer outreach that WAPA has been engaged in
12 over the past years.

13 Q. Is there any expectation as we sit here today as
14 to what that percentage will be?

15 A. (BY MR. VIRANT) Yes. That was in the, I
16 believe it was STL-4, the presentation I presented on
17 last Tuesday. And it is also included in that WAPA
18 customer meeting, which is STL-25, and also in the FERC
19 petition for declaratory order. So yes.

20 Q. Just to save steps --

21 A. (BY MR. VIRANT) I don't have the numbers.

22 Q. -- is it over 100?

23 CHMN. CHENAL: One at a time, gentlemen, for
24 purposes of the court reporter.

25 BY MR. JACKSON:

1 Q. Is it over 75 percent?

2 A. (BY MR. VIRANT) Is what over 75 percent?

3 Q. The portion of the additional capacity that will
4 be controlled by Southline or its affiliates.

5 A. (BY MR. VIRANT) Which segment are we talking?

6 Q. On the upgrade section of the line.

7 A. (BY MR. VIRANT) I don't believe it is. I would
8 need to look and do the math, but no.

9 Q. Okay. But that percentage is set forth in a
10 document somewhere?

11 A. (BY MR. VIRANT) Yes, the ones referenced. And
12 those are the proposed allocations, as mentioned also
13 subject to WAPA's customer process.

14 Q. So those are not finalized as we sit here today?

15 A. (BY MR. VIRANT) No.

16 Q. Is anybody on the panel aware of any contractual
17 commitments or legally binding commitments that would
18 restrict the use of lattice towers in the viewsheds of
19 residential subdivisions on the upgrade section? And I
20 am talking about the entire upgrade section.

21 A. (BY MR. PATTERSON) I am not aware of any, but
22 the plan as outlined has always been for steel monopole
23 structures in the upgrade section. That's what our
24 understanding has been. That is what has always been
25 discussed by WAPA. If there are areas that they are

1 thinking that it would be lattice, I am not aware of it.

2 Q. Okay. And not to belabor it, I think we covered
3 it before, but for this panel, other than the discretion
4 of WAPA, is there any limitations that you are aware of
5 that would preclude WAPA from changing its preferences
6 with respect to the use of lattice poles within the
7 viewsheds of residential subdivisions, for example, a
8 regulatory agency that they would have to receive
9 permission from?

10 A. (BY MR. PATTERSON) Not that we are aware of.

11 Q. Am I correct -- and this might be mostly for
12 Mr. Kipp. In looking at the exhibits that were offered
13 today, it appears that in the, at least in the
14 PowerPoints at some of the outreach meetings, that it
15 was indicated that this project would require state
16 approval through the Arizona Corporation Commission.
17 And I can, if you don't recall offhand, I might be able
18 to --

19 A. (BY MR. KIPP) Can you reference a particular
20 slide?

21 Q. Yes. If I have the number right, I believe it
22 is Exhibit 35. And there is a section in that, I don't
23 know, midway through that exhibit that says project
24 permitting. There is a description of federal level and
25 state level. And within the state level description it

1 states that Southline distribution project --

2 A. (BY MR. KIPP) Slide?

3 Q. Yeah, I don't have a page number. I am sorry.
4 It is Exhibit 35. It doesn't appear to have a
5 page number that I can put my hands on.

6 There is a slide entitled project permitting.
7 If it would expedite, I can -- no, I think that's
8 welcome to the Southline Transmission Project, public
9 informational meeting.

10 A. (BY MR. KIPP) Sure. These are poster boards.

11 Q. And there is one entitled project permitting.
12 And I don't want to --

13 A. (BY MR. KIPP) Yes.

14 Q. I guess my question is: Isn't it true that in
15 the public outreach portion of the project there was
16 some suggestion that the state Corporation Commission
17 would have oversight and permitting roles with respect
18 to the Southline Transmission Project?

19 A. (BY MR. KIPP) May I just read it for the record
20 what it says?

21 Q. Absolutely.

22 A. (BY MR. KIPP) Again, this is a poster from a
23 poster board, I believe the time frame was 2011, but
24 with an overview of project permitting. On the state
25 level it says the Southline Transmission Project team

1 anticipates coordinating many, if not all, of the
2 following state level permitting and regulatory
3 agencies, and it lists nine different Arizona and New
4 Mexico state agencies, one of which is the ACC.

5 Q. Okay. And is it your recollection from the
6 process in general that -- well, let me ask it this way.
7 Do you recall any kind of specific disclosure through
8 the public outreach process indicating that Southline
9 would seek a disclaimer of jurisdiction from the
10 Corporation Commission with respect to certain portions
11 of the overall project?

12 A. (BY MR. KIPP) No, I don't recall that.

13 CHMN. CHENAL: Excuse me.

14 Member Haenichen.

15 MEMBER HAENICHEN: Thank you, Mr. Chairman.

16 Is there any way we can get a statement from
17 Mr. Jackson about how much longer this is going to take?
18 Seeing we don't have any jurisdiction over this, we are
19 committing to, in my view, an inordinate amount of time.

20 MR. JACKSON: I guess I will constrict myself to
21 anything that's, that's directed. My list of questions
22 is probably another 15 minutes.

23 CHMN. CHENAL: Let's consider taking our
24 afternoon break. It is 2:30. And then we will come
25 back and give Mr. Jackson an opportunity to finish, make

1 an offer of proof if he wants to, and then we will see
2 where we are. We might --

3 Where will we be, Counsel? Will we be finished
4 with your witnesses at that point?

5 MS. HOPKINS: Yes, Mr. Chairman.

6 CHMN. CHENAL: All right. Good.

7 MS. HOPKINS: We may have very, very brief
8 redirect, but we will discuss it.

9 CHMN. CHENAL: Sure, no problem.

10 MR. JACKSON: I can probably limit it to five
11 minutes if we have a break.

12 CHMN. CHENAL: Again, you will have an
13 opportunity to do an offer of proof.

14 Okay. Let's take a 15-minute break.

15 (A recess ensued from 2:35 p.m. to 2:51 p.m.)

16 CHMN. CHENAL: All right. Let's get back on the
17 record for the afternoon session.

18 I note that the facilities here are a little
19 warm. I am looking at the attorneys and the members on
20 the panel. Feel free to take your jackets off, because
21 it is warm. At least it is for me and Mr. Guy. Are you
22 able to do that or do you just -- is it so -- the panel
23 jumped up. You know, Mr. Kipp did, and Mr. Virant did,
24 yeah.

25 MEMBER BINGHAM: Thank you, Mr. Chairman.

1 CHMN. CHENAL: It was getting a little warm in
2 here. Ms. Hopkins, you, too, get it off there.

3 Okay. I think we were with the continued
4 cross-examination, you know, by counsel. And go ahead,
5 I think you have, you know, five minutes of questions.
6 Whatever you need, take it, and then do an offer of
7 proof and we will have any redirect.

8 MR. JACKSON: In consideration of the comments,
9 I am going to shorten, and in consideration of the
10 temperature in the room itself.

11 CHMN. CHENAL: No problem.

12 BY MR. JACKSON:

13 Q. Just to clarify a couple of the answers in
14 response to Chairman Chenal's questions about the scope
15 of the commitments to apply the PCEMs, did I -- well,
16 let me just make sure I understood correctly that it is
17 this panel's understanding that WAPA has committed to
18 apply the PCEMs over the entire project, not simply the
19 CEC upgrade portion, is that correct?

20 A. (BY MR. PATTERSON) Correct.

21 Q. And the basis for that understanding of the WAPA
22 commitment is the Record of Decision, Exhibit 19, is
23 that correct?

24 A. (BY MR. PATTERSON) Correct.

25 Q. Is there any other foundational basis for that

1 commitment that the panel is aware of?

2 A. (BY MS. BELLAVIA) That commitment in the ROD is
3 consistent with descriptions in the environmental impact
4 statement about Western's position on use of those
5 PCEMs.

6 Q. Okay. And then -- all right. And then if I --
7 and this is where I guess I was a little confused
8 between a couple of the answers. From Southline's
9 perspective, they are committed to apply, to the extent
10 they are able, the PCEMs to the entire project, not
11 simply the CEC upgrade section, would that be accurate?

12 A. (BY MR. PATTERSON) Well, I think we are
13 required to apply the PCEMs across the whole project.
14 The statement was that we would apply the POD, to the
15 extent we were able, to the rest of the project.

16 Q. Okay. And by rest of the --

17 A. (BY MR. PATTERSON) The piece --

18 Q. The rest of the project means the entirety, not
19 simply the CEC upgrade portion?

20 A. (BY MR. PATTERSON) To the portions that
21 we -- to the CEC portions we would apply the POD. We
22 can't enforce the POD on the WAPA portion.

23 Q. Okay. I think that clarifies it. So the
24 commitment that Southline has made here today relates to
25 what has been described as the CEC upgrade section and

1 the new build, CEC new build section?

2 A. (BY MR. PATTERSON) Applying the POD to that,
3 correct.

4 MR. JACKSON: Okay. All right. I will handle
5 the rest through closing comments and an offer.

6 CHMN. CHENAL: Just to clarify, a follow-up
7 question, does the WAPA ROD, I am talking about
8 Mr. Jackson's clients, the property there, which is the
9 ROD requires the PCEMs to be applied, is it both the
10 WAPA and the BLM ROD, or is it just the BLM ROD? I am
11 looking --

12 MS. HOPKINS: Are you asking me?

13 CHMN. CHENAL: Yes.

14 MS. HOPKINS: The WAPA ROD commits WAPA to
15 implement the PCEMs on the WAPA upgrade section.

16 CHMN. CHENAL: In its entirety?

17 MS. HOPKINS: Yes, including Mountain View
18 Ranch.

19 CHMN. CHENAL: Okay. Very good. Thank you.
20 Does the Committee have any questions of the
21 panel? I believe there is some redirect.

22 MS. HOPKINS: Actually, we will not do any
23 further redirect, Mr. Chairman. But I do believe that
24 Member Woodall, at least, would like to have the
25 witnesses available to answer potentially some questions

1 about the form of CEC and what we are considering as
2 Exhibit A to the form of CEC. And so we had marked
3 those as Exhibit STL-41 and 42. I don't know if it
4 would be appropriate to admit those into evidence or
5 just discuss them.

6 CHMN. CHENAL: My preference is we do not admit
7 42, because that's the proposed CEC. And I think we had
8 that issue come up before. And I think we just will,
9 you know, we will issue the CEC.

10 But on questions regarding the specificity of
11 the route as outlined in the CEC, I believe Member
12 Woodall does have some questions. And 41 -- my notes
13 indicate that STL-40 has been discussed, but not
14 admitted. And 41 we now are discussing. So would you
15 like to move both of those into evidence? And we will
16 do so.

17 MS. HOPKINS: Yes.

18 MEMBER WOODALL: Chairman Chenal, I was hoping
19 we could have a little foundation on STL-41, because I
20 don't know who prepared it. I don't know what it is
21 supposed to depict. I know it is referenced to page 5
22 of Exhibit 42, but...

23 CHMN. CHENAL: Okay. Let's admit 40. STL-40 is
24 admitted.

25 (Exhibit STL-40 was admitted into evidence.)

1 CHMN. CHENAL: And then on 41, why don't we have
2 a little testimony about STL-41. I mean we will end up
3 probably admitting it after some foundation, but let's
4 get a little discussion, and I think that will make the
5 questioning a little -- put it in context.

6 MS. HOPKINS: Sure makes sense, Mr. Chairman.

7

8 REDIRECT EXAMINATION

9 BY MS. HOPKINS:

10 Q. Ms. Bellavia, you have before you what has been
11 marked as Exhibit 41. Can you please identify this
12 document?

13 A. (BY MS. BELLAVIA) STL-41 is a set of maps, four
14 maps, depicting the portion of the project before the
15 Committee.

16 Q. And did SWCA prepare these maps in response to
17 requests by the Committee?

18 A. (BY MS. BELLAVIA) Yes, we did.

19 Q. And these maps are anticipated to be attached as
20 an exhibit to the ultimate CEC that's issued in this
21 case if the Committee chooses to do so?

22 A. (BY MS. BELLAVIA) That's my understanding.

23 Q. And can you please describe what is shown on the
24 map, specifically around the outer edges, what we are
25 looking at here?

1 A. (BY MS. BELLAVIA) Yes. On the left side of the
2 page is township, and then across the top is the range.

3 Q. And can you also call out what the scale of this
4 map is?

5 A. (BY MS. BELLAVIA) It looks like -- I don't have
6 a ruler, but looks like approximately one-inch equals
7 three miles.

8 Q. And can you identify just for the record which
9 portions of the CEC proposed route that each map covers?
10 You mentioned there are four. Can you just walk through
11 1 of 4, 2 of 4, et cetera?

12 A. (BY MS. BELLAVIA) Sure. So the bottom-right
13 corner indicates, as Ms. Hopkins mentioned, 1 of 4, and
14 et cetera. So the first map, 1 of 4, is the beginning
15 at the New Mexico line, New Mexico-Arizona state line,
16 the project across -- as it heads east-west essentially
17 and then as it turns to the south. So it is the sort of
18 first of four.

19 The second map, Map CEC 2 of 4, shows, for
20 context, a portion of that same route coming east-west
21 from New Mexico, heading south around Willcox Playa,
22 crossing the Highway 186, and then down into the
23 Southline Apache substation. There is an inset map at
24 the bottom showing a bit more detail on the substation
25 expansion area.

1 Q. And in those subset inset map maps, are sections
2 identified?

3 A. (BY MS. BELLAVIA) Yes. Those are sections
4 within Township 16 south, Range 24 east.

5 Q. Thank you. Please continue.

6 A. (BY MS. BELLAVIA) So that's an overview of the
7 Map 2 of 4.

8 Map CEC 3 of 4 shows two map panels. On the
9 right is the Pantano substation, and you can see its
10 proximity on the WAPA line and I-10, and then an inset
11 map, as with the previous map, showing a bit more detail
12 on the location of the expansion area, and its location,
13 again, within looks like most of Section 11 within
14 Township 17 south, Range 17 east.

15 Q. And I know you don't have a ruler, but can you
16 estimate the scale of the inset map?

17 A. (BY MS. BELLAVIA) Well, each section is one
18 mile wide. It looks -- I am sorry. There is a scale at
19 the bottom. It looks like maybe half an inch equals a
20 half mile.

21 Q. Thank you. Please continue.

22 A. (BY MS. BELLAVIA) So then on the left panel is
23 the Vail substation and the connection between the WAPA
24 line and Vail. And then, again, an inset map showing
25 the sections that the expansion area at Vail would be

1 located in, and the sections that the connection
2 traverses, Sections 4, 9, and 16 within Township 16
3 south, Range 15 east. And again, for context, I-10,
4 I-19, and existing WAPA line are also depicted.

5 And then the final 4 of 4, the right panel shows
6 the WAPA substation, DeMoss Petrie, again for context,
7 I-10 and the existing WAPA line, and then an inset map
8 indicating the location of WAPA's substation, and then
9 the -- I am sorry, WAPA's Tucson sub and then the
10 expansion at DeMoss Petrie, which would be located in
11 Section 35, Township -- that should be 13 south, 13
12 east. Same scale as with previous maps, both on the
13 larger extent map and the inset map. And the left panel
14 shows the Tortolita substation and the expansion area
15 and connection to the existing WAPA line sort of across
16 I-10 and, as you can see on the inset map, sort of
17 zigzagging from Section 15, maybe a little dip into
18 Section 22, and then through Section 14 and 23 of
19 Township 10 south, Range 10 east. And again, the same
20 scale both for the overview and inset maps.

21 Q. Thank you.

22 Did SWCA review any examples of maps that were
23 attached to certificates that have been issued by the
24 Line Siting Committee in preparation of these maps?

25 A. (BY MS. BELLAVIA) Yes.

1 Q. Do you know which ones specifically were
2 reviewed?

3 A. (BY MS. BELLAVIA) I don't remember every single
4 one. I know that the, I believe it was Tortolita to
5 Pinal Central, specifically was eight and a half by 11,
6 showing township and range and kind of context. That's
7 the one that sticks out in my memory.

8 MS. HOPKINS: Thank you.

9 I would now like to offer Exhibit STL-41 into
10 the record.

11 CHMN. CHENAL: Thank you.

12 Member Woodall.

13 MEMBER WOODALL: Ma'am, so that I understand the
14 significance of Exhibit 41, I have looked at Exhibit
15 No. 42 on page 4 where it says starting at line 13 the
16 route approved -- the route herein approved, approved
17 route, is approximately 72 miles and crosses land owned
18 by the U.S. Bureau of Land Management, the Department of
19 Defense, the Arizona State Land Department, and private
20 landowners.

21 The approved right-of-way for the certificate is
22 a 200 foot wide right-of-way within the study corridor
23 identified in the environmental impact study for the CEC
24 new build route, and a 150 foot wide right-of-way within
25 the study corridor identified in the EIS for the CEC

1 upgrade route.

2 Is there a particular page you could direct me
3 to in the EIS that describes the study corridor with a
4 little more geographic specificity than what is depicted
5 on your map here?

6 MS. BELLAVIA: Yes. In reality -- so the study
7 corridor, as in the EIS, is really what we called an
8 analysis area. And it was not identified with the
9 intention of establishing, for example, a two-mile
10 buffer within which the route could be located anywhere.

11 So our analysis area -- which I can direct you
12 to that section to answer your question -- really was
13 intended to be used to characterize the broader
14 environment, for example, in chapter 3 with the affected
15 environment, so that when we looked at the right-of-way
16 within that broader area, we could characterize impacts
17 within an analysis area. So the right-of-way as
18 analyzed in the EIS was a specific point on a landscape.
19 It wasn't subject to wander within a larger corridor.

20 MEMBER WOODALL: I guess what I am trying to
21 figure out is, is there some way that the certificate
22 can be pretty clear about geographically where these
23 lines, where this right-of-way would be and how wide is
24 that study corridor that's defined here? And I could be
25 confused, but are you -- is it your understanding that

1 the ROD allows the siting of this 200-foot right-of-way
2 corridor, right-of-way, anywhere within that, your study
3 corridor, or is it, it is focused on planet earth?

4 MS. BELLAVIA: Very focused on planet earth. In
5 fact, the BLM's decision indicates that -- I believe
6 there is text in the BLM Record of Decision
7 specifically, the one I can remember referencing legal
8 descriptions that would be -- that accompany the
9 right-of-way grant. So it is very fixed, and that's
10 what we analyzed.

11 MEMBER WOODALL: Including on private lands?

12 MS. BELLAVIA: Yes.

13 MEMBER WOODALL: Okay. So if someone before we
14 enter deliberations could identify that in the draft, in
15 the EIS here, I think that would be extremely helpful.
16 I am assuming that the legals would be extraordinarily
17 voluminous. Would I be right, Ms. Bellavia?

18 MS. BELLAVIA: You are correct, yes.

19 MEMBER WOODALL: If there could be some way that
20 we could direct folks to what pages or what chapters
21 those are in, I would feel much more comfortable about
22 approving a CEC, because it would be clear to anyone who
23 might want to look at our CEC, just there would be an
24 easy reference point.

25 And I am assuming that you would include not

1 just the page, but if there is a hot link or something
2 to the document and then what pages, that would be very
3 helpful, because I want basically anyone who looks at
4 this CEC to have a way of figuring out exactly where it
5 is by reference to specific documents.

6 And I understand that the EIS is in the record,
7 but who is going to wade through 2,000 pages other than
8 you and me, Ms. Bellavia?

9 MS. BELLAVIA: Every day.

10 CHMN. CHENAL: Very good. Thank you.

11 MS. BELLAVIA: I think to answer your question,
12 I think the best set of maps, which is in an exhibit
13 that could be provided, are in the plan of development
14 attached to BLM's ROD. And again, their ROD is talking
15 about their lands, but the map set in the POD shows,
16 depicts the whole project.

17 MEMBER WOODALL: Including the private lands?

18 MS. BELLAVIA: I am not sure. I can't recall if
19 it shows land ownership; I have to check it. But
20 regardless of land ownership, it shows the whole
21 project.

22 MEMBER WOODALL: And I just want to make sure
23 that anyone who looked at the CEC, and your expansion of
24 the description that you have there in the narrative,
25 would be able to go look on page 4-52 of whatever

1 instrument you are citing and be able to locate it.

2 MS. BELLAVIA: Yes. In fact, Mr. Patterson is
3 showing me and reminding me that those POD maps do, in
4 fact, show land ownership as well, so yes.

5 MEMBER WOODALL: Thank you very much. And I
6 just want to reference them somewhere in the CEC, at
7 least I do. I don't know about the other Committee
8 members.

9 MS. BELLAVIA: I did not answer your question
10 about how big the study corridor is, which I think is
11 maybe a nonissue knowing that we have a geographic place
12 in the world.

13 But to answer that question, as I said, we call
14 them an analysis area, and if you read -- get to
15 page 216 of the final environmental impact statement,
16 there is a description of all the analysis areas,
17 section 3.1.3, if you are interested.

18 MEMBER WOODALL: So basically any of the private
19 landowners whose property could potentially be subject
20 to this right-of-way grant, they would be able to look
21 at this description and identify in more detail and see
22 there is their property, assuming they can read legal
23 descriptions?

24 MS. BELLAVIA: They would need to reference the
25 Record of Decision maps, yes.

1 MEMBER WOODALL: Okay, great.

2 CHMN. CHENAL: Thank you.

3 Member Noland.

4 MEMBER NOLAND: Well, Mr. Chairman, that's not
5 quite good enough for me.

6 I would like to have you prepare that map as an
7 exhibit that we can reference. Because one of my issues
8 was the fact that this is one of the few times -- I can
9 remember a couple times -- that we didn't have a map
10 with the corridor depicted where the right-of-way would
11 be located. And sometimes you need a little bit wider
12 corridor if you have to go on either side of an existing
13 utility line or to bypass a sensitive area.

14 So I was looking at wording that was going to
15 really define this based on at least the 43 miles that
16 travel along existing utilities. Because there is a
17 difference, in my mind, between a corridor and an
18 easement or a right-of-way. Easement and right-of-way
19 are kind of interchangeable sometimes.

20 But it just is not specific enough for me. And
21 I need that map, and not just with legal descriptions.
22 I would like to see the corridor as it travels on the
23 new construction portion around the proposed line that
24 shows it is 200 feet or 250 feet or 150 feet. If you
25 can do that on that map, that's great. If you can't, I

1 would like to see you do it like you did on Exhibit 35,
2 showing different kind of study areas or whatever areas.

3 And if you don't know what I am talking about,
4 go back before SunZia to some cases in the 160s, and
5 look at the type of corridors that they proposed the
6 right-of-way would be located within.

7 CHMN. CHENAL: Thanks, Member Noland.

8 Let me make sure I understand. I think what we
9 want as a Committee is clarity on where this
10 right-of-way is going to be. A map with an inch to
11 three miles is never going to show that. I mean we
12 would have so many maps attached to this to show exactly
13 where the right-of-way is going to be.

14 I think it is hopeful and clarifies it, but is
15 there -- and I am going to ask Ms. Bellavia -- is there
16 some area, portion, I think you testified there was a
17 portion in the EIS, maybe it is the ROD, maybe it is the
18 plan of development, where there is a specific, you
19 know, legal description or something that absolutely
20 nails down that 150 foot or 200 foot wide right-of-way,
21 so someone can go and know and exactly put a little
22 effort into it to know exactly where that right-of-way
23 is going to be, and not just have a map to refer to or
24 one-inch equals three miles?

25 That's really my question. Is there some

1 document that nails that down?

2 MS. BELLAVIA: I would say -- and we did talk
3 about this, I believe, in my testimony the other day,
4 and I am referring to the BLM's Record of Decision. I
5 don't know the exhibit, but the page is B-14.12. And it
6 references there are legals in the right-of-way grant.

7 However, to my knowledge, that right-of-way
8 grant is not necessarily published and available online
9 to the public. So that information exists, but I don't
10 know that, you know, necessarily -- I know the concern
11 is making that information accessible. I don't know
12 that that information is published or not.

13 CHMN. CHAIRMAN: And the BLM right-of-way grant,
14 does that cover, you know, the private land on the new
15 build section?

16 MS. BELLAVIA: I don't think so.

17 CHMN. CHENAL: I am guessing it does not. So we
18 are kind of back to this issue of where is this going to
19 be, where is this right-of-way going to be.

20 You know, I think we are looking for some
21 specificity. Maybe maps is what we have. But I mean
22 these maps, the ones I am looking at, Exhibit 41, you
23 know, that's really not going to tell me if I am a
24 private landowner -- state land, maybe it doesn't make a
25 big difference, but certainly over private land I think

1 it is more of an important issue to the Committee.

2 Member Woodall.

3 MEMBER WOODALL: I was convinced by Ms. Noland's
4 concerns about the fact that we really, sitting here
5 right now today, we don't exactly know where the route
6 is going to be if we were to reference the CEC, and that
7 is concerning to me.

8 I don't know that I would require maps, but I
9 would urge the applicant to review this and determine if
10 there is something that you could provide or attach,
11 because basically right now I don't know what we are
12 approving.

13 I mean, I can see a map, but that's all I have.
14 I realize the EIS is in the record, but we can't expect
15 members of the public to be pouring through the EIS.
16 And it appears that the specific right-of-way has not
17 been released yet or are not public.

18 So we are being asked to approve something and
19 we really don't know where it is. So the more
20 information you can provide to us, I think the more
21 helpful it would be to me, and I believe to Ms. Noland,
22 based on her comments.

23 CHMN. CHENAL: Thank you.

24 Member Noland.

25 MEMBER NOLAND: Thank you.

1 Otherwise, I am going to try and describe it for
2 you. So I would suggest, you know, we do it the best we
3 can, because I was looking at wording that would
4 basically confine it on those areas where it is adjacent
5 to an existing utility to 200 feet, adjacent to that
6 utility.

7 One other thing. And you stated -- I forget who
8 stated this earlier today, and I want to be sure that I
9 remember correctly. I think that all of the substation
10 expansion, except the Apache, are on TEP owned land, is
11 that correct?

12 MR. PATTERSON: And state lands.

13 MEMBER NOLAND: And state lands, okay.

14 MR. PATTERSON: That is correct.

15 MEMBER NOLAND: Okay. Well, and then with this
16 Exhibit No. 41, if you look at the section portion of
17 the substation expansion, you are not following any
18 section lines, maybe a quarter section, but it is hard
19 to tell. And you are going over into two separate
20 sections.

21 Is there any reason you didn't look at maybe
22 taking the expansion south to the section line and then
23 back up along 191 to provide that expansion, so at least
24 you are looking at least two section lines and the
25 bottom corner of the section of state land? Because I

1 do know that they just don't really care for having
2 chunks taken out. And so what that's going to do is you
3 are going to end up dealing and taking private land.

4 That's my observation. It may not be what you
5 are going to do, but if you had done it a little
6 differently, you might be more successful in dealing
7 with the State Land Department. I am just putting that
8 thought forward. And if, in fact, you do talk to your
9 engineers and consider that that could be a potential, I
10 would suggest you amend this exhibit to show that
11 potential.

12 Thank you.

13 CHMN. CHENAL: Thank you.

14 So I am curious to hear from counsel or, you
15 know, the panel about the questioning that we have and
16 kind of the concern that, you know, where is the actual
17 right-of-way going to be. Because the draft CEC talks
18 about a 150- or 200-foot right-of-way and study corridor
19 and, you know, as explained in the EIS. And that's kind
20 of, you know, not that specific. So I would just like
21 to hear.

22 MR. GUY: Sure. I will describe what I think we
23 have and then let the witnesses add. I mean we prepared
24 this four pages of maps based on the sort of level of
25 precision that we understood most of the CEC maps used.

1 But we do have at least one set of maps that is a little
2 more precise and shows land ownership, and they are the
3 maps within the ROD, the BLM ROD.

4 So although they are not the right-of-way
5 grants, I mean they are a full set of maps, I think, for
6 maybe either four or five or six pages, a little more
7 precise. But I actually get the impression that you are
8 wanting something even a little more than that. You
9 want some narrative that nails it down even a little
10 more.

11 CHMN. CHENAL: Yeah. Is there -- I guess back
12 to one of the questions, how precisely known is it
13 sitting here today where this right-of-way is going to
14 be? Is it generally within a quarter of a mile, or
15 whatever, the study corridor is, or has it been, you
16 know, been defined to a more specific area?

17 MR. GUY: My understanding is it is 200 feet as
18 shown on those maps. It is not a corridor.

19 Now, maybe the witnesses can correct me.

20 CHMN. CHENAL: I wasn't clear on my question. I
21 accept that it is a 200 foot wide right-of-way. But do
22 we know, has the right-of-way, is it firmly in place?
23 Do we know exactly where the right-of-way is? Could we
24 go out to any portion of the line and know exactly where
25 the right-of-way is coming? Or is it like, well, it

1 could be a quarter mile that way or half a mile that
2 way, depending on what the engineering shows later on?

3 MR. PATTERSON: Well, I would say we are working
4 under the assumption that the 200-foot right-of-way is
5 in the location as proscribed from the ROD, but because
6 detailed engineering and, you know, on-site and
7 discussions with landowners haven't taken place yet, we
8 can't tell you that's exactly where the right-of-way is,
9 but that's where, you know, that's the foundation to
10 work from, that we are assuming we are there unless it
11 couldn't be there for some reason, is how I understand
12 it.

13 And just in terms of trying to visualize it, the
14 map that we are referring to in the back of the BLM ROD,
15 personally I carry this around with me everywhere, and I
16 have found that it almost always identifies where you
17 are talking about, because it shows both land ownership,
18 as was mentioned, by the scale, also you can see section
19 lines on it. And so it gets you very close,
20 particularly in the new build section, where, because
21 there is so many identifiable, you know, large parcels
22 of one type of land or another, on a very quick look for
23 most people who are in the area every time I have had a
24 conversation.

25 You know, having said that, if that's not the

1 right level of detail, I completely understand. I was
2 just wanting to make that known that this map tends to
3 be pretty helpful in giving a big picture.

4 CHMN. CHENAL: So is it more in the nature of a
5 corridor that we are talking about, that we know exactly
6 where the corridor is, but within that corridor we don't
7 know exactly where the right-of-way is going to be, but
8 it will be within a set corridor that we can precisely
9 locate? Is that the case?

10 MR. PATTERSON: I personally almost see it as
11 the inverse, where we start with where the 200 feet,
12 where we think it would be, and then we would only need
13 to adjust that within a corridor that had been studied
14 if the conditions warranted working with underlying
15 landowners.

16 CHMN. CHENAL: Okay. So I am Joe the blader and
17 I am given the job of blading the right-of-way, you
18 know, where this line is going to go. This won't do it.
19 This, you know, Exhibit 41, I am not going to know where
20 to go. What do I go on, or who is direct -- what
21 document takes me to where I actually need to, you know,
22 prepare, you know, the right-of-way for the lattice
23 towers?

24 MR. PATTERSON: Well --

25 CHMN. CHENAL: That's for anybody. I am just

1 trying to get a little clarification.

2 MR. GUY: I mean my experience, and maybe -- we
3 do have our engineer here, and maybe he is the more
4 appropriate person, but in my experience either the map
5 that Mr. Patterson referred to, and maybe not so much
6 this one, but really either one of them, you would go
7 out and you would meet with the landowner and you would
8 say here is where my route is shown, you can see it
9 looks to be paralleling the section line, or we are
10 hoping to be paralleling adjacent to this transmission
11 line here, we want to mitigate the impacts on your
12 property, is it okay if we run it right here or is there
13 some other place on your property you want it.

14 And then you actually have someone to site doing
15 the survey work and the design work and the pole
16 placement, and that's where your engineers and your
17 right-of-way goes, come in place. I mean that's in my
18 experience how it is typically done.

19 CHMN. CHENAL: Then how -- we will get to all
20 the questions. All right? I will get back to everyone
21 here, but I just want to follow this up.

22 How -- I mean if you convey property to
23 somebody, a right-of-way, you have got a specific legal
24 description of the right-of-way and you know to the inch
25 where it is going to be.

1 That's not what we have here. We know the
2 right-of-way is going to be 150 or 200 feet once it is
3 finally, you know, decided where that right-of-way is
4 going to be. And I am trying to get a little better
5 feel, you know, for how much flexibility there is as to
6 where that right-of-way can be placed, you know, for
7 this route on the upgrade. I mean the new build, excuse
8 me, the new build.

9 What restricts -- I mean what restricts
10 Southline to putting it along the section line? I guess
11 that's the BLM ROD. Is that where you are -- the
12 document you go to to kind of get clarification of where
13 the route, the line is going to be located? Is that the
14 document? Is that the holy grail?

15 MR. PATTERSON: For BLM lands. And the BLM
16 descriptions are implemented. The right-of-way grant
17 was actually issued and executed. So that part is
18 defined.

19 And then for the rest of the route that BLM and
20 WAPA selected, it is really, to me it is, that's the
21 centerline that we look to work off of. The document
22 that you are asking about what would govern, you know,
23 precisely located any actions that need to take place,
24 well, you couldn't take any of those actions until the
25 right-of-way agreements were in place.

1 So to me the right-of-way agreement is really
2 the mechanism that will define the exact location. And
3 the right-of-way agreement is really the agreement
4 between Southline and the party. If it turns out that
5 State Land would prefer, you know, something slightly
6 different, it should be, in my mind, State Land to help
7 microsite that, similarly with private landowners on
8 their parcels, work with them. And so I don't know if
9 that is helpful.

10 CHMN. CHENAL: That's helpful. So how much
11 flexibility do you have, where you have state land and
12 you have a map that shows, you know, the maps that are
13 attached to the BLM ROD that show, I guess with more
14 specificity than Exhibit 41, but it is still kind of
15 more generalized?

16 So, I mean, what restrictions would Southline
17 have on where the line could be located as it negotiates
18 these right-of-way agreements? I mean is there any --
19 is the study corridor that's referenced in your CEC, is
20 that a specifically defined area so the right-of-way
21 would have to be within a specifically defined study
22 corridor?

23 MS. HOPKINS: Mr. Chairman, let me see if I can
24 take a shot at that. I think that some of the confusion
25 may lie in, as I attempted to address with Ms. Bellavia

1 earlier in her testimony, the use of the word study
2 corridor in the route description here. And that's
3 language that we can cut out of the ordering paragraph.

4 CHMN. CHENAL: I believe Ms. Bellavia said
5 analysis area.

6 MS. HOPKINS: And I am suggesting cutting that
7 out entirely, because we are not seeking a corridor
8 within which to site the 200-foot right-of-way.

9 Southline believes that the BLM and WAPA RODs
10 have outlined a route with specificity that is
11 identified on these maps and the BLM ROD maps and that,
12 while it may not be as specific as a legal description
13 of the actual right-of-way grant, which I understand
14 would be ideal, but, as Mr. Patterson testified to, that
15 will have to be as we, you know, continue along the line
16 and negotiate individual survey permission and
17 easements.

18 But on the map, for instance, that is STL-41, if
19 you look at the scale, you know, it is about an inch to
20 three miles. And so, you know, just the width of that
21 line is, you know, less than a 16th of an inch. And so,
22 you know, as identified on the map, if we were to just
23 scale that out, it would be something significantly less
24 than a mile.

25 Does that make sense?

1 CHMN. CHENAL: Absolutely. That's very helpful.
2 I wonder if we could put up on the screen an example of
3 the BLM map that's attached to the BLM ROD. That will
4 give us maybe a little better idea of what that map
5 depicts that Mr. Patterson carries in his hip pocket
6 wherever he goes.

7 MR. JACKSON: Mr. Chairman, on behalf of private
8 landowners, who are finally seeing renewed home building
9 activity in southern Arizona, this is the million dollar
10 question, where that 200-foot right-of-way is going to
11 sit as it relates to the existing easement. It makes a
12 big difference.

13 MEMBER NOLAND: And Mr. Chairman, to that point,
14 may I?

15 CHMN. CHENAL: Absolutely.

16 MEMBER NOLAND: The other thing is, if we are
17 talking about the study corridor, we are talking five
18 miles. That means -- and I know you don't intend to use
19 that, but we don't know what the corridor is. Is it
20 north? Is it south? May it be 500 feet on each side,
21 that's the maximum? That's what private property owners
22 need to know, so there isn't the potential that it could
23 be anywhere on their land or it could be south.

24 And that's why I am saying usually we have a
25 corridor map that is 500 feet, a thousand feet, or 1500

1 feet to give flexibility to the constructor, or the
2 applicant, so that if they can't enter into an agreement
3 with one owner, then maybe they can cross the utility
4 line and go over to south of the line, for instance, on
5 part of it. That's what I think we are asking for.

6 And Mr. Chairman, I would have a real problem
7 trying to see us do legal descriptions in this CEC of
8 every part of that line. I would like to see a map like
9 you are asking to be shown, and then with an idea of
10 what the maximum requested corridor might be, where you
11 could negotiate right-of-way, maximum, and then
12 reference back to legal descriptions in the Record of
13 Decision or the POD, that somebody could look at the map
14 and then could go back to a legal description to see if
15 that really involved their land. Does that make sense?

16 CHMN. CHENAL: Member Noland, I will tell you
17 the light bulb kind of went off in my head when
18 Ms. Hopkins was discussing this, because in prior cases
19 we had legal descriptions. We had specifically defined
20 corridors, specifically defined where a surveyor could
21 go out and say this is the corridor on this, where we
22 are standing today, and the right-of-way would have to
23 be within this corridor. And that's why I am asking
24 these questions.

25 I don't think there are any legal descriptions

1 from what I now understand. I think what we have is
2 basically a Record of Decision from the BLM that has a
3 map attached to it that I want to have put up on the
4 screen, because that has the most specificity I think we
5 are going to find. And there is really nothing that's
6 going to be more precise than that. There is no legal
7 descriptions. There is no corridors that are
8 specifically defined.

9 And, you know, we are basically going to be
10 saying, in granting a CEC, you build the route and
11 negotiate the right-of-way with the landowner. Now, I
12 am thinking out loud. I am thinking out loud here,
13 which is always dangerous, but I don't have so great a
14 concern with State Land Department and other entities.

15 Private landowners, I kind of think they should
16 know where this is going to be coming through, and it is
17 going to be in a more specified area. That's just my
18 thought and that's based on cases we have had in the
19 past.

20 So Member Woodall.

21 MEMBER WOODALL: All right. I know we have been
22 talking about maps, but there is nothing in the
23 narrative description in the proposed form of CEC that
24 would help me to understand geographically where the
25 line starts. It is not uncommon for us to get narrative

1 descriptions that would say and it will start
2 paralleling the Union Pacific Railway for a period, I
3 mean for a distance of 17 miles, thence southerly to
4 whatever, and so we would be able to know where on the
5 face of the earth it is.

6 And we don't have that narrative description in
7 the CEC. That's why when I initially brought it up, I
8 wanted to kind of alert the applicant to my concerns in
9 that regard. Now, I am just one member, but I think it
10 is important that, you know, somebody should be able to,
11 more importantly we should be able to, know where this
12 is. And so far I don't know where it is. So...

13 CHMN. CHENAL: I am not trying to unload
14 anything, but I just, you know, I think the -- I believe
15 the Committee's concern is more with respect to the
16 private landowners, you know, that there is some better
17 understanding about where this might be. But let's see
18 if we can have more discussion on it and, you know, work
19 through the problem. Just in some past cases it has
20 been a little more specific.

21 I know this is a long line, and you have a BLM
22 approved route. But I guess it is -- the light bulb
23 went off in my head. I guess I thought there was
24 something specifically defining the area of the corridor
25 or something so that someone could go to the document

1 and say, oh, at this particular spot where I am standing
2 it is going, you know, you know, 100 feet either side of
3 me, or a corridor of a half mile wide and it will be
4 somewhere within this corridor, and I am understanding
5 now that's not the case.

6 So maybe we can after -- if we need to take a
7 break we can do that, but maybe we can discuss these
8 maps and maybe there is -- we can get some comfort that
9 these BLM maps actually do provide, based on the scale,
10 some comfort as to where these lines are.

11 Mr. Guy, Ms. Hopkins.

12 MR. GUY: Yeah, no, I think SWCA prepared some
13 of these maps; I am not sure the BLM ROD. I think they
14 can look up for us the source maps or the base maps.
15 They can tell us with precision what those maps are.
16 Typically you look at that map and plus or minus 50 feet
17 for an aerial and something like that. There is some
18 level of precision that you are using as a base map, and
19 then sort of, I don't know what it is, someone who
20 knows, a mapping person, but then it is sort of the
21 point that Ms. Hopkins referenced.

22 I mean once you get the scale and once you know
23 what the precision is, it sounds to me like these maps
24 could be more precise than what you typically approve.
25 You are typically approving in a CEC proceeding a

1 corridor. We may find these maps are actually more
2 precise, especially when accompanied with a narrative
3 that you typically see. And we would have to prepare
4 the narrative. I don't think we have a narrative
5 prepared, so that may take us awhile to get to the level
6 of detail you want in the narrative, but I think we can
7 get there.

8 CHMN. CHENAL: And I do, too. This is called
9 notice. It is called a huge power line coming through,
10 you know, my property sometime in the future. I would
11 kind of like to know where it is. And I think we can
12 work through this, I am very confident we can, but I
13 think it would be good to have a little more specificity
14 and we will work through this.

15 Member Noland.

16 MEMBER NOLAND: Well, Mr. Chairman, I was
17 working on an amendment to the CEC that was at least
18 going to better define the 43 miles that you follow
19 existing or designated utility, not corridors, but I
20 would say easement or right-of-way. And it was going to
21 be 200 or 250 feet on either side of that particular
22 easement for that 43 miles for the new build section,
23 because there was no more specificity than that.

24 Mr. Jackson, I saw you getting all hyped up, but
25 you are not next -- you are in the other part that I am

1 not talking about right now. I am talking the new
2 build.

3 So that's what I was looking for. And in the
4 past, I mean really, in all of the cases in the past
5 except about the last three, we have been given a
6 corridor map that is general and might be 500 feet on
7 either side that gives you the ability to have the
8 flexibility you need to place the line.

9 Now, you are more specifically tied down to the
10 BLM land. But on private land it still, if you don't
11 define it, we are going to -- we need something to
12 define what the maximum corridor would be for the
13 right-of-way that's going to be taken in that area.
14 Does that -- that's what I would like.

15 CHMN. CHENAL: And Member Noland, I think that's
16 kind of what we are looking for.

17 I will go back to what -- Mr. Guy or Ms. Hopkins
18 actually said it. The specificity of the BLM maps may
19 be such that the line that's depicting the route there
20 may be the functional equivalent of that corridor. And
21 that may be what we are looking for, that kind of a
22 specificity. I think we all know what we are talk --
23 what we would like to see. We can keep talking about
24 it, but I think you see what we are looking for.

25 And I don't know if the BLM maps, if they are

1 up, if Ms. Livingston brought that one up, if that's one
2 of the BLM maps. Maybe we could have a little
3 discussion about what we are looking at, maybe blow it
4 up a little and see if we have a little discussion about
5 that.

6 Let me ask first. What is up on the screen is
7 the BLM -- is the map attached to the BLM ROD, is that
8 correct?

9 MR. PATTERSON: That's correct.

10 CHMN. CHENAL: And is this the one that you
11 carry, Mr. Patterson, in your back pocket with you?

12 MR. PATTERSON: It is.

13 CHMN. CHENAL: Okay. And this is the one that
14 will depict both land uses, land ownership and the route
15 specificity?

16 MR. PATTERSON: Correct.

17 CHMN. CHENAL: Is this the most specific -- is
18 there any document I could find, I don't care if it is a
19 POD, if it is a ROD, if it is a PA, PC, BLM, an IBM, I
20 don't care, a map, is there anything that you have that
21 would share anything more specific about where this line
22 is going to be than the map that's up on the screen that
23 you carry in your back pocket?

24 MR. PATTERSON: Well, not for these purposes.
25 The only more detail maps, though, when we were

1 discussing land ownership earlier this morning, I pulled
2 up the existing land use maps from the application. And
3 those were more zoomed in. And if you recall, they had
4 all the existing easements in the area. They have other
5 layers on top of them, but land uses type layers, but --

6 CHMN. CHENAL: But they don't depict where the
7 route is going to be.

8 MR. PATTERSON: They do. It is all right there.
9 That's on the application. It shows where it is along
10 the, along the existing easements and with the land use
11 on top.

12 CHMN. CHENAL: So am I understanding that if we
13 went to those sets of maps that we could see even more
14 precisely the route for the line?

15 MR. PATTERSON: Yes, for the CEC portion,
16 because those are produced. So it is this map on the
17 left. I think it is rotated. There you go.

18 Now, this doesn't have the land ownership
19 background, but that's the level of precision that you
20 can see.

21 CHMN. CHENAL: What exhibit is this?

22 MS. HOPKINS: This is Exhibit A-3 to the
23 application, A-3.

24 CHMN. CHENAL: To the application. And this you
25 would say, Mr. Patterson -- and anybody else on the

1 panel or counsel -- is the most specific source of where
2 this line, the most specific indication of where the
3 line is going to be located?

4 MR. PATTERSON: It is the most granular map that
5 we have already produced. Of course we have the
6 information to go as granular as we need to go, but this
7 is the most specific detail that we have produced.

8 CHMN. CHENAL: You don't have a legal
9 description?

10 MR. PATTERSON: No.

11 CHMN. CHENAL: So all we have are maps.

12 MR. PATTERSON: Correct.

13 CHMN. CHENAL: And of the universe of maps, this
14 map will show more precisely where the line is located
15 more than any map, is that correct?

16 MR. PATTERSON: It will. And also it does show
17 the proposed right-of-way location with respect to other
18 easements, per Member Noland's comments.

19 CHMN. CHENAL: Okay. I think we are making
20 progress.

21 Member Woodall.

22 MEMBER WOODALL: So the maps that were attached
23 as Exhibit A-3 to the application, is there reference
24 there to a township and range?

25 MR. PATTERSON: No.

1 MEMBER WOODALL: And so would it be difficult to
2 plop those on?

3 MR. PATTERSON: It would not be difficult.

4 MEMBER WOODALL: I am using "plop" in the
5 technical sense of the term, of course.

6 That would help me a lot, because then we know
7 where it is with reference to the township and range,
8 which is at least some geographic reference.

9 Thank you.

10 CHMN. CHENAL: And how many maps, how many pages
11 of maps are there that make up that exhibit, roughly?
12 I guess we could pull out the exhibit.

13 MS. HOPKINS: I think it may be six or so. I
14 would need to look.

15 CHMN. CHENAL: Member Woodall, could I impose
16 upon you to --

17 MEMBER WOODALL: Yes. A-3 goes from 3-A to 3-H.

18 CHMN. CHENAL: Okay. So that's roughly eight,
19 using the finger counting method.

20 Yes, Member Noland.

21 MEMBER NOLAND: Both on these maps and the
22 previous map we had up, I would like to know how -- why
23 that line is, in perspective -- well, okay, try not to
24 blind Colette.

25 This line, the proposed route shown on here, how

1 wide is that line? Just like the previous map that we
2 had, how many feet wide is that line? So if I am the
3 landowner, I could pretty well figure out that my land
4 is right here, how wide is that line?

5 MS. HOPKINS: And we can get that information.

6 MEMBER NOLAND: That would start to narrow it
7 down. Then somebody could go back to maybe the BLM
8 descriptions on either side of their property and figure
9 out exactly if it was on their property or maybe it is
10 on their neighbor's.

11 MS. BELLAVIA: I can speak to the question about
12 how wide that is. That is to scale using a 200-foot
13 right-of-way. So that blue line is -- I will have to
14 confirm with the GIS person, but we are -- our habit is
15 to use lines to scale for the route. So that should be
16 200 feet.

17 MEMBER NOLAND: Then you are going to be stuck
18 to that 200 feet. And if you can't negotiate it, then
19 what do you do? And that is the reason sometimes to
20 have a little wider corridor, even a 500 foot, that we
21 have had in some more specific cases that gave that
22 flexibility.

23 I am sorry, I just -- I don't understand how you
24 are going to negotiate. I guess you just pay them
25 whatever they want. That's how you are going to get it

1 if it is in between the BLM land if you don't have a
2 corridor that would allow that flexibility.

3 CHMN. CHENAL: I think someone had said to a
4 question of mine that it is the inverse of what had been
5 suggested, that there was a corridor and then you have
6 got the right-of-way. I now see that, yeah, you really
7 do have a right-of-way that's rather specific. And I
8 think this is what, you know, we are looking for. We
9 are looking, working through this problem.

10 But it seems like you would want some corridor
11 or some flexibility to put it out from where it is so
12 you have some flexibility in dealing with landowners as
13 to where they might want it. So I think we can talk
14 about that as we kind of work through this.

15 I think, to me, the goal is you want --
16 landowners want to know approximately what the areas are
17 where this line could be, and then be able to negotiate
18 where the right-of-way is actually going to fit.

19 And if we think -- thinking out loud again,
20 which is dangerous. If we don't provide some
21 flexibility, we could be hurting the landowner, because
22 they might want it to be a quarter mile right or left,
23 and if we don't have that flexibility built in, well --
24 quarter mile, I mean some distance right or left, if we
25 don't have the flexibility there to do that, then the

1 landowner is actually hurt by not having the ability to
2 move that line.

3 But I have gotten some more comfort level myself
4 as to the specificity based on these maps. I don't know
5 what the other members think. But I think a combination
6 of more narrative and attachment of maybe these kind of
7 maps I think would give some comfort.

8 Now, Member Woodall.

9 MEMBER WOODALL: I thought Member Noland had
10 some very good ideas about the corridor. And since you
11 already know where it is, perhaps you could describe it
12 as, rather than this 200-foot right-of-way, you could
13 describe it as a 300-foot, for purposes of the Line
14 Siting Committee you could describe it as being 400 feet
15 or whatever you want to propose. That way you have some
16 flexibility and we know just exactly what approval we
17 have granted you. I don't know if that will be
18 satisfactory to --

19 MEMBER NOLAND: Yes, that's exactly what I am
20 saying.

21 MEMBER WOODALL: Yes.

22 MS. HOPKINS: I think that will make our
23 engineers happy, too.

24 CHMN. CHENAL: Yes. Work, we are going to work
25 in the Works Progress Administration building and we

1 will create work for engineers.

2 Member Palmer.

3 MEMBER PALMER: My thoughts would be, what I am
4 hearing is we have a line that apparently is to scale to
5 describe at 100 feet or 150, or whatever the case may
6 be, but that we craft some language that identifies X
7 number of feet, 300 feet either side of the center point
8 of that line, that defines it very specifically for us,
9 but gives you room to wiggle as you negotiate.

10 MS. HOPKINS: That sounds good.

11 MEMBER NOLAND: And Mr. Chairman, you would get
12 a better idea if you do go back to some of our previous
13 cases, and I would say in the early 160s, 165, 167, up
14 in there, you will see what we are talking about with
15 the description of the corridor that the right-of-way
16 can be located within.

17 MS. HOPKINS: Thank you, Member Noland.

18 CHMN. CHENAL: All right. I think this
19 discussion has been very helpful, and I think we have a
20 solution. It will take a little work, but I think we
21 have a solution, you know, to the concern on the CEC
22 portion of the line. I don't think it is -- I think it
23 is appropriate, you know, that more specificity be
24 provided.

25 Okay. Member Woodall.

1 MEMBER WOODALL: I am going to ask the
2 applicant, and possibly Ms. Bellavia, do you think you
3 can get this done and have it filed by Wednesday? What
4 we are talking about, realistically? I see nods, but
5 no --

6 MS. HOPKINS: We just need to send someone to
7 Tucson.

8 CHMN. CHENAL: Okay. Okay. I just wanted to
9 make sure we weren't asking some impossibility from a
10 technical standpoint. But it could be done?

11 MS. BELLAVIA: It is within the realm of
12 possibility, yes.

13 MEMBER WOODALL: Thank you so much. If you pay
14 enough, anything is within the realm of possibilities.
15 Thank you.

16 CHMN. CHENAL: We would like to get done by
17 Wednesday, but let's see if it becomes an impossibility,
18 and, you know, we will see what options are available,
19 but if that's the only matter that's outstanding, we
20 will work out a solution to that that will be
21 acceptable.

22 MS. HOPKINS: Given the schedule tomorrow with
23 the tour, I think it is likely that we can have
24 something completed for you by Wednesday.

25 CHMN. CHENAL: Good.

1 MEMBER WOODALL: And just, again, I am
2 interested in the narrative component as well, not to
3 beat a dead horse or ill pony.

4 Thank you.

5 CHMN. CHENAL: And Member Noland, given the
6 discussion we just had about Member Palmer's suggestion,
7 what would be acceptable to you in the narrative? Would
8 it be still be, would it be like a, as the line is
9 depicted on the map with that being the centerline and
10 so many feet right or left?

11 MEMBER NOLAND: I thought Member Palmer said it
12 exactly as I would think of it. The only thing that I
13 would -- I don't know if it was ever considered whether
14 you would have to go to the south of the line or north.
15 And so it might be you might want to consider it from
16 the center point of an existing utility line, and then
17 in areas where there wasn't an existing, then narrow it
18 down to 200 feet from the centerline of the depicted
19 project line.

20 CHMN. CHENAL: I think when the engineers dive
21 into this, some things will make some sense. But you
22 see where we are coming from? Okay. Good.

23 Any further?

24 Member Haenichen.

25 MEMBER HAENICHEN: Just a comment on this

1 discussion. Let's face it, there are going to be quite
2 a few constraining points on this line where they have
3 to have it there. So they are not going to be
4 zigzagging two miles away from it. So that's going to
5 be kind of a natural equalizing effect.

6 CHMN. CHENAL: Mr. Patterson.

7 MR. PATTERSON: Thank you, Mr. Chairman.

8 Just one comment. I mentioned this this
9 morning. It may be relevant to thinking about what the
10 width of the corridor is. But for the Committee, I just
11 remind that through the desktop review that we recently
12 did, it is just worth noting that in this section in the
13 new build section, again from our desktop analysis, it
14 didn't appear that there were residential structures
15 within 500 feet of the centerline of that line. It
16 just, you know, another data point to consider along
17 with obviously the existing utility section trying to
18 define what may or may not be the right corridor in
19 different areas, but I just thought I would mention
20 that.

21 CHMN. CHENAL: Thank you.

22 Member Noland.

23 MEMBER NOLAND: Well, Mr. Patterson, I am not
24 necessarily concerned about structures. I am concerned
25 about private property and the ownership of that, and

1 how it will be -- Member Woodall and I have had some
2 discussions as far as a cloud on the property until it
3 is decided where the right-of-way is.

4 I think people need to know where their private
5 property may be impacted within a reasonable amount of
6 footage, so they know is it 500 feet, is it 200 feet,
7 what is the potential that can be taken from them and
8 their property, or that they may want to sell. And what
9 if a property owner owned both sides of the existing
10 line, or existing utility line, and they didn't want it
11 on this side but they wanted it on the other side
12 because of some potential future development of their
13 property? That's what I am talking about, not
14 necessarily residential structures.

15 CHMN. CHENAL: Okay. I think that's now pretty
16 clear. And I guess some of the issues will be worked
17 through with the engineers, and we will come back and we
18 will revisit what the recommendations are, and I think
19 it will make a lot more sense when they come up with
20 what they come up with.

21 So I am hearing in my ear a break as maybe a
22 possibility. Maybe this is a good time to take a break.

23 Let me ask. What else is there? I think
24 Mr. Jackson completed his questions. Is there anything
25 further?

1 MS. HOPKINS: Mr. Chairman, just the
2 housekeeping matters that we spoke about this morning,
3 which we can also do after the close of the tour
4 tomorrow if we go back on the record.

5 CHMN. CHENAL: And the housekeeping items, you
6 might have some more follow-up questions?

7 MS. HOPKINS: No, sorry, just the exhibits, to
8 make sure that we have offered and admitted all of the
9 exhibits.

10 CHMN. CHENAL: Okay. We will do that. Maybe we
11 will do that after the break. If there is anything else
12 we will -- you know, we can do that, because that will
13 just take a couple minutes.

14 Are there any further witnesses?

15 MS. HOPKINS: No, Mr. Chairman.

16 CHMN. CHENAL: So you are basically -- we are
17 not finished with the case because we are going to go on
18 the tour and we may have some additional questions after
19 the tour. But in terms of any further testimony or
20 exhibits, you don't have any at this time?

21 MS. HOPKINS: That's correct.

22 CHMN. CHENAL: Okay.

23 Member Bingham.

24 MEMBER BINGHAM: Mr. Chairman, if we are to
25 break now, it is coming up on 4:00, there are people in

1 the audience, some public comments, and not force them
2 to stay to 6:00. I mean not for them -- we will be
3 here, but not for the members of the public.

4 CHMN. CHENAL: Let's take a short 10-minute
5 break. When we come back, if there is anyone that wants
6 to make public comment, you know, we can hear that, we
7 can take care of the exhibits, and then we can start
8 discussing the CEC conditions.

9 Member Woodall.

10 MEMBER WOODALL: And I think, Mr. Guy, you were
11 going to put a witness up that said that everything that
12 you said on Friday was, in fact, true and represented
13 Southline's position. So if you want to have an all
14 purpose witness, this would be the time.

15 MR. GUY: I kind of felt like I need to call my
16 mother. I will.

17 MEMBER WOODALL: You understand my point; it has
18 to be testimony.

19 CHMN. CHENAL: All right. Let's take a
20 10-minute break.

21 MR. JACKSON: Can I be heard beyond the timing
22 and process here?

23 CHMN. CHENAL: Yes.

24 MR. JACKSON: We have a few comments we would
25 like to make on jurisdiction, and I would like the

1 opportunity to be heard on that.

2 CHMN. CHENAL: Sure.

3 MR. JACKSON: My client does not wish to send me
4 back here on Tuesday and Wednesday to deliberate
5 conditions when it has become clear that the Committee
6 considers us not to have standing on those issues.

7 I would like to submit a written suggestion
8 along the lines of what Member Woodall suggested. I can
9 tell you we have had discussions with the applicant.
10 Every one of them hits a dead end: well, we don't know
11 what WAPA will agree to. So the jurisdictional issue is
12 paramount to us.

13 Nor do we want to spend two days of attorney's
14 fees sitting through a deliberation where we don't have
15 standing to actually have something that might get
16 applied to our portion of the line, that the Committee
17 has made a determination in that regard. I want to, if
18 I could, explain why I think that's erroneous and a bad
19 idea. But if that's not going to be changed, then we
20 don't want to spend money to be here, and we will figure
21 out what other forum we have to get those kind of
22 limitations and protections on our section of the line.

23 CHMN. CHENAL: Okay. And you filed a motion, or
24 the motion to intervene and your public comment
25 statement of -- in writing you have made the comments.

1 But another thing we will do when we come back
2 after the break in consideration of your client, and,
3 you know, you are not cheap, we will have you make your
4 final, your final arguments. We will reserve until
5 another time the applicant. But in view of the
6 situation, we will have you make your comments.

7 MR. JACKSON: Thank you.

8 CHMN. CHENAL: Okay, great. Hold it one second.

9 MEMBER WOODALL: Just one moment. And I don't
10 want to get into your settlement discussions. I am
11 calling them that, although I realize you are not
12 waiving your position.

13 But of course we don't know what WAPA is going
14 to do. That's the whole problem here. But I guess what
15 I was looking at was hopefully that the applicant could
16 agree that they would, within the bounds of reason,
17 suggest to WAPA that they take into consideration that,
18 in other words, provide some type of moral support to
19 you. And of course, I don't mean moral, but that's what
20 I was hoping you would be able to work out.

21 MR. JACKSON: Right. And what I --

22 MEMBER WOODALL: That may be useless to you.

23 MR. JACKSON: Yeah, it is, to seek that out with
24 the applicant. And I don't want to come back and go
25 through every condition. We will see if we can agree on

1 that. If we can't, my thought is I submit our
2 suggestions along those lines for the Committee's
3 consideration in writing rather than coming back to
4 Willcox, if that's acceptable to the Committee. And we
5 will take a stab at seeing if we can work out an agreed
6 sort of alternative B without waiver of our request for
7 alternative A.

8 MEMBER WOODALL: I am kind of looking for a
9 gentlemen's agreement that we understand your concerns,
10 you understand that we don't control that, but to the
11 extent that we can, we are going to be supportive of
12 your client's request for the siting of particular types
13 of structures.

14 And I would imagine they would be supportive of
15 that, because if they don't, you get stuff that is
16 really hideous, and they need to acquire right-of-way
17 and they are going to damage the remainder, they are
18 going to be paying for it. I would assume there would
19 be some kind of warm fuzzies that you could extract.

20 MR. JACKSON: We will pursue that this evening.

21 MEMBER WOODALL: Okay. Thank you.

22 CHMN. CHENAL: Okay. Let's take a 10-minute
23 break and we will come back after that.

24 (A recess ensued from 4:03 p.m. to 4:28 p.m.)

25 CHMN. CHENAL: All right. Let's resume our

1 afternoon session.

2 A couple housekeeping items. Ms. Hopkins, let's
3 go through and make sure we have everything in the
4 record admitted. All right.

5 Let me refer to the exhibits that -- of the 42
6 that have been submitted of Southline, I believe we
7 have admitted and we will admit 1, 2, 3, 4, 5, 6, 7, 8,
8 9, 10, 11, 12, 13, and 14, 17, and 18, 19 and 20, 22,
9 23, 25, 27, 28, 30, 31, 32, 35, 37, 38, 39 and 40.
10 Those are the ones that I have as admitted. The ones as
11 I have -- and those are admitted, so there is no
12 question.

13 The ones that I have not yet admitted are 15,
14 16, 21, 24, 26, 29, 33, 34, 36, and 41. And if you
15 would like to offer -- I don't know if they have been
16 offered, I don't know if these numbers match, but those
17 are what my notes show. So if you would like to offer
18 those, we will go ahead and admit them.

19 MS. HOPKINS: Yes, Mr. Chairman, we would like
20 to offer STL-15 and 16, we would like to reoffer, which
21 are the Southline 10-year plans dated 2015 and 2016
22 respectively.

23 CHMN. CHENAL: 15 and 16, STL-16 are admitted.
24 (Exhibits STL-15 and STL-16 were admitted into
25 evidence.)

1 MS. HOPKINS: And Exhibit STL-21 was our
2 original proposed certificate of environmental
3 compliance. And we offered that, but it was not
4 admitted intentionally. So we will skip that one.

5 CHMN. CHENAL: And 20? I am sorry, 20 is
6 admitted, I have as admitted. I apologize.

7 Next is 24.

8 MS. HOPKINS: Exhibit STL-24, the WAPA customer
9 answers, I believe that this document was discussed in
10 conjunction with STL-25. And we failed to offer both of
11 those at the same time, so I would move to admit Exhibit
12 STL-24.

13 CHMN. CHENAL: STL-24 is admitted.

14 (Exhibit STL-24 was admitted into evidence.)

15 MS. HOPKINS: Also, Exhibit STL-26 is the Crane
16 Lake schematics that we provided that were just recently
17 completed, and I think we failed to offer those as well
18 into the record. So Exhibit STL-26 is likewise offered.

19 CHMN. CHENAL: And STL-26 is admitted.

20 (Exhibit STL-26 was admitted into evidence.)

21 MS. HOPKINS: Exhibit STL-29 is an excerpt from
22 the BLM ROD, also offered.

23 CHMN. CHENAL: And we will admit STL-29.

24 (Exhibit STL-29 was admitted into evidence.)

25 MEMBER BINGHAM: Mr. Chairman, I do recall that

1 crane relocation, there was an edit. So I am not sure
2 if we have clarification on the edit. There was a
3 township and range.

4 MS. HOPKINS: Yes. The township and range was
5 transposed as reflected in Mr. Kipp's testimony today.
6 Is that sufficient?

7 CHMN. CHENAL: I think so. I think we will
8 admit it. And the record will be clear that the
9 township numbers were transposed.

10 MS. HOPKINS: Thank you, Member Bingham.

11 CHMN. CHENAL: Next.

12 MS. HOPKINS: Exhibit STL-33, the CEC new build
13 route and upgrade route environmental justice population
14 maps, likewise the 2011 Southline project fact sheet.

15 CHMN. CHENAL: Which is 34?

16 MS. HOPKINS: Yes.

17 CHMN. CHENAL: Okay. STL-33 and 34 are
18 admitted.

19 (Exhibit STL-34 was admitted into evidence.)

20 MS. HOPKINS: And then Exhibit STL-36, excerpts
21 from the final EIS on description of WAPA upgrade
22 process, I believe was also not admitted, so we would
23 like to offer STL-36 now.

24 CHMN. CHENAL: STL-36 is admitted.

25 (Exhibit STL-36 was admitted into evidence.)

1 MS. HOPKINS: And then STL-41 was the proposed
2 maps that we were discussing attaching to the
3 certificate. And I don't know if you wanted those to be
4 admitted into evidence or --

5 CHMN. CHENAL: I think we will admit them. I
6 know we will use different maps.

7 MS. HOPKINS: Okay. Then I will offer STL-41.

8 CHMN. CHENAL: Okay. STL-41 is admitted.

9 (Exhibit STL-41 was admitted into evidence.)

10 CHMN. CHENAL: And we have 42 identified. It
11 will not be admitted because it is, again, the proposed
12 CEC.

13 MS. HOPKINS: I had one additional exhibit I
14 would like to offer. We will call it Exhibit STL-43,
15 and that is the map book in its entirety.

16 CHMN. CHENAL: Okay. STL-43 is admitted.

17 (Exhibit STL-43 was admitted into evidence.)

18 MS. HOPKINS: Thank you, Mr. Chairman. That's
19 all we have.

20 CHMN. CHENAL: Okay. Mr. Jackson, you have a
21 couple items.

22 Let me also clarify the record. I may have said
23 a few times during the hearing "when" we issue a CEC. I
24 want to make the record absolutely clear it is if we
25 issue a CEC. And I was reminded I may have said that.

1 I wasn't aware, but sometimes you are thinking of things
2 you are going to say and don't realize what you are
3 saying. So if I said that, I want to make it clear it
4 is if.

5 Mr. Jackson, you have a document MVR-1, which
6 you will identify in a moment.

7 MR. JACKSON: Yes.

8 CHMN. CHENAL: And we will mark it MVR-2, which
9 is a document you filed, will be filing with Docket
10 Control, supplemental filing by Mountain View Ranch
11 regarding certificate conditions. But because we will
12 be discussing it, I think it is easier to refer to as
13 MVR-2. It won't be admitted, but we will mark it for
14 identification for purposes of the record.

15 MR. JACKSON: Right.

16 CHMN. CHENAL: And why don't we discuss
17 exhibits, and we want to give you the opportunity to
18 make your comments.

19 MR. JACKSON: Right. Why don't I start with the
20 exhibit and cover that. And I would like to offer it
21 into the record specifically. And for the benefit of
22 the Committee members, let me explain briefly what it
23 is.

24 This is in response to Member Noland's request
25 for additional information on our piece of property.

1 The first page is the plat. This is an exhibit to our
2 filing, but it was very small. This is a larger copy.

3 So you can orient yourself, that large blank
4 section that splits the middle of it is I-10. There is
5 a small highlighted lot, it is No. 77. I highlighted
6 that because that's the view from which a photo was
7 taken that's later in the exhibit.

8 On the next page is an aerial that shows the
9 existing 100-foot easement and its location on the
10 property.

11 On the following page is what was necessarily a
12 cobbled together close-up of the plat. But what it
13 shows is the location of the 100-foot easement between
14 I-10 and the Old Nogales Highway.

15 And then immediately to the south of the Old
16 Nogales Highway, well, number one, you will see that
17 there are a number of platted lots that are within that
18 area north of the Old Nogales Highway, and then there
19 are lots to the south of that where sale activity in
20 recent months has been ongoing.

21 There are four constructed home sites. Those
22 are the purple shaded lots. And there are one, two,
23 three lots that have been recently sold but do not yet
24 have home sites on them. And I will proffer that the
25 sales activity has picked up in this area after a long

1 dry spell, as anybody -- well, we are all familiar since
2 2008, particularly in southern Arizona. The activity
3 and interest in home building in this area has recently
4 increased.

5 MEMBER NOLAND: Mr. Chairman, Mr. Jackson, do
6 you mean the Old Sonoita Highway, not the Old Nogales
7 Highway?

8 MR. JACKSON: Yes, that's exactly what I mean.
9 Thank you. And it is reflected -- it is a little hard
10 to see the designation on it, but it is on this map.
11 And I-10 is up to the north of the easement, and Old
12 Sonoita Highway is the next thoroughfare to the south.

13 On the following page is the viewshed from the
14 Lot 77 that I referenced earlier. You will see to the
15 right is one of the H-poles. This particular vantage
16 point it doesn't look like an H-pole, but it is. There
17 is a subsidiary line that exists there, but the two
18 larger poles you see are actually in the H-pole on the
19 WAPA line. There is a better picture of the
20 H-structures here shortly.

21 The following page is some marketing material
22 from the website that indicates the sold lots. As I
23 mentioned earlier, four of those have existing homes
24 built.

25 And then the following picture is a, the vantage

1 point looking to the southeast on Old Sonoita Highway
2 from the point where the WAPA line, existing line,
3 crosses. And you can see the H-poles running off to the
4 left.

5 So we would proffer that or offer it into the
6 record in response to Committee Member Noland's
7 questions, and also for the Committee's consideration.

8 CHMN. CHENAL: Any objection?

9 MR. GUY: None other than could we clarify this
10 is simply demonstrative exhibits as opposed to evidence
11 in the record.

12 MR. JACKSON: We are offering them as evidence
13 in the record, Mr. Chairman, and if necessary, I can
14 have an affirmation of the facts that I have just
15 described from my client, who is present.

16 CHMN. CHENAL: Still maintaining the objection,
17 Mr. Guy?

18 MR. GUY: I suppose there is no reason to make
19 them jump through hoops, but it does concern me somewhat
20 that -- I mean we have just seen these exhibits. We
21 don't know that there has been houses sold. We don't
22 know how much they have been sold for. It concerns me a
23 little bit, but I don't want to waste time. He has a
24 witness here he could --

25 CHMN. CHENAL: We would give an opportunity to

1 have the witness testify to this if -- well, I will
2 accept the avowal of Mr. Jackson. We will admit into
3 evidence MVR-1. It was in response to a Member Noland's
4 request.

5 We have a rather loose evidentiary standard
6 here. But given the jurisdictional issues we discussed,
7 I don't want to take the time to have the witness
8 testify.

9 (Exhibit MVR-1 was admitted into evidence.)

10 MR. JACKSON: All right. And then with that
11 housekeeping matter taken care of, I am ready to make
12 the comments if you are ready to hear them.

13 CHMN. CHENAL: Go ahead, Mr. Jackson.

14 MR. JACKSON: All right. Thank you.

15 I guess I would start by echoing some of the
16 comments and concerns raised by Member Noland and Member
17 Haenichen, both with respect to the fairness to the
18 Arizona citizens that are impacted by this private
19 enterprise and public/private endeavor with WAPA, and
20 also Member Noland's comments about the problems that
21 are created with uncertainty in the right-of-way, both
22 in terms of its size, its location for my client to the
23 north or south of the existing 100-foot right-of-way.
24 That makes a big difference.

25 They are in the process of ongoing sales in a

1 market that is finally picking up. And if the land
2 acquisition process takes another two years to complete,
3 Member Woodall is correct, there is an acquisition
4 process where we may have rights to compensation, but
5 that may or may not compensate lost sales in the
6 meantime because of the vagaries of where the
7 right-of-way is going to be. It may or may not
8 compensate lost sales because we don't know the height
9 and the visual impact of the line. These are
10 particularly acute concerns to the landowners along this
11 line.

12 And my broader point is this, those concerns do
13 not end at the point of the line where it becomes hung
14 on an existing WAPA pole. We would suggest that it is
15 legally incorrect that this Committee lacks jurisdiction
16 over those sections of the line, and I will explain in
17 detail why we submit that.

18 We also would suggest respectfully that it is
19 bad policy and bad precedent for the Corporation
20 Commission and this Committee to only exercise
21 jurisdiction over a portion of a project of this nature,
22 which is, by its very definition, an interconnected
23 expansion. The expansion on the WAPA line will not be
24 built or cannot exist without the expansion on the
25 remainder of the line, and vice versa. This is a single

1 project and it ought to be regulated as such.

2 And I want to jump straight to the
3 jurisdictional issue, which may sound a little dry to
4 the nonlawyers on the Committee, but I think it is
5 important because I want the Committee to recognize that
6 the concern that I am going to express as to the nature
7 of this application are not made from whole cloth and
8 our jurisdictional position has support in the law.

9 In our view, the FLPA -- FLPMA issue is
10 interesting and should be pursued, because I think there
11 is value in the state establishing substantive
12 standards. But that statute, as we read the case law,
13 does not determine, in other words, it does not grant or
14 deny state authority to regulate a public/private joint
15 venture over state and private land. I think that is
16 limited to its impact on the BLM land, and I think
17 Staff's memo on that is correct.

18 But I think stopping the analysis with that
19 statute is erroneous, and there are additional means by
20 which the state acquires jurisdiction over the entirety
21 of this project, in particular, the EPA, EAct -- I am
22 not sure I am pronouncing that right -- EAct of 2005.
23 And the case law that relates to that and similar type
24 statutes, I believe, gives you the answer on
25 jurisdiction.

1 In particular, that's 42 USC 16421a. That
2 particular statute is the statutory authority for WAPA's
3 participation in a joint private venture like this.

4 CHMN. CHENAL: What was that statute again, sir?

5 MR. JACKSON: 42 USC section 16421a. And in
6 particular there is a savings clause in that statute.
7 So that is the only statutory authority for WAPA's
8 participation in a joint private venture like this.

9 By way of boring background, there was a case
10 that some of you probably are familiar with called
11 Path 15 in California. And there was a lot of
12 litigation over -- and that was one of the early
13 public/private ventures. There was specific
14 congressional authority given for that particular
15 project. Then after that, there was this broader
16 authority given for these joint public/private
17 enterprises like this. That is the EPAct of 2005. And
18 what is critically important is that savings clause
19 within that statute.

20 Now, the best -- to me, the rubber meets the
21 road on whether that applies or not is in the case of
22 U.S. versus 14.02 Acres of Land, 547 F.3rd 943, that's a
23 Ninth Circuit decision of 2008, in particular the
24 discussion at page 953 of that decision.

25 And to summarize that in very paraphrased

1 fashion, but I believe accurate, federal agencies are
2 required to meet state regulatory requirements where
3 there is statutory authorization that requires it. And
4 that case cites to a decision in Maun versus
5 U.S. 347 F.2d 970 where the Ninth Circuit looked at an
6 identical savings clause to that that exists in section
7 1222 of the 2005 act.

8 I know this is getting a little convoluted, but
9 the point is this. The Ninth Circuit has cited that
10 Maun case for the impact of these, this type of savings
11 clause. The savings clause and the authorization that
12 creates WAPA's authority for this project is almost
13 verbatim to the savings clause that was addressed in
14 Maun. And Maun decided that that savings clause allowed
15 and permitted state regulatory oversight of the project.

16 So that's our legal analysis. And I will be
17 candid, I don't find this to be an entirely clear area
18 of the law, and it required extra work on my part. But
19 I want to submit that that is the legal landscape that
20 exists.

21 And what that means is, in our view, this
22 Committee and the ACC absolutely has jurisdiction over
23 every section of this project. I would submit also that
24 under the state statutes, I don't know that there is any
25 real dispute that the state statute applies to

1 Southline. In other words, the statute requires every
2 utility planning to construct a line in the state, they
3 must obtain a certificate. I don't think there is any
4 dispute that Southline and WAPA fall within the
5 definition of utility and that, but for this oddball
6 public/private venture, the statute would clearly apply
7 and require a permit for this entire project.

8 Again, the idea that jurisdiction stops and ends
9 at the new build section and has no application once
10 those lines are hung from WAPA infrastructure, I think,
11 is incorrect. The record in this case -- I think there
12 are two aspects of the record. Number one, we don't
13 know what we don't know. And I would encourage
14 everybody on the Committee, before they make a decision
15 on jurisdiction, to read that WAPA ROD and what it says
16 about ownership and maintenance and construction.

17 What it says is those items are undecided. They
18 will be decided in the future pursuant to a
19 participation agreement. That agreement does not exist.
20 And I would respectfully suggest -- and with no
21 disrespect to the witnesses -- that there are no clear
22 answers on exactly what those answers are going to look
23 like.

24 Ownership, ownership is a loaded term. It can
25 mean a lot of things. The ownership rights on this line

1 include -- for the lawyers in the audience, we all
2 learned about the bundle of sticks. Ownership includes
3 a lot of things. One is fee title. The other is the
4 right to things such as capacity over this line, which
5 is clearly going to belong to Southline.

6 There are many creative ways in which licensing
7 agreements and leases can be established, including
8 long-term leases that give away part ownership rights to
9 other entities. I would suggest that until the
10 participation agreement is finalized and disclosed to
11 this Committee, there is no basis or evidentiary basis
12 to determine what exactly the ownership and operation of
13 any particular section of this line would be.

14 So for all of those reasons, we believe this
15 Committee and the ACC does have jurisdiction, can and
16 should regulate the entirety of the line, so that the
17 considerations such as you have raised, Member Noland,
18 and have been raised by other Committee members, are,
19 those concerns are addressed with respect to all private
20 landowners and state landowners on the entirety of this
21 line.

22 I would again, not to -- I mean it is in the
23 record, I don't know if any of you have had a chance to
24 read it, but I found the decision in the Colorado case
25 enlightening. And Chairman, you are correct there are

1 factual differences in that case. It was kind of a
2 reverse lease situation as to what I expect will come
3 out of this case.

4 But the comments and that observations I thought
5 were particularly on point that the Colorado regulatory
6 commission stated. I will quote a few of them. The
7 issue is not state jurisdiction over Western, but
8 Tri-State, in other words, the private enterprise. They
9 are the applicant here.

10 I would suggest as the applicant, and somebody
11 that's subject to your jurisdiction, you can impose
12 conditions that apply to them, and if WAPA won't agree
13 to them, then this project is not going to move forward.
14 If you have jurisdiction over the entity before you and
15 you put conditions on this certificate that bind that
16 entity, well, WAPA can decide whatever they want, but
17 they are not going to get too far when the money partner
18 in this operation is subject to legal conditions that
19 they have to comply with.

20 So that's my harping on teeth and things that
21 get us somewhere. And the reason we are requesting that
22 is I think, if you have conditions that they have to
23 meet, that's going to give some teeth with WAPA. And
24 given that we believe that you have the legal authority
25 to do that, we would encourage you to do so.

1 Another observation by the Colorado utility, if
2 as Tri-State argues a transmission project can evade
3 state commission jurisdiction through the participation
4 of a federal agency by what amounts to a token
5 contribution and token ownership, then it would be easy
6 for projects to avoid state jurisdiction. And then they
7 go on to conclude, admittedly on different facts, that
8 this does not seem to us to amount to a federal project.

9 I guess I would suggest two things. One, the
10 extent to which it is a federal project and the extent
11 to which WAPA has ownership that is anything more than
12 token is, at best, unknown and premature as we sit here
13 today. I have to say that I am somewhat mystified as to
14 why this participation agreement is for a project that
15 began in 2009. You know, BLM seemed to be all over this
16 in terms of a specific plan of development, specific
17 framework requirements, a lot of detailed work, and here
18 we are in 2016 and all WAPA has done is issue a ROD
19 that, I would have to respectfully disagree, says
20 anything about where those PCEMs are going to apply. I
21 will accept avowals because it is helpful to us. I
22 certainly -- you know, I think that's subject to
23 interpretation. I have a sneaking suspicion that WAPA
24 may have a different viewpoint on that.

25 But the broader point is this. Here we are in

1 2016. There has clearly been, according to the FERC
2 order, a participation concept agreement. What is
3 holding it up? Is there -- why is it a mystery and why
4 is it a secret? Why isn't that in the record before
5 this Committee makes a final decision?

6 That to me seems like something that can and
7 should be done before there is any final decision about
8 whether or not your jurisdiction extends for the
9 entirety of the project, or at least to disclaim that
10 jurisdiction.

11 I would also suggest that in addition to there
12 being a legal basis for you to assert jurisdiction, that
13 it is good public policy to assert that jurisdiction.
14 And the reason is this: As far as we can tell, and as
15 far as these witnesses have answered, there is no
16 regulatory oversight of WAPA and, by extension,
17 Southline in this section of the project if this
18 Committee does not assert it.

19 WAPA is not, as best we have been able to
20 determine, as best the witnesses have answered, it is
21 not an agency charged with regulating the impact on
22 surrounding landowners. It is an agency that describes
23 itself as a marketing arm of the Department of Energy.
24 Its mission, and I am not attributing ill motives to it,
25 but its mission and directive is to market energy and to

1 get energy from hydroelectric dams to a user. That's
2 laudable, but they do not have the statutory charge and
3 mission to regulate the impacts on Arizona citizens.
4 The regulatory responsibility, I would suggest, lies
5 with the ACC, and they have the legal right to assert it
6 and they should assert it.

7 There is a -- I have a practical issue and
8 question. If in fact, although I have to say I found
9 the testimony to vary a bit in its nuance, but if in
10 fact Southline is committed to, for example, applying
11 these PCEMs across the entire project, and if in fact,
12 as I understood the testimony to say as being
13 represented here, that WAPA is committed to applying
14 these conditions and limitations across the entirety,
15 what is the downside of applying the conditions with
16 some -- I keep using the word teeth, but with regulatory
17 legal effect if, in fact, it is true that everybody
18 participating in this process is fine with it?

19 It raises a question in my mind as a lawyer when
20 somebody says don't worry, we are all on board with
21 this, but don't make it legal ly binding on me. Now,
22 maybe -- and again, I don't want to suggest ill motive,
23 but at the end of the day, there is going to be a lot of
24 negotiations between the party that has the money and
25 WAPA. And the way this is likely going to be structured

1 is WAPA will hire a contractor to build it, but they
2 will be subject to the checkbook of Southline. That's
3 the reality. And when they get down to brass tacks of
4 this participation agreement and start haggling over
5 budget items and things of that nature, who is going to
6 be watching the shop?

7 And I thought your questions were well taken,
8 Chairman, on who is -- is there going to be a CIC
9 overseeing this, who is going to be overseeing the
10 implementation and the enforcement of these conditions.
11 And if it is only WAPA, I think there is a regulatory
12 hole here, and serious gap, that the ACC and the
13 Committee ought to put some regulatory teeth into,
14 because that's going to be subject to budgetary
15 concerns, decisions.

16 I don't see any reason that sort of a condition
17 from this Commission that WAPA cannot turn around and
18 change its mind and issue -- you know, there is a second
19 ROD coming, apparently that's going to address these
20 ownership construction maintenance issues. I don't see
21 any basis, unless this Committee asserts jurisdiction,
22 that's going to stop them from saying, you know, that
23 made a lot of sense in the BLM, it is just not practical
24 here. That's my concern. If once this certificate
25 issues and it does not apply to the remaining sections

1 of the line, I am not sure, other than the land
2 acquisition process, where my client goes for some
3 regulatory oversight of the impact that perhaps can't be
4 captured in compensation on a condemnation.

5 I don't think I am forgetting anything. I have
6 thrown the script away so I have covered it all. As I
7 said before, we prefer not to incur the expense of
8 participating in the nitty-gritty on the conditions if,
9 in fact, we will not obtain conditions that apply to our
10 section of the line.

11 I will communicate with counsel to see if there
12 is, as I have called it, our alternative B can be
13 negotiated. If it can't, I would prefer to submit our
14 version of that in writing to the Committee, and at
15 least we are not committing my client to me being here
16 both Tuesday and Wednesday.

17 CHMN. CHENAL: And that's fine, Mr. Jackson. We
18 want to accommodate you creating a record and getting
19 your comments to the Committee here, but in as cost
20 effective a way as possible. So we are -- I am
21 sensitive to that.

22 Member Haenichen.

23 MEMBER HAENICHEN: Thank you, Mr. Chairman.

24 In the interest of creating a complete record, I
25 would like to ask you. Was Mountain View Ranch platted

1 before the existence of the WAPA line?

2 MR. JACKSON: The WAPA easement preexisted the
3 platting of the subdivision.

4 MEMBER HAENICHEN: Thank you, sir.

5 CHMN. CHENAL: Question for you, Mr. Jackson.
6 And I appreciate your arguments and I will look at the
7 authorities you have cited. But here is one of the
8 things I have also wrestled with. WAPA is not a party
9 to this proceeding. The application covers a finite
10 line over which we have clear jurisdiction. If the
11 Committee or the ACC were to assume that there were
12 jurisdiction over the WAPA line, then arguably WAPA
13 would need to get the certificate before it builds its
14 line, and that could be tested, I guess, in federal
15 court.

16 I understand it is one project, but it is two
17 separate, you know, there are separate aspects to it as
18 well. So I mean in my mind I come back to as well that,
19 you know, there is clearly jurisdiction for this
20 Committee to entertain the application. And there would
21 be a remedy were the Committee and/or the Corporation
22 Commission to believe that there is jurisdiction over
23 the WAPA line.

24 I am not sure that granting -- be careful
25 here -- if this Committee were to grant a CEC for the

1 CEC portion of the line that's defined as the
2 application, that that would preclude asserting
3 jurisdiction over the WAPA line later.

4 So I know that, you know, your client, and the
5 best interest for your client would be to make sure that
6 those -- that this is treated in all respects as one
7 project, but I am not sure that, if you are correct on
8 the jurisdiction issue, that that leaves this Committee
9 or the Corporation Commission without a remedy were the
10 decision to be made later that, in fact, we might have
11 jurisdiction.

12 MR. JACKSON: Right. And I understand that
13 observation. I will say that for a number of reasons,
14 including timing, expense, and so forth, it is our
15 position that this is and should be treated as a single
16 project, and the certificate addressed in that fashion.

17 CHMN. CHENAL: Sure.

18 We will have comment from the applicant counsel
19 at an appropriate time. I am thinking this is more in
20 the nature of allowing Mr. Jackson to get his position
21 and his client's position in the record more than it is
22 oral argument over the jurisdictional issue. So I mean
23 I think we can reserve the comments or the final
24 argument, if you will, of the applicant to tomorrow or
25 Wednesday.

1 MR. GUY: That's fine, Mr. Chairman.

2 CHMN. CHENAL: Member Woodall.

3 MEMBER WOODALL: I just want to ask you,
4 Mr. Jackson, are all the cases that you cited, were they
5 in your memorandum?

6 MR. JACKSON: I don't believe so. I believe
7 these were cited in some of the other submissions, and
8 as I sit here, I don't remember which ones, whether they
9 were the applicant's or some of the other intervenors'
10 who ultimately did not appear in the proceeding. And
11 candidly, this is an issue that I schooled up on.

12 MEMBER WOODALL: But you believe that all of the
13 legal authorities that you cited in your concluding
14 comments today are memorialized someplace within the
15 exhibits that have been submitted, or within the
16 filings?

17 MR. JACKSON: The only question mark I have, I
18 am sure that the U.S. versus 14.02 Acres case is cited;
19 I remember seeing that one. The case that is referenced
20 within that decision, the earlier Maun case, I don't
21 believe anybody has explicitly cited that. So if it
22 would be helpful, I can reread that.

23 MEMBER WOODALL: My suggestion, because we have
24 learned counsel at the Commission, you might want to do
25 a filing indicating that during your comments or your

1 arguments you cited certain authorities, and here is the
2 citations to them, and if they are not voluminous, you
3 could probably attach them.

4 MR. JACKSON: I will do that.

5 MEMBER WOODALL: I think our Legal Division
6 would find that very helpful.

7 CHMN. CHENAL: I concur with that. I think it
8 would be good for you to maybe, Mr. Jackson, to have a
9 short, real short, you know, document that -- I mean we
10 have asked the applicant to do this on a number of
11 occasions. I think just to make sure that, you know,
12 that you have a little something that's on the record
13 there would be a good thing.

14 MR. JACKSON: I will do that forthwith.

15 CHMN. CHENAL: Good. I appreciate that. Thank
16 you very much.

17 MR. JACKSON: Thank you.

18 CHMN. CHENAL: We are at 5:00, but I mean we
19 don't have public hearing until 6:00.

20 Let me ask if there is anyone in the audience
21 who presently wishes to make public comment. I forgot
22 to do that earlier. I apologize. I didn't think there
23 was anyone here that wants to.

24 What is the pleasure of the Committee? I
25 thought we would be with the CEC at this point, and we

1 are not. So I mean I guess there is dinner or food.
2 But I mean do -- would we like to start that process,
3 plow ahead with the CEC now, since we will be here until
4 6:00 anyway for a half hour, and then eat at 5:30, or
5 what is the pleasure?

6 MEMBER WOODALL: I personally would like to do
7 this all in one fell swoop, and not tonight, because I
8 think there are some additional filings that need to be
9 made. And I think through your questions and those of
10 Member Noland we have actually talked through a lot of
11 the -- about the format of the proposed form of CEC. So
12 I am pretty comfortable that we have had some good
13 progress in that area.

14 CHMN. CHENAL: Yeah. I am either way. Makes no
15 difference.

16 Okay. We can call it a night at this point and
17 resume -- well, at 6:00 we will have the public comment.
18 I am not sure how much activity we will have. But then
19 we resume tomorrow at 8:00 for the tour. We meet here
20 at 8:00. But I note that the bus doesn't leave until
21 8:30, so, you know, if you are not here exactly at 8:00,
22 here at this community center, the bus does not leave
23 until 8:30.

24 Is there any other housekeeping item we should
25 discuss before we break for the night?

1 (No response.)

2 CHMN. CHENAL: Okay. Doesn't look like it. So
3 let's adjourn for the evening. We will come back on the
4 record at 6:00. And then we will see everyone tomorrow
5 that wants to go on the tour at 8:00 a.m. Thanks.

6 (TIME NOTED: 5:07 p.m.)

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1 (The evening public comment session commenced at
2 6:05 p.m., with applicant present as well Chmn. Chenal,
3 Member Haenichen, Member Woodall, Member Palmer, Member
4 Hamway, Member Noland, Member Williams, and Member
5 Bingham present.)

6 CHMN. CHENAL: All right, everybody. Thank you.

7 This is the time set for public comment in
8 Willcox at 6:00, a little after 6:00, give people an
9 opportunity to get in here after work.

10 Before we begin and ask if there is any public
11 comment, are there first any housekeeping items to
12 discuss?

13 Again, just a reminder, the tour starts -- well,
14 we will be here at 8:00 but the bus leaves at 8:30. So
15 if some people don't get here until closer to 8:30,
16 that's okay. And then, you know, we would be back at
17 roughly, the itinerary says 1:15, but I mentioned to
18 Mr. Robertson that, you know, we may get back earlier
19 than that, but we won't start up until 1:00, the
20 hearing, if we get back earlier.

21 I suspect we will go tomorrow and then we will
22 continue over into Wednesday. We will definitely go to
23 Wednesday for Member McGuire's benefit, but I have a
24 suspicion we will use tomorrow and then finish up
25 Wednesday.

1 So any questions, comments, concerns as far as
2 that goes?

3 (No response.)

4 CHMN. CHENAL: If not, let's ask if there is
5 anyone in the audience that is here to make public
6 comment. If you do, if you would stand up at the
7 microphone, give your name and make your comment.

8 I see there is a mad rush for the microphone.
9 Going once, going twice.

10 No comment tonight. Okay.

11 So thank you for appearing. We will adjourn for
12 this evening and see everyone tomorrow for the tour.

13 Thank you.

14 (The hearing recessed at 6:07 p.m.)

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing proceedings were
4 taken before me; that the foregoing pages are a full,
5 true, and accurate record of the proceedings all done to
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7 were taken down by me in shorthand and thereafter
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11 outcome hereof.

12 I CERTIFY that I have complied with the
13 ethical obligations set forth in ACJA 7-206(F)(3) and
14 ACJA 7-206 (J)(1)(g)(1) and (2). Dated at Phoenix,
15 Arizona, this 10th day of December, 2016.

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20 COLETTE E. ROSS
21 Certified Reporter
22 Certificate No. 50658

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