

UNITED STATES DEPARTMENT OF ENERGY

Federal Energy Corridor Designation
EIS Scoping Process
Public Meeting

Thursday, November 3, 2005
2:00 p.m.

Hilton Garden Inn
4000 North Central Avenue
Phoenix, Arizona 85012

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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input would be beneficial. And sir, in researching the literature on the subject, it turns out that the literature is very sparse in terms of good technical guidance on what that entails.

Before we go any further, there are some people that came in at the back that are more than welcome to come forward. There are seven or eight empty seats up front, so please feel welcome to come on up and make yourself comfortable.

Our next speaker is Mr. Marshall Magruder, who is representing himself this afternoon I believe.

AZ03

MR. MARSHALL MAGRUDER: My name is Marshall Magruder and I'm a resident of Tubac, Arizona. I'm representing myself this afternoon. I'd like to talk about a case study that I was recently involved in in southern Arizona, and in that case study there was a line, there was a corridor that was existing. The corridor got modified and there were new corridors proposed by the utility company.

It's interesting that the Arizona Corporation Commission approved one set of corridors and the Forest Service approved the other set, so the utility did not get a permit or doesn't have capability yet to build its transmission lines, and that's the case I intend to talk about. There were many lessons learned and this is only a

summary of a much greater in-depth letter which will not include 99 enclosures that will be submitted later.

The first issue, and they're programmatic issues, and I think the process is -- I don't want to say broken, but the process is not very smooth and the process needs to be much better. The first programmatic issue I'd like to talk about is state and federal cooperation. The lessons learned are that the federal, state, Native American, local government, and nongovernmental organizations should cooperate and proceed jointly through a single environmental review process. In the case study, the state was independent of the federal process. Local and tribal interests were almost not considered.

Second subject, depth of review. That a review process plan needs to be promulgated and pushed through all these different organizations before you start the environmental review so everybody is agreeing that this is what we're going to review before you start.

Third, that a preliminary environmental review must be held to ensure that the applicant is ready for the environmental review. In the case study, the applicant was not prepared to properly go through the NEPA process and that delayed and caused a five-year final EIS issue. A preliminary review with enough horsepower to send back and rewrite your application until it's good enough to get

1 through the review would have made it much easier for all
2 the other parties involved.

3 The next is that environmental reviews are
4 conducted so that significant impacts are understood prior
5 to making decisions. In other words, the environmental
6 review is a decision-making process. It is substantive in
7 nature and must be completed prior to the decision maker,
8 such as the land manager, making its decision. That means
9 that the pressure that was applied on the senators, the
10 congressmen the county supervisors, the mayors, the city
11 council, the Corporation Commission, on the Forest Service
12 in this particular case study, should never occur, because
13 that's the ex parte rule of influencing decisions that
14 cannot be made until an EIS has been completed.

15 Funding for environmental reviews needs to be
16 clearly understood, that either the applicant can pay in
17 advance or it can be put in the federal budget and five to
18 seven years later the funding occur through that process,
19 which is almost for never. So the funding has to be paid
20 by the and in advance for government participation on an
21 environmental review.

22 Need to determine the supply and demand
23 requirements for the commodity being transmitted in the
24 corridor. The corridor has two ends, it's going in and
25 it's coming out, whether it be natural gas, hydrogen,

electricity. That has to be put, as Mr. Beck said a little while ago, in context with the bigger picture. That bigger picture should be a part of the environmental review

4 because that's why you're doing the job.

5 Then I have some, and then we also need to look
6 at reliability data. The system that's being proposed has
7 to be reliable so that additional maintenance isn't
8 required, failure of that system doesn't happen. So we
9 need to use standard reliability engineering terms such as
10 mean time between failures and mean time to repair to
11 assess whether the proposal will provide the availability
12 needed for the use of that commodities transfer.

13 Specific comments on issues with respect to the
14 EIS. There were several announced in the Federal Register,
15 and I will come to those, and there were four alternatives.
16 In my viewpoint, only the optimization criteria alternative
17 provides a balance between the other three alternatives.
18 In other words, the fourth alternative would be the one
19 that I would recommend.

20 General comments on all the alternatives. In
21 general, the utility corridor, whether it be for natural
22 gas, hydrogen, oil, electric transmission, and the
23 associated distribution facilities needs to ensure all
24 local, regional, tribal, state, national, and in some cases
25 international issues are presented at one time to the

associated decision makers. That's a long series of things, but decisions need all of the information and should not be made prematurely.

5 Going into your issue list. With respect to
6 the social, economic, and recreational issues, I think that
7 the ecotourism industry is very important in these federal
8 lands and needs to be considered and clearly and
9 objectively provided and discussed in actual EISs. Impacts
10 on species need to of course use a biological opinion.
11 Unfortunately, or fortunately for somebody, these corridors
12 will last for 50 or more years. A biological opinion 50
13 years ago in any part of the state of Arizona is obsolete
14 at best. So I recommend every three to five years that the
15 biological opinion be updated for that particular corridor
16 and that it look at the terms of the status of species
17 changes and whether they've been improved or degraded and
18 reasons to improve them.

19 Impacts on flood plains and wetlands. The
20 joint environmental review needs to incorporate the Corps
21 of Engineers Section 404 information when the 100-year and
22 the 500-year flood plains are involved and include it in
23 the one environmental review for all projects. And these
24 are very important because there's a lot of critical
25 facilities inside the 100-year flood plain that should be
outside of the 500-year flood plain. Wild and Scenic

1 Rivers Act need to be considered.

2 Incorporation of archeological, cultural, and
3 historical resources. Native American tribal cultural
4 organizations are a critical part of environmental reviews
5 in the western states and they need to be actively invited,
6 participation is important and should be invited to all
7 meetings.

8 The impacts on health. Dr. Pell a little while
9 ago talked about the influence of electrical and
10 electromagnetic fields affect the corrosive impacts on
11 pipelines, in particular ferromagnetic pipelines. The
12 National Academy of Science is trying to do a study on this
13 and the results of that study should be incorporated in all
14 corridors throughout the United States, not just those on
15 public lands.

16 Impacts on existing and future land uses. The
17 State of Arizona State Trust land says, if you hurt my
18 property values, you can't put your corridor on my land
19 because they are responsible, according to the Constitution
20 of the State of Arizona, to get the maximum value when they
21 sell the lands. So we have a conflict here, so the State
22 Trust people need to be involved in all ends, in particular
23 long term. Visual impacts need to include maintenance
24 roads. Border communities have a very high minority and
25 low income population. That needs to be considered.

1 I have some additional issues that need to be
2 looked at which I've listed in my paper. The application
3 for utility corridors must include objective data to show
4 and prove the need for the system. The need is not to meet
5 the company's business plan. The need is to provide
6 hydrogen, electricity, oil, or whatever the commodity is to
7 meet supply and demand and reliability demands for users,
8 not to meet a company's financial plan.

9 Supply versus demand needs to be assessed and
10 evaluated for 50 years in the future. You can do 50-year
11 projections; it's easy, just try. I've predicted and had
12 to work on projects that have gone through April 2111, so
13 it can be done if you think about how to look in the
14 future, because these lands will be here in the future and
15 all of these corridors and items in the corridors will last
16 50 years or more.

17 Reliability, because of the long length of time
18 that these facilities will be used, needs to be considered
19 as discussed a few seconds ago. Costs must be considered
20 in the environmental review, the cost to build, the cost to
21 wholesalers' use of the corridor, and the cost to
22 consumers. I know these are not rate cases but you can
23 take, if it's a \$150 million project and there are 15,000
24 people that are going to use the project, how much it's
25 going to cost each one of those people.

1 That's simple and there's no excuse for
2 utilities not to provide that information in the
3 development of an Environmental Impact Statement. And
4 these estimates need to consider the cost impacts to
5 federal, state, tribal, and decision makers because they
6 use cost as one of their important criteria.

7 Leasing costs should not be the same, as was
8 indicated earlier by a previous speaker, the same for
9 public, it should not be different for public and private
10 lands, they should be the same. And the recent case, the
11 GAO study, talked about **\$1.76** I believe per acre for
12 leasing for ranchers compared to **\$13** on private land
13 compared to federal land. That difference should not
14 exist. In fact, there should be a premium for use of
15 federal lands because federal lands are preferred for
16 corridor utility corridors because they're cheap, do not
17 involve multiple private landowners, and the domain
18 processes are not required, and the ownership will not
19 change probably during the use of the corridor, so there
20 should actually be a premium charge for use of public
21 lands. The values for this should be determined by an
22 independent organization, not by the utility and probably
23 not by the landowner, but somebody who can determine that.

24 Further, the leases should be inflation based
25 so that the inflation stays the same. Why? The people of

1 this country own the public lands, they should receive as
2 taxpayers a fair return on their investment.

3 Distribution interfaces. Each interface that
4 the corridor will have at either end needs to be clearly
5 defined in objective terms, including the long-term
6 predicted demands for such an interface. We have, in the
7 case study I talked about, a power line hanging at the
8 Mexican border with 345 kilovolts and there's no
9 345 kilovolts in Sonora, Mexico. That is not a
10 satisfactory interface for the Arizona Corporation
11 Commission to grant a certificate for environmental
12 compatibility. That is not an interface for a hanging line
13 that has already completed its Environmental Impact
14 Statement.

15 International environmental impacts need to be
16 considered. The environment is continuous at the border;
17 therefore, the environmental review process must be
18 continuous at international borders. If you're working
19 with the Mexican or Canadian government, they have
20 environmental review processes that need to be a part of
21 the joint review process for the American company. They
22 should be done together, should be done in step. The
23 Mexican process in this previous project that's gone on for
24 over five years has yet to start, so we have a
25 discontinuity at the border.

2 And the last subject that needs to be looked at
is restoration during construction and restoration upon
decommissioning. Both need to be evaluated when granting
permission to use a corridor.

8 I have some administrative comments but I
believe Dr. Pell discussed most of those and I won't bring
them up. I have two final thoughts. Let us not impose on
multi-use federal land multiple abuses based on an EIS.
10 Second thought, as Chief Joseph said a long time ago, when
making decisions today, you must consider their impacts
11 seven generations from now. Thank you very much.

12 DR. PELL: Thank you, Mr. Magruder, you
13 obviously gave this a great deal of thought, as we will
14 when we review your comments and your promised statement to
15 follow. By the way, on the subject of flood plains and
16 wetlands, the Federal Register Notice that we issued on the
17 28th of September did note the intent to also issue a
18 notice that this was also a notice of flood plain and
19 wetlands involvement, so we are sensitive to the need for
20 the kind of study.

21 I'd like to move on now to Mr. Robert, I know
22 I'm not going to pronounce this name correctly, Kondziolka.

23 MR. ROBERT KONDZIOLKA: Very good.

24 DR. PELL: Salt River Project.

25 MR. ROBERT KONDZIOLKA: That's correct.

1 DR. PELL: That's great, and I am not going to
2 go read this word, I'll spell it out because reading it may
3 be too provocative, S-W-A-T Subregional Planning Group.
4 Can you please tell us what that is? **AZ04**

5 MR. ROBERT KONDZIOLKA: Yes. Good afternoon,
6 pleased to be here. My name is Robert Kondziolka. That is
7 spelled K-O-N-D-Z-I-O-L-K-A. I hope that doesn't count
8 against my five minutes. I'm here representing the Salt
9 River Project, which is a water and power utility here in
10 the Phoenix Valley. I'm also representing the Southwest
11 Area Transmission Group. It is a subregional planning
12 group for transmission. It covers the states of Arizona,
13 New Mexico, west Texas, southern Nevada, and Imperial
14 Valley of California. As the previous speakers, I would
15 like to limit my comments this afternoon to a few key high
16 little points and then plan to submit more detailed
17 comments by the end of the month. And eight points I'd
18 like to cover in my five minutes.

19 The first is to the issue of planning. In the
20 regional, which is the western area connection basis and
21 the subregional area, planning activity is very active. We
22 have multiple groups focused and identifying the most
23 viable projects that are out there. An important element
24 to note is alternatives are studied in this planning
25 process phase and these are studied before projects are

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3 November 2005

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Re: Notice of Intent to Prepare a Programmatic Environmental Impact Statement, Amend Relevant Agency Land Use Plans, Conduct Public Scoping Meetings, and Notice of Floodplain and Wetlands Involvement, published in the *Federal Record*, 28 September 2005, pages 56647 to 56649

Subject: Comments Presented at the Public Scoping Meeting, 3 November 2005, in Phoenix, Arizona.

This letter is my presentation at the subject public scoping meeting.

Opening:

Presiding Officer and other officials present

My name is Marshall Magruder, M-a-g-r-u-d-e-r, resident of Tubac, Arizona. I have been involved with the recent environmental reviews in the Tumacacori Ecological Management Area of the Coronado National Forest, in Santa Cruz County, in the recent *Tucson Electric Power Company Sahuarita-Nogales Transmission Line Final EIS* (DOE/EIS-0336, BLM Reference No. AZA 31746m dated January 2005 and distributed in March of 2005.

During this process, there are lessons learned directly applicable to the scoping process for this Programmatic Environmental Impact Statement (PEIS) being discussed today. I will include a summary of (1) programmatic and (2) specific PEIS issue comments. In view of the limited time, I will only present some conclusions and lessons learned today but will submit a more detailed written response by 28 November 2005 deadline.

Part I Background of this Case Study

First, the above electric transmission line corridor Final EIS took 5 years to complete. Second, three different utilities requested conditional use permits for an existing utility corridor between December 1998 and August 2000. Third, two of these EISs involved DOE Presidential permits. Initially, this overwhelmed the limited Forest Service staff but the below conclusions were primarily **failures** by the **utility** that stretched out the environmental review process.

Case Study Summary. The utility submitted its Arizona permit request in March 2001 for an Arizona Siting Committee's Certification of Environmental Compatibility (CEC) prior to the EIS scoping process and, completed the CEC by January 2002, for transmission line routes in the National Forest long before the Draft EIS was completed in July 2003 and the Final EIS in March 2005. Thus, the

“state” approved routes in the National Forest before the federal decision makers had environmental review material available, as required by NEPA. The CEC used both an existing utility corridor but also proposed “new” corridors. Further, a small part of the existing utility corridor was in the roadless area established in January 2000, which required a change to the Forest Management Plan. Thus, this Case Study included

- (1) An existing utility corridor,
- (2) A required modification to the existing utility corridor, and
- (3) Two new utility corridors proposed by the utility.

The proposed new corridors were denied based on environmental impacts while both the existing and modified corridor approved in the Final EIS. One of the new corridors used the only Arizona approved route, while the Arizona Corporation Commission denied routes leading to the existing and modified corridor. Thus, the utility has been denied a single corridor for his transmission line.

Part II – Programmatic Comments

Conclusions: These are a summary of much greater issues

1. State and Federal Cooperation. During the CEC process, the DOE NEPA representative, during two sessions, requested that both environmental reviews be conducted simultaneously prior to both federal and state decisions on this issue. Unfortunately, the State of Arizona is one of those listed by the Council on Environmental Quality that does NOT cooperate with the federal process.

Lessons Learned: The **Federal, State, Native American, and Local government and non-governmental organizations should cooperate and jointly proceed through a single environmental review process.** This would have synchronized both federal and state decisions instead of the resultant impasse and involve all environmental organizations at one time.

2. Depth of Reviews. The EIS process resulted in a detailed environmental review compared to a more cursory review at the state level, primarily, because all parties understood an EIS would be completed prior to commencing the project.

Lessons Learned: **One set of environmental review requirements** should be agreed early in this process to satisfy all impacted federal, state, Native American, local, and non-governmental environmental groups. These should be followed in the resultant EIS, including possible dissensions.

3. Preparation for Environmental Review. In this Case Study, the Siting Committee had to “toll” the schedule so the utility could prepare additional information or its permit would have been denied. Most of the delay in this case was caused by a utility that was poorly prepared to start the NEPA process; in fact, this utility still fails to understand this process. This preparation process must include diverse public participation including all government and non-governmental organizations in preparation for the preliminary environmental review.

Lessons Learned: An in-depth **Preliminary Environmental Review must** be conducted, by a **qualified organization**, to determine if the applicant has adequate information before beginning the environmental review and **empowered** to require applicants to resubmit until prepared for the review in order to efficiently conduct such reviews.

4. Decisions. Environmental reviews are conducted so that significant impacts are understood PRIOR to making decisions. The NEPA process is substantive and may require changes in the project and results shown this occurs in more often than not. During the referenced case, letters from the Arizona Corporation Commission, Senators and Congressional representatives, county

supervisors, city and town mayors and city/town council members were sent to the Forest Service and BLM to expedite its decision in violation of the statutory process.

Lessons Learned: Political Pressuring and trying to force federal land managers for early "premature" decisions, prior to completion of the environmental reviews, should never be permitted.

5. Funding for Environmental Reviews. It must be understood that either the applicant pre-pays, as required, associate government expenses or waits at least five to six years for federal funding.

Lessons Learned: The **Applicant** must understand and agree to pre-pay the governments costs or wait for federal environmental review funding.

6. When to Conduct an Environmental Review. In Arizona, all electric utilities are required by statute to submit annually in January their future ten-year Transmission Line Plan (above 115 kV). This permits long-range planning for projects that will have service lives of 50-years or more. Unfortunately, in the Case Study, the utility first included this transmission line in its 10-year plan when it submitted its application.

Lessons Learned: Ten-year plans should be used for all utilities associated by this PEIS, in all states, to show and disclose future corridor expected use by years. In order to require long-term planning for these corridors, then the Joint Environmental Review must begin at least five years prior to the expected project start will ensure both the review will have adequate time and associated planning factors can be systematically included at federal, state, local and organizational levels. The Preliminary Environmental Review also needs to be satisfactorily completed five years prior to expected project start (probably 5.5 years before project start).

7. Need in Terms of Supply and Demand. Reliable forecast data are required to show that the project is actually needed, who will use the commodity, and in what long-term time frame when this commodity will be needed. Without such a basis or case, then the Preliminary Environmental Review cannot begin.

Lessons Learned: In the above reference Case Study, the data provided by the utility was so incomplete and non-objective, that an evidentiary hearing was required to assess other Alternatives than presented in the originally approved Arizona CEC to ensure the local demands were being met by the utility. Independently derived supply and demand data are necessary for decision makers to understand the benefits of a project and must be included in the Environmental Reviews.

8. Need for Reliability Data. In the Case Study, the utility's reliability data was so poor, that data I obtained from discovery and included in my Testimony was used as the basis for reliability data in the service area. The utility has not been able or is unable to conduct such an analysis.

Lessons Learned: In particular, all systems being proposed must include the predicted mean time between failure (MTBF) and mean time to repair (MTTR) system data to ensure appropriate reliability criteria for the transportation system are being proposed. The data in the NERC Reliability Criteria are deficient for proposing a new system's reliability.

Part III PEIS Comments

1. Proposed Alternatives. The Proposed Action and Alternatives include the following:
 - a. No Action Alternative.
 - b. Increased Utilization Alternative.

- c. New Corridor Alternative.
- d. Optimization Criteria Alternative.

2. Summary of the Recommended Alternative. As proposed, the first three Alternatives are rather limited approaches without deviation to meet future needs for utility corridors (a), only consider the existing corridors (b), or only consider new corridors (c).

Only the Optimization Criteria Alternative (d) provides a balance between (a), (b) and (c), and thus is supported. In the below discussion, the Optimization Criteria Alternative (d) is discussed in terms of the potential environmental issues listed in the referent Notice of Intent.

3. General Comments for All Alternatives. **In general, a utility corridor, whether it be for natural gas, hydrogen, oil or electrical transmission and distribution facilities, needs to ensure all local, regional, tribal, state, national, and, in some cases, international issues are presented at one time to the decision maker (e.g., the federal land manager).** This is to ensure that corridor management planning is aligned and coordinated with the federal land use management plan for each federal land, be it, multiple BLM and/or National Forest System lands.

4. Issues to be Analyzed in the PEIS. Each of the preliminary issues from the Notice of Intent and other issues are discussed below. The Case Study is in Part I above with programmatic lessons learned in Part II and environmental impact issues, discussed below.

A. Preliminary List of Issues to be analyzed in the PEIS and assessed for each Alternative:

- (1) Socioeconomic and Recreational impacts of development of the land tracts and their subsequent uses. In the Case Study, the international economic impacts of the project were not included in the Final EIS. For new natural gas pipelines, from LNG ports in adjacent countries (primarily Canada and Mexico), the total economic analysis of both sides of the border have very important impacts on the project. The resultant changes to both the US or Mexican/Canadian societies and economic impacts in border communities as a result of the use of the corridor are critical for state, county and local governmental agencies to have prior to making decisions concerning a project.

When a project corridor impacts recreation, such as hunting, fishing, hiking, bird watching, or other “eco-tourism” industries, this needs to be **clearly and objectively provided** in the PEIS. Obviously, this is locally dependent.

- (2) Impacts on protected, threatened, endangered, or sensitive species of animals or plants, or their critical habitats. In addition to the ESA section 7 Biological Opinions, federal land corridors have been used for decades. In the Case Study, two additional species, the Jaguar and Mexican Spotted Owl, have been observed in the vicinity of a new corridor being proposed by the utility. These new sightings were after the application and prior to the final EIS. When federal corridors are expected to last for decades, then **periodic updating, of the Biological Opinion (BO), every three to five years, will be necessary to**
 - a. Determine that current status of such species,
 - b. Determine the changes since the previous BO,
 - c. Determine if activities in the Corridor have impacted these changes, and
 - d. Have the land manager update the most appropriate actions necessary to ensure habitat deterioration does not occur or to use newer techniques, applicable for that corridor.

- (3) Impacts on floodplains and wetlands. The **Joint Environmental Review**, discussed in Part II, **must integrate the US Army Corps of Engineers 404 reviews** and determination of any part of the proposed "transportation system" is critical. As a minimum, the **100-year flood plain impacts** must be appropriately mitigated.

For critical facilities, the **500-year flood plain impacts** must be appropriately mitigated. These mitigations must be included in both the Draft and Final EIS so all water impacts are incorporated.

In the Case Study, the northern terminal substation of the transmission line was in a critical facility that was adjacent to the Santa Cruz River; which the Applicant testified had 100-year floods every ten years. Obviously, the additional extension to this substation in the direction of this river, which requires the 404 Review, must be considered and impacts understood before any decision maker could approve this project. In addition, the southern end substation is also within the 500-year floodplain and is the only substation of this city.

The **Wild and Scenic Rivers Act** clearly prohibits transmission lines and, as such, needs to be emphasized in the development of any new corridors.

- (4) Impacts on archaeological, cultural, and historic resources. These three resources, in the Western US, are largely unknown in the federal land, as detailed surveys have not been accomplished. In the Case Study area, it was estimated that archaeologists had not surveyed 70% of the new corridor. The Native American cultural, religious sites and spiritual areas exist throughout the Case Study corridor area. **Incorporation of Native Americans tribal cultural organizations is a critical component of Environmental Review teams.**
- (5) Impacts on health and safety. One important safety area developed during the Case Study that needs to be considered whenever high voltage transmission lines are in a corridor with underground **metallic** piping. The **electrical and electro-magnetic fields can accelerate the corrosive impacts of the natural soils on such pipelines.**

The "safe" separation distance to eliminate such corrosion is not known; however, according to the Director of the Federal Office of Pipeline Safety, the National Academy of Science (NAS) has been tasked to develop the solution of this problem area. Factors include soil conductivity to the transmission line radiations, grounding and shielding for the towers, depth of the pipelines, active and/or passive cathodic protection methods used by the pipeline company and other factors. Solution to this issue is necessary to know how far apart to separate electric and magnetic pipelines when determining the width of a right of way. Further, pipeline measurements need to be required to ensure that pipe thickness is adequate for the pressure of the commodity being transported. The results of the above **NAS study need to be implemented for all corridors and rights of way.**

In Tucson, a petroleum product pipeline burst in a housing development. This pipeline was unknown to residents. The result of this accident now **require disclosure of all such pipelines** so residents know and understand the associated danger to digging or accidents.

- (6) Impacts on existing and future land uses. The Arizona State Land Trust holds lands that are for the benefit of a variety of groups, primarily for schools. During the Case Study, this land manager's policy is not to approve transmission line rights-of-way in state land areas that would reduce the fair market value for future state land sales. This policy may conflict with adjacent federal lands and must be considered, in Arizona, whenever a proposed federal corridor will require state land for continuity.

Further, **each federal land manager must consider future land uses impacted by such corridors, at least 50-years in the future.** Any shorter-term visions will not be productive. Projects and forecasts need to be derived from "independent" sources (e.g., not the utility).

- (7) **Visual impacts.** In general, only surface and above-land facilities will have visual impacts; however, maintenance roads, construction and equipment sites, substations (gas, oil, electric), and grading all need to be considered. Installation of towers at the highest points will have the highest visibilities and should be limited to very unique cases.

Maintenance roads should not be established in any "roadless" or wilderness areas under any circumstances; however, helicopter access should cause less impact.

- (8) **Disproportionately high and adverse impacts on minority and low-income populations, also known as environmental justice considerations.** In the Case Study, the **border community** has a **very high minority and low-income populations.** The unemployment rate has reached 25% in recent years. There was nothing in the proposed transmission system that improved this EPA non-attainment area, reduced illegal aliens from using the north-south transmission line as a new "road" to enter the United States.

B. Additional Issues recommended to be analyzed and assessed in the PEIS for each Alternative:

- (1) **Need.** The proposing applicant for a utility corridor needs to **provide objective data** to show **why** this project needs to be developed in terms of the impacts on the **eventual users** of the **commodity** (gas, liquid, or electricity) being transported in the corridor. The utility must make a case providing that a real requirement exists for the commodity in terms of long-term projections for users of the commodity. These requirements must use data from the DOE's EIA or other "neutral" sources, as "compliance with the company's business plan" should be considered as non-compliant during the Preliminary Environmental Review.
- (2) **Supply versus Demand.** The proposed project needs to include an objective, independent analysis of the **future supply capabilities and demand requirements** for several decades (with **50-years** being typical) for the entire proposed transportation system and its tributaries.
- (3) **Reliability.** The proposed users of the corridor need to provide **predicted Mean Time Between Failure (MTBF) and Mean Time to Repair (MTTR) data** so that **reliability of the proposed transmission and distribution of the commodity are adequate to meet the reliability needs of potential customers.** Reliability data must be provided so the decision makers understand how often the transportation system will fail and how long each failure might last. The existing NERC *Reliability Criteria* are inadequate to meet this basic reliability-engineering requirement.
- (4) **Cost to build, wholesaler transportation estimated costs, and estimated consumer costs.** The cost of each Alternative should always be considered before any decisions can be made. The total costs to construct the facility for all proposed options are an economic factor in selecting the most appropriate Alternative. The **estimated cost for use of the transportation system for both wholesalers and customers needs to be clearly derived** (based on the construction, maintenance, and operational cost estimates) so that decision makers can consider the estimated resultant rates.

In the Case Study, this was not provided due to "FERC" or "ACC" determines these in a rate case. This is unfair to both the users and customers of the proposed transportation system, as these values are known by the utility its expected future profits. This estimate will not have the

usual prudence review and other "rate case" impacts; however, a simple, **estimate is necessary for federal, state, tribal, and local decision makers.**

- (5) Leasing Costs and Rules for Federal Land Corridors. The reasons why federal lands are preferred for a utility corridor is that they are **cheap**, do not involve multiple private landowners, eminent domain process are **not necessary**, and the landowner will **not change** with time. These reasons should have a premium cost but the present policies are for minimal cost. The EIS process with federal land managers needs to show these costs and initial rules (some are to protect other multi-use leaseholders, such as closing ranchers gates) in the Draft and Final EIS.

The leases for rights of way in these corridors needs to be fair to all Americans, not to the utility company for its shareholders and customers. Thus, **fair market value leases are warranted.** Further, these **leases need to be priced using total impacts** on the federal land, including equivalent long-term values for loss of viewshed, loss of roadless area, loss of recreational options, and other facility-site related factors that are valued based on the characteristics of individual corridor related factors. These **values need to be determined by an independent organization** to ensure the taxpayers are receiving their fair share.

In the Case Study, the Final EIS did not include the location of the actual facilities on private land because the utility indicated it would reduce its bargaining power with private landowners. This should not be allowed as the final design must be required so that decision makers have such information as such leases should have been completed before a Final EIS could be published. The same should apply to the federal land managers, with the actual leasing costs published. In view of inflation, all such leases from federal land managers need to include **inflation-based leases**, so that all taxpayers are receiving adequate compensation for this use of federal land.

- (6) Distribution interfaces. All the transportation systems that will use these corridors with interface with other transportation systems to distribute the associated commodity being transported. **Each such distribution interface needs to be described in objective terms, including long-term predicted demands for each such interface.** An "adequacy" for each such interface needs to be described to ensure decision makers understand the impacts the proposed transportation system will have on other interconnected systems.

Federal land corridors will eventually interface with **private land utility corridors**, where the utility facilities are located. This **private land must receive the same level of Environmental Review** because most issues are even more complex on private land. Assessing the continuity of environment factors on private land requires coordination, cooperation and consent, which might require time, thus a **five-year lead time for all corridor approvals** is necessary since the eminent domain process requires up to two years.

In the Case Study, a 345 kV transmission line was to go to the Mexican border and "interconnect"; however, there are NO 345 kV transmission lines now nor are any 345 kV line expected in the State of Sonora, Mexico. This "hanging in mid-air" interface should never be permitted nor allowed to meet the Preliminary Environmental Review criteria.

- (7) International Environmental Impacts. **The environment is continuous at the border.** Thus, the **Environmental Review process must be continuous at international borders.** For any such transportation project that crosses the US International Border, both countries need to jointly develop the Joint Environmental Review as discussed, in general, in Part II above.

In the Case Study, this was not done, in fact, as of mid-September 2005, the utility indicated that the Mexican required environmental review had not yet started while the DOE Final EIS has already been issued. This should not be allowed to happen for international project that should benefit both countries. If they don't, then clearly the project should be abandoned and the No Action Alternative is the recommended option for decision makers.

(8) Restoration after Decommissioning Facilities.

In the Case Study, the utility does not have any restoration reserve for decommissioned facilities. This utility nearly was almost bankrupt less than a decade ago. **All federal land corridor users installing such facilities need to have a restoration reserve specified, based on the impact of the project, in escrow, that is adequate to cover decommissioning, removal, and complete restoration of the impacted federal lands, including removal of all roads unique to the project.**

Part IV Some Administrative Comments

It is respectfully requested the Department of Energy, during this PEIS process, to keep all parties informed in order to ensure effective participation by interested parties and organizations.

1. It is requested that all Scoping comments, including transcripts of oral comments and all written comments, be included on the existing PEIS website within 10 days.
2. It is requested that the Draft PEIS be provided to this party, preferably in hard-copy, with the entire PEIS also be included on the existing PEIS website.
3. It is requested that at least a 45-day comment period be provided for comments on the Draft PEIS by notice to all who have participated in the Scoping meetings.
4. It is requested that the Draft PEIS include maps of all proposed corridors and enough detailed information so that they can be accurately located and understood by the public during the requested Draft PEIS public comment period. Further, these maps should be provided with all hard copies of the Draft PEIS and on the existing PEIS website.
5. It is further requested that the Final PEIS distribution include all those for the Draft PEIS.

If there are any questions about this letter, my oral comments or if I can be of service to assist in making this a better PEIS, please do not hesitate to call or contact me at the below address, email or telephone number.

Two Final Thoughts:

1. Let us NOT impose on multi-use federal land Multiple Abuses based on this PEIS.
2. As Chief Joseph said long ago, *when making decisions today you much consider their impacts seven generations from now.*

Thank you.

Sincerely,



Marshall Magruder