



**Hon. Terry Rambler  
Chairman, San Carlos  
Apache Tribe**



**Hon. Verlon Jose  
Chairman, Tohono  
O'odham Nation**

*Together We Are Stronger*

December 8, 2023

**Via E-mail & U.S. Postal Service**

The Honorable Jim O'Connor  
Chair  
Members of the Commission  
Arizona Corporation Commission  
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**Re: ACC Docket No. L-00000YY-15-0318-00171**

Dear Chairman O'Connor and Commission Members:

On behalf of the more than 50,000 combined members of the San Carlos Apache Tribe ("Tribe") and the Tohono O'odham Nation ("Nation"), we provide our response to the December 5, 2023 Notice of Filing Regarding Historic Properties Treatment Plan for the SunZia Transmission Project ("SunZia"). That filing, as required by Condition 12 of the Certificate of Environmental Compatibility and approved by the Commission in Decision No. 75464 and later amended in Decision No. 78769 ("CEC"), appears to be out of order.

## Arizona Corporation Commissioners

Re: SunZia HPTP and Cultural Landscape Study Concerns

December 8, 2023

Page 2 of 3

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Our Tribes, joined by the Zuni Tribe, Hopi Tribe, and Archaeology Southwest, filed a formal Notice of Dispute with the Bureau of Land Management (“BLM”) and the President’s Advisory Council on Historic Preservation (“ACHP”) on August 4, 2023. The Notice was made pursuant to the terms of the SunZia Programmatic Agreement (“PA”) for BLM’s failure to comply with Section 106 of the National Historic Preservation Act (“NHPA”). Then, on September 29, 2023, BLM then adopted a historic property treatment plan (“HPTP”).

Please be advised that the HPTP filed with the Commission per CEC Condition 12 on December 5 stands premature and inconsistent with the terms of the PA and NHPA. The ACHP has similarly advised BLM of serious flaws in the HPTP and NHPA compliance process. BLM has acknowledged its duty to consult with the disputing parties and ACHP to resolve the dispute but has yet to do so. *See also* the Tohono O’odham Nation’s letter to the Commission of October 13, 2015 (Commission Document 0000166527 in Docket L-00000YY-15-0318-00171). Our view is that the HPTP, as filed, is illegitimate and incomplete.

It further appears that SunZia has violated Condition 27 of the CEC. Condition 27 stipulates, in part, that a “cultural landscape study shall be conducted to fully evaluate the impacts of the Project on the cultural landscape prior to the commencement of construction, pursuant to and as required by the PA.” The information available to us indicates that that no such cultural landscape study has been initiated. Furthermore, our Notice of Dispute came only *after* BLM refused to complete the cultural landscape study required in CEC Condition 27.

BLM and the SunZia have always had unfettered access to ample information required to substantiate the San Pedro Valley as a cultural landscape and to complete the required cultural landscape study. Peer-reviewed literature, technical reports and direct advisements from the affected Tribes clearly show at least twelve millennia of tribal settlement of the San Pedro Valley. A cultural landscape study remains undone, yet such a study is only method available to bring this unique and fascinating environmental co-evolution into the foreground of project planning. The study will place the archaeological surveys into geographical and cultural contexts. The study is required to help remedy the significant and irrevocable alterations SunZia is making to our lands. For your reference, the U.S. National Park Service guidance for use by BLM and SunZia is available at: <https://www.nps.gov/subjects/culturallandscapes/planning.htm>.

Finally, we note that CEC Condition 25 requires any new assignee of the CEC to assume all responsibilities and conditions in the CEC, as required by statute.

In conclusion, CEC Conditions 12 and 27 require compliance prior to construction, we request that the Commission instruct the Applicant to cease construction until evidence of full compliance is provided. For these reasons, we respectfully request that ACC withdraw its Decisions on the SunZia project and demand compliance with both CEC Condition 12 and CEC Condition 27, as well as with Section 106 of the NHPA.

**Arizona Corporation Commissioners**

*Re: SunZia HPTP and Cultural Landscape Study Concerns*

December 8, 2023

Page 3 of 3

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Thank you in advance for reviewing and acting upon our concerns. We look forward to your timely response.

Sincerely,

TOHONO O'ODHAM NATION



Verlon Jose, Chairman

SAN CARLOS APACHE TRIBE



Terry Rambler, Chairman

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