
TOHONO O'ODHAM NATION OFFICE OF THE CHAIRMAN AND VICE CHAIRWOMAN

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Together We Are Stronger



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December 8, 2023

Ms. Tracy Stone-Manning, Director
Bureau of Land Management
U.S. Department of Interior
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Dear Director Stone-Manning:

This letter responds to the Bureau of Land Management (“BLM”) November 24, 2023 correspondence regarding the SunZia Transmission Project (“SunZia”), as addressed to both of us, the undersigned leaders of the Tohono O’odham Nation and the San Carlos Apache Tribe (“Tribes”), and to other parties to the dispute, the Zuni Tribe and Hopi Tribe. This letter also addresses BLM’s November 27, 2023 re-authorization of the demolition of traditional cultural properties (“TCPs”) in and including the San Pedro Valley. Collectively, the signatories to this letter represent over 50,000 tribal members, all of whom have significant cultural and historic ties to the San Pedro Valley.

Tracy Stone-Manning

Re: SunZia

December 8, 2023

Page 2 of 5

As discussed herein, we are deeply disappointed with the BLM and the Interior Department, our primary trustees, for placing the SunZia proponent's profit-driven interests ahead of applicable law, the health and wellbeing of our respective tribal members, and the ecological integrity of the San Pedro Valley, home of the Southwest's last free-flowing river. BLM's re-authorization of the destruction of the San Pedro Valley without prior notice to the Tribes dims the prospects for mutually desirable outcomes from our consultation of December 11. It also creates the appearance of bad faith on the part of the federal government. Notwithstanding, we look forward, per the terms of BLM's November 24 letter, to seeking to "agree on mitigating" harms to the San Pedro Valley's TCPs, beautiful landscapes, and functioning ecosystems.

Some historical perspective may help BLM to grasp the depth and breadth of our concerns. Since the early 1990s, representatives of our two Tribes have accepted BLM invitations to over 600 meetings for the purpose of improving the planning and permitting processes and outcomes of BLM activities. We have provided BLM with a steady stream of feedback how to address our respective Tribes' values, interests, and preferences regarding our places of religious, historical, and cultural significance. Despite these efforts, and despite BLM's mandates to listen to and act in accord with Tribes' interests, BLM officials have disregarded our input.

Most such requests to BLM, including pleas relating to SunZia, boil down to asking BLM to refrain from further injury to the communities we represent and to our Ancestors' homes and resting places beyond the borders of our trust lands. Other Tribes across the country have shared similar concerns with us. Yet, BLM has discounted, disrespected, and acted to erase vital links between the health of the lands under its management and the wellbeing of Native American people and communities. We hope these words will prompt BLM to examine its obligations in serving as our trustee even as it facilitates the obliteration of landscapes and places that are at the core of our wellness, identity, sustenance, and sense of collective belonging.

Regrettably, with the SunZia project we appear to be, once again, in a situation whereby BLM refuses to protect the Tribes' interests, the environment, and TCPs in order to boost corporate profits. We had hoped that BLM would heed our declarations on the cultural and historical importance of the San Pedro Valley. We expected BLM to read and act upon the relevant scientific literature—some of which is authored by Interior Department officials—documenting the more than 12,000 years of connectivity among our peoples and the Valley. We thought it obvious that BLM would see the error in its reliance on archaeological consultants, who know little about our lands and cultures, to identify and document places at the core of our histories, religions, and identities. We trusted that BLM would delay completion of the National Environmental Policy Act ("NEPA") process until it completed the most important step in the National Historic Preservation Act ("NHPA") process, that is, the identification of historic properties. We advised with BLM to conduct a cultural landscape study to complement the archaeological survey, thereby providing the context for assessing the significance of and protecting TCPs. We asked BLM to follow the NEPA regulations and acknowledge the obvious truth that the proposed addition, in 2020, of hundreds of

Tracy Stone-Manning

Re: SunZia

December 8, 2023

Page 3 of 5

miles of new roads to the SunZia project and the proposed change to its purpose from a tandem line (one alternating current, one direct) to a single direct current line, mandated re-analysis of the substantially changed SunZia project. We relied on BLM to adhere to the NHPA definition of *consultation*, as “the process of seeking, discussing, and considering the views of other participants, and, where feasible, *seeking agreement with them*” (see 36 CFR 800.16(f), emphasis added). We sought, and still seek, to engage in meaningful consultation with BLM, as opposed to the tightly scripted meetings led by BLM archaeologists charged with expediting compliance checklists and permit issuance. However, to be meaningful, consultation is not a listening exercise; instead, it is one of a meaningful response that acts on our concerns.

Our formal dispute, joined by our long-term allies at Archaeology Southwest (“ASW”), came only *after* BLM officials refused to identify TCPs as required under NEPA and NHPA. The Arizona State Historic Preservation Officer (“SHPO”), the President’s Advisory Council on Historic Preservation (“ACHP”), and ASW have independently determined that BLM has side-stepped pertinent policies and prevailing professional standards by neglecting all-important mandates to identify historic properties and other cultural resources, especially including TCPs and cultural landscapes, *prior to* NEPA completion, permit issuance, and TCP-focused and landscape-scale destruction.

BLM and the SunZia proponents have had over a decade to complete cultural resources and historic property identification efforts. Instead, the record shows, and BLM’s November 24 letter acknowledges, that as of this summer, “the parties were” still only “getting close to finalizing the Historic Properties Treatment Plan” (“HPTP”). The November 24 letter goes on to attempt to shift the blame for BLM failures onto the victims of BLM disfunction, claiming that “BLM did not receive sufficient details through consultation or otherwise about the San Pedro Valley to previously consider the Valley, or resources within it, a TCP.”

Here, we must insist that future communications from BLM acknowledge that NHPA and NEPA compliance rests solely on BLM’s shoulders. The scholarly literature and the Tribes’ advice to BLM provide ample bases for BLM to require the detailed TCP and cultural landscape assessment. BLM refused to do so. No action by any Tribe or other party prevented BLM and the proponent from completing this assessment and the HPTP years ago. Nothing prevents, and professional and regulatory standards require, BLM to re-open the NHPA identification process today and to complete the process.

Additional pertinent facts underscore BLM inattention to its trust responsibility and applicable law and policy. Namely, BLM issued the limited notice to proceed (“LNTP”) to SunZia on September 26, 2023. The LNTP issuance and the TCP demolition that has ensued, preceded rather than followed the HPTP, which BLM improperly declared to be complete on September 29, 2023. BLM’s November 24 letters assert that “BLM genuinely seeks to appropriately mitigate any impacts to a potential TCP.” If this were true, BLM would not have issued the November 27 re-authorization of TCP demolition. If BLM genuinely respected and sought agreement with Tribes,

Tracy Stone-Manning

Re: SunZia

December 8, 2023

Page 4 of 5

the November 24 letters would have included a courtesy notification to our Tribes of BLM intentions to resume the harmful desecration of our cherished lands and TCPs.

These are not the only instances of BLM attempts to simultaneously placate the affected Tribes and promote the destructive interests of the SunZia proponent. Unbeknownst to the Tribes and ASW (“Disputants”), Director Barnes issued to the proponent a LNTP on September 26, 2023. The next day, without mentioning the LNTP or impending demolition, Director Barnes e-mailed Disputants soliciting “ongoing consultation.” The following week, Director Barnes’ exchanged emails with the Disputants, signaling interests in a coordinated and constructive approach to dispute resolution. With no intervening communications from BLM, Director Barnes’ e-mail of October 23 acknowledges the Zuni Tribe’s joinder in the dispute, stating that BLM is “actively working on this issue.” With this assertion and in the October 23 meeting between BLM and ACHP officials, BLM appears to have deliberately concealed the LNTP issuance and misrepresented the status of the dispute. The November 13 ACHP letter to BLM asserts that ACHP “was surprised to learn that the BLM considered the dispute resolution process . . . concluded. As there was no apparent consultation to discuss the dispute or possible means of resolution with the consulting parties.” BLM left the Tribes to discover on our own that BLM had issued the LNTP and authorized demolition of our TCPs.

For our December 11 meeting, we request that you consider measures to reduce the still-unfolding and highly significant impacts to our Territories and communities and adverse effects to our TCPs. We ask BLM and the SunZia proponent to take steps to avoid further harms to the land (“Biophysical Mitigations”) and to reform BLM policy and practice with regard to the review and permitting of landscape-scale proposed actions in accord with the following priorities.

Priority	Biophysical Mitigations (SunZia only)	Policy-Practice Mitigations (system-wide)
1	Reroute / co-locate SunZia in existing industrial corridor(s)	Require completion of NHPA historic property identification prior to completion of NEPA
2	Shorten SunZia route to avoid the Ancestral O’odham residential/ farming TCP at the Narrows	Complete for the San Pedro Valley a state-of-the-art traditional cultural landscape study and public education assets managed by the four Tribes—a model for similar federal projects
3	Establish TCP protected areas for culturally salient places and species, including animal-plant travel/migration corridors	Require historic property treatment plans that meet professional standards and that integrate considerations of the spectrum of cultural resources and historic contexts
4	Provide more specific and culturally appropriate protocols for the restoration of roads and other disturbance areas	Require proponents to enable options for Tribes to designate cultural resource advisors as part of cultural resource identification efforts
5	Provide better tower surface coatings/ treatments on basis of consultation	Require approval of “Plan of Action” documents to address human remains, other cultural items (per NAGPRA), and other unanticipated discoveries in advance of any ground disturbance activities

Tracy Stone-Manning

Re: *SunZia*

December 8, 2023

Page 5 of 5

6	Enable “boots on the ground” efforts by interested Tribes in saguaro, agave, and other plant rescue or gathering activities	Encode the above reforms, and others arising, in the BLM National Programmatic Agreement for Compliance with NHPA Section 106
7, etc.	To be discussed	To be discussed

Thank you in advance for reviewing our concerns. We look forward to discussing these matters with you on December 11 and to re-establishing our relationship with BLM on foundations of mutual respect.

TOHONO O’ODHAM NATION



Verlon Jose, Chairman

Sincerely,

SAN CARLOS APACHE TRIBE



Terry Rambler, Chairman

Cc: Kathryn Leonard, Arizona State Historic Preservation Officer, kleonard@azstateparks.gov
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