

1 BEFORE THE ARIZONA POWER PLANT LS-490

2 AND TRANSMISSION LINE SITING COMMITTEE

3

4	IN THE MATTER OF THE)	DOCKET NO.
4	APPLICATION OF CG APACHE COUNTY)	L-21364A-25-0198-00250
	WIND LLC AND CG APACHE COUNTY)	
5	SOLAR LLC, IN CONFORMANCE WITH)	L-21365A-25-0198-00250
	THE REQUIREMENTS OF ARIZONA)	
6	REVISED STATUTES §§ 40-360, ET)	LS CASE NO. 250
	SEQ., FOR A CERTIFICATE OF)	
7	ENVIRONMENTAL COMPATIBILITY)	
	AUTHORIZING THE CONSTRUCTION OF)	
8	THE LAVA RUN INTERCONNECTION)	
	PROJECT, A 345-KILOVOLT (KV))	
9	ALTERNATING CURRENT GENERATION)	EVIDENTIARY HEARING ON
	TIE TRANSMISSION LINE, WITH)	REMAND
10	ASSOCIATED INTERCONNECTION)	
	FACILITIES, WITHIN APACHE)	
11	COUNTY, ARIZONA.)	

12

13 At: Phoenix, Arizona

14 Date: February 10, 2026

15 Filed: February 13, 2026

16 REPORTER'S TRANSCRIPT OF PROCEEDINGS

17

VOLUME VI
(Pages 973 through 1127)

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 2 VOLUME VI February 10, 2026 Pages 973 to 1127

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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 Arizona Power Plant and Transmission Line Siting
4 Committee at Phoenix, Arizona, commencing at 10:00 a.m.
5 on February 10, 2026.

6

7 BEFORE: ADAM STAFFORD, Chairman

8

9 CLINT CHANDLER, Arizona Department of Water
Resources
10 MICHAEL COMSTOCK, Arizona Corporation Commission
LEONARD C. DRAGO, Department of Environmental
Quality
11 SAL DiCICCIO, Incorporated Cities and Towns
DOUGLAS FANT, General Public
12 ROMAN FONTES, Counties
(Videoconference appearance.)
13 NICOLE HILL, Governor's Office of Energy Policy
R. DAVID KRYDER, Agriculture Interests
14 MARGARET "TOBY" LITTLE, General Public
GABRIELA SAUCEDO MERCER, General Public
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1 CHMN STAFFORD: Let's go back on the
2 record. I understand we have another County Supervisor
3 who would like to make a public comment, I believe it's
4 Supervisor Shirley?

5 MR. RESARE: That's correct.

6 CHMN STAFFORD: Please, approach the
7 podium.

8 MR. SHIRLEY: Good. Thank you,
9 Mr. Chairman, Members of the Commission, Repsol, and the
10 different ones that are here. I want to say first good
11 morning to each and every one. I hope you had a good
12 rest last night. I did.

13 You know, I appreciate the time to put
14 forward a little comment. I just want to put forward a
15 real simple comment. I'm Dr. Joe Shirley, Jr., I've just
16 started my 32nd year as Apache County Supervisor, you
17 know, the people have been real good to me, you know, as
18 an elected official. And, of course, I appreciate that.
19 And I try to do my best, you know, every day to try to
20 represent the people, not only up in -- up north in
21 Apache County, but up and down Apache County, because we
22 make decisions all up and down Apache County affecting
23 all the people, so I don't say that I'm a supervisor for
24 District 1 when, really, I'm an elected official up and
25 down Apache County.

1 And when we're talking about the
2 interconnection at the Lava Run Project, and I've heard
3 comments yesterday, certainly I've been amongst the
4 people trying to get at what it is we're talking about,
5 what it is that's going on.

6 Just a week ago I was down south in Apache
7 County talking to some of the mayors and some of the
8 people down there, what is it that we should be working
9 on, what are the objectives, that kind of thing.

10 CHMN STAFFORD: Can you get a little closer
11 to the microphone, please. Some of us are having trouble
12 hearing you. This fan just kicked on.

13 MR. SHIRLEY: Okay, I'm sorry, yeah.

14 But from what I've heard up there, talking
15 with the people and the leadership, I don't know if
16 anything I say today or what the Board of Supervisors of
17 Apache County says or what the people of south Apache
18 County are saying will really matter, you know? I wonder
19 about that. Because what I hear is that the leadership
20 of the cities of Apache County do not matter. The people
21 of Apache County do not matter. And the leadership of
22 the Apache County government does not matter. That's
23 what I hear. I hope that is not right. And I come from
24 the heart with that hope. If that is the case, it seems
25 to me what is being said is if the pristine beauty of

1 Apache County is destroyed, if the hunting grounds are
2 destroyed, if the habitats of the fowl of the air is
3 destroyed, if the dwelling grounds of wildlife are
4 destroyed, and if the groundwater is further depleted, it
5 does not matter. That's kind of what I hear being said,
6 and I hope I'm wrong. And, yes, it seems to me there's
7 something wrong with that.

8 Lastly, you know, there are not very many
9 places anymore where you can go to enjoy the undisturbed
10 scenery of earth. This is the world over. It seems like
11 everywhere nature is being encroached upon. Where you
12 can go to enjoy the sounds of the fowls of the air, the
13 birds. Where you can go to enjoy the calls of the wild,
14 whether it be the wolf, the mountain lion. Where you can
15 enjoy the footprints of the wild, the mountain lion, the
16 bear, the elk. Where you can actually enjoy a breath of
17 fresh air. And where you can go to rejuvenate yourself
18 by communing with undisturbed nature. You know, back
19 home I live amongst the trees, you know, the pine, the
20 fir trees, the oak, it's mountainous. And hardly anyone
21 lives around where we are in the mountains. And I can
22 understand the people, some of the ones coming forward
23 saying we don't want to have the pristine air that we
24 breathe destroyed. We don't want to have the scenery
25 destroyed. We want to hear the sounds of the wild, the

1 birds, different ones. We want to enjoy hunting, whether
2 it be squirrel, quail, elk, deer. I can understand that,
3 because it's where I'm from. And I hope you take my
4 thoughts and some of the thoughts of what you've heard
5 yesterday, take to heart and into very serious
6 consideration.

7 Please listen to us. Thank you.

8 CHMN STAFFORD: Thank you.

9 All right. Mr. Derstine, are you ready to
10 present the rest of your direct case? I think there's
11 still a number of exhibits that haven't been covered.

12 MR. DERSTINE: Good morning, Mr. Chairman,
13 Members of the Committee. I think that in terms of
14 exhibits, some of the exhibits we marked we don't plan
15 necessarily to move or introduce. They were there in
16 case the committee was interested. At the same time I
17 think that they're -- the foundation for many of these
18 exhibits has already been established or they -- or
19 they're zoning ordinances or statutes or that sort of
20 thing. So I'm happy to go through the list, and I don't
21 know that there's additional testimony. We completed
22 Mr. Casteel's testimony on his land use slides and land
23 use impacts, jurisdiction, ownership, existing land use,
24 planned land use, and his testimony that the
25 interconnection project, as was testified at the October

1 hearing, is consistent with and compatible with all those
2 various land use statutes. And I think that was
3 reaffirmed by Mr. Fish's testimony yesterday as well.

4 So I'm happy to go through the list, but I
5 don't think, in terms of direct testimony, we have
6 anything directed to these different exhibits that needs
7 to be -- that Mr. Casteel needs to cover.

8 I think Ms. Ambrose and Mr. Rieman are here
9 to address questions that may come up. I know that
10 Member Little had indicated that she has reviewed the
11 application, wasn't here for the original hearing, but
12 reviewed the application, and may have some additional
13 questions. Other members of the committee may have some
14 additional questions that other witnesses are here, ready
15 and able to respond to as best we can.

16 So happy to walk through the list and, if
17 we want to -- I'll move whatever exhibits we have covered
18 and as to any remaining exhibits, we can talk about
19 whether it makes sense to make them part of the record.

20 CHMN STAFFORD: All right. Well, let's
21 see, just going to go through the list. Exhibits 28, 29
22 and 30 are witness summaries, they were filed in the
23 docket. I don't think they even need to be a hearing
24 exhibit. So do you want to withdraw those?

25 MR. DERSTINE: Yeah, they can be withdrawn

1 or they simply are what they are, in terms of they were
2 filed in compliance with your Procedural Order.

3 CHMN STAFFORD: Right. Yeah, so they're
4 not necessary to understand the decision of the
5 committee, so --

6 MR. DERSTINE: Correct.

7 CHMN STAFFORD: Then 31, that's the remand
8 hearing slides.

9 MR. DERSTINE: Yes. We used those.

10 CHMN STAFFORD: Submit those?

11 MR. DERSTINE: Yeah.

12 (Exhibit CG-31 was admitted into evidence.)

13 CHMN STAFFORD: And then 32 is the Decision
14 remanding it. Then 33 is the Notice of Hearing. Those
15 are already in the record. You can withdraw those.

16 MR. DERSTINE: Yeah, the notice of
17 publication, yeah.

18 CHMN STAFFORD: And then 34, 35, 36, 37,
19 38, 39, and 40, those are all relating to the notice for
20 this hearing. Those are admitted.

21 (Exhibits CG-34 through CG-40 were admitted
22 into evidence.)

23 CHMN STAFFORD: 41 is the zoning ordinance
24 of Apache County adopted in 2021. Is that the zoning
25 ordinance that says that energy projects don't require

1 special use permits on State Land?

2 MR. DERSTINE: That is the existing -- that
3 is the zoning ordinance for Apache County that includes
4 the renewable energy ordinance that carries a number of
5 provisions, but it also carries that exception as well,
6 whether that -- how that's applicable, I leave that to
7 another -- another time.

8 CHMN STAFFORD: My recollection -- my
9 recollection of that is that they don't need Conditional
10 Use Permit unless the State Land Department says they
11 should get one; is that correct?

12 MR. DERSTINE: That's how I read it as
13 well, whether it's the -- whether the applicant, you
14 know -- I think the testimony you'll hear from Mr. Rieman
15 today or Ms. Ambrose is that one of the reasons that, and
16 probably the primary reason, that we haven't filed a CUP
17 application is because the County is in the process of
18 revising that ordinance, and we don't know where they
19 will land. And so the reason to wait was to see where
20 they come out on that. Because Mr. DiCiccio mentioned if
21 we file an application now under the existing ordinance
22 and it changed, we'd have to either amend it or resubmit
23 it. We thought it was better to simply wait until the
24 County completed its process of amending its ordinance
25 before filing for the CUP. And whether or not, then, the

1 new revision contains the same exemption or how that
2 would apply to these projects, we leave that to the
3 future.

4 MEMBER HILL: Mr. Chair?

5 CHMN STAFFORD: Hold on one second.

6 And, Mr. Resare, we're talking about
7 Exhibit CG-41, the current zoning ordinance for Apache
8 County, is -- does it currently not require a Conditional
9 Use Permit for renewable projects on State Land?

10 MR. RESARE: I think, as you're aware
11 anything can be read different ways, but I think that is
12 how it is currently being read based on Mr. Fish's
13 testimony from yesterday. Based on his testimony, that's
14 how the community development department is reading it,
15 so yes.

16 CHMN STAFFORD: All right. So CG-41 is
17 also admitted.

18 (Exhibit CG-41 was admitted into evidence.)

19 CHMN STAFFORD: Member Hill?

20 MEMBER HILL: I'm looking at the ordinance
21 right now, because I don't think I was clever enough -- I
22 don't think I was clever enough to catch that. Can you
23 tell me what section of this -- this exhibit talks about
24 that, because it's several pages and I'm not going to be
25 able to read it right away.

1 CHMN STAFFORD: All right. I'm going to
2 ask Mr. Derstine to assist with that.

3 MEMBER HILL: I'm sorry, I -- I was not
4 catching that yesterday in Mr. Fish's testimony, so that
5 would just be helpful to just review that myself. I'm
6 guessing it's this Section 445 on joint agency approval;
7 is that right?

8 MR. DERSTINE: (No audible response.)

9 MEMBER HILL: That was a good guess, okay.
10 So that's -- for my colleagues, that's on page 10 of the
11 ordinance, Exhibit 041, if you want to take a look at
12 that Section 445.

13 MR. DERSTINE: It's subpart B.

14 MEMBER HILL: I don't even remember
15 covering that in the hearing, but it was a busy week,
16 so -- okay, that's helpful.

17 MR. DERSTINE: And I guess just on that
18 note, Member Hill, I mean, that was not part of our case,
19 part of our case presentation nor do we think it's
20 relevant to the interconnection project. How it applies
21 to the need and the requirements of Apache County to
22 obtain a CUP for the wind and the solar projects, that's
23 where that provision may come into play. But, again,
24 that may depend on how the County revises its
25 ordinance --

1 MEMBER HILL: Okay.

2 MR. DERSTINE: -- and how it's applied in
3 the future.

4 MEMBER HILL: Okay.

5 CHMN STAFFORD: And I seem to recall that
6 was discussed in the first hearing in October; at this
7 one not so much until now.

8 MEMBER HILL: I would just say that there's
9 a fair amount of frustration that you haven't applied for
10 a Conditional Use Permit, but had I known this, I would
11 have understood that better. And I don't think the
12 public even kind of understands that, because that was,
13 you know, why haven't you talked to the County? Well, on
14 face it looks like there's a lack of clarity on the
15 responsibility to file for a Conditional Use Permit.

16 Okay. Thank you.

17 MR. DERSTINE: Yeah. And as I mentioned,
18 the timing for that I think is driven by the fact that
19 the County had had, for months, an ongoing process of
20 evaluating this ordinance contained in the -- in CG-41,
21 this whole section dealing with renewable energy projects
22 and how those are addressed under the current zoning
23 code, and then how the County may determine to amend or
24 revise or change that.

25 And so the timing for filing the CUP, it

1 seemed prudent to simply wait to see where they come out
2 on these decisions and then our application would follow
3 whatever the law is.

4 MEMBER COMSTOCK: Mr. Chair?

5 CHMN STAFFORD: Yes.

6 MEMBER HILL: One other follow-up is, other
7 people have applied -- oh, wait, their property -- okay.
8 My brain is working slowly. I think my line of thought
9 was why had other people applied for Conditional Use
10 Permits, but they probably were not on State lands and
11 that is the nuance for this. Okay.

12 MR. DERSTINE: Or it's a combination of
13 State and/or private land on the project.

14 MEMBER HILL: Okay. All right. Thank you.

15 MEMBER DiCICCIO: Mr. Chair?

16 CHMN STAFFORD: Yes, Member DiCiccio.

17 MEMBER DiCICCIO: To that point, one of the
18 reasons I was pushing for the Conditional Use Permit in
19 the first meeting, remember we talked about that as well,
20 was the fact that what it does is the individuals -- the
21 applicant doesn't necessarily have to go to the County.
22 It goes to Mr. Shirley's point of being heard.

23 And one of the reasons I was pushing for it
24 is to get them in there into the County, having the
25 County hear them, be able to hear them, just having a

1 meeting, coming and talking to a meeting doesn't mean
2 you're heard at all. We talked about it at the last
3 meeting too, and if you remember the comments I made was
4 the applicant, which is going through the motions, but
5 not taking the extra effort to hear what the other
6 individuals were doing, trying to figure it out, trying
7 to negotiate something, trying to make something work
8 out.

9 And there was point after point after
10 point, even when we were at the meeting, when, after the
11 meeting, the applicant just walked right by all the
12 members -- I remember seeing all this -- and didn't even
13 engage and say, "Hey, who do I need to talk to? Who do I
14 need to speak to? What do I need to do to make this
15 project better?" Nothing's changed since then.

16 So, to Mr. Shirley's point, I mean, they
17 just want to have a say in this thing. I don't have any
18 issue at all saying it needs to go back to them, let them
19 figure it out, let them see it, let them see if they can
20 revise it, if they want to make it better, let them do
21 it. That's their decision. I represent the cities and
22 towns, just so you know.

23 But also, at the same time, we were very
24 clear and I was very clear at that meeting what was
25 happening, and that's the concern I have. If we end up

1 passing this this way today, they're not going to have a
2 say. I mean, why would the applicant have any motivation
3 to go to them? It sets up a legal battle that now the
4 County's going to be expending tens of thousands, if not
5 hundreds of thousands, of dollars to fight in a courtroom
6 setting.

7 I've done -- I've dealt with this before at
8 the City of Phoenix, and you can see it happening. I
9 mean, sometimes you can see what's happening three or
10 four steps ahead. And at that meeting, essentially, this
11 is what was going to be happening, and that's one of the
12 reasons I was pushing for the CUP going to the County is
13 to get their voice into it too.

14 Thank you, Mr. Chair.

15 CHMN STAFFORD: Thank you.

16 MEMBER LITTLE: Mr. Chairman?

17 CHMN STAFFORD: Member Little.

18 MEMBER LITTLE: Along those same lines, I'm
19 just wondering what avenue the public has if a CUP is not
20 required and ultimately not required because of
21 similar-type things in their -- whatever these things
22 are --

23 MEMBER HILL: Ordinances.

24 MEMBER LITTLE: -- ordinances, what
25 opportunity does the public have to be heard in some area

1 where they could influence a decision? I know you guys
2 have had public comment opportunities, you've had open
3 houses, but it's all about the line, and everybody keeps
4 saying this is -- we only have jurisdiction over the
5 line, which we do. That is all we're here for. But what
6 about the project? Where can the public go to be heard
7 where their comments will have some impact on the
8 decisions that are made?

9 CHMN STAFFORD: When you say "the project,"
10 you mean the wind facility --

11 MEMBER LITTLE: The wind facility.

12 CHMN STAFFORD: -- not -- for our purposes
13 the project is the transmission line only.

14 MEMBER LITTLE: Yes, the wind facility.

15 CHMN STAFFORD: Okay.

16 MEMBER LITTLE: And the solar facility.

17 MR. DERSTINE: Well, I think, as Mr. Fish
18 noted yesterday, there have been a number of meetings
19 relating to preapplication meetings, relating to the wind
20 project. Zoning, preapplication meetings, where the
21 public has attended, Mr. Fish stated that and Ms. Ambrose
22 can expand on that. There have been a number of
23 meetings.

24 I think Mr. Fish indicated that he's had
25 representatives who have attended those meetings, they've

1 been well-attended, and those meetings provided a forum
2 for folks to be heard on the wind and the solar projects
3 and their concerns over zoning approval for those.

4 And going forward, I think it's up to the
5 County to decide how they want to, you know, proceed with
6 the approval process for the project. Again, they're
7 revising their zoning ordinance relating to these sort of
8 projects, and whatever sort of process is established, we
9 will follow it.

10 And I think the bottom line is, as I
11 mentioned in my opening, this committee's grant of a CEC
12 for the gen-tie line in no way restricts Apache County or
13 the Board of Supervisors for applying and adopting and
14 whatever they would like to require in terms of their
15 zoning ordinance. They have the full zoning authority
16 over these projects within Apache County. This grant, a
17 CEC for the gen-tie line, does nothing, absolutely
18 nothing, to undermine, handicap, or, as Mr. Shirley
19 mentioned, prevent folks from being heard. It doesn't
20 divest the towns, the residents from being heard, and the
21 County from exercising its zoning jurisdiction.

22 This is separate and apart from that
23 process. It's always been viewed separate and apart from
24 that process. I appreciate Member DiCiccio has a wealth
25 of experience in local government, in dealing with

1 complex issues and how he's handled those issues, you
2 know, over his life as an elected official and
3 participating in local government. This is a different
4 forum. This is a different process.

5 We don't follow -- applicants don't follow
6 and this committee doesn't require applicants to follow
7 the, you know, the full -- give me the full package
8 theory of permitting a project. The full package theory
9 doesn't apply here. It didn't apply for the Baccara
10 project, the case you just had before you on that power
11 plant. It still requires an air permit. It requires a
12 federal permit from the Air Force Base. It requires
13 zoning approval from Maricopa County.

14 Folks were not raising their hand and
15 saying we need all these permits in place before we're
16 going to consider the CEC for the plant that was the
17 subject of the Baccara project. No one raised their
18 hand.

19 The County didn't raise its hand, and
20 members of this committee didn't raise their hand and say
21 we need all the permits in place before we're willing to
22 grant you a CEC for that project. It didn't apply there
23 and it doesn't apply here. But that doesn't mean that
24 the public is being eliminated and that their voices will
25 not be heard. It's up to Apache County and the Board of

1 Supervisors to decide what that process is, how they want
2 to enforce their zoning regulations, and your decision on
3 a CEC for the gen-tie line simply identifies and
4 solidifies where that line will be located. The rest of
5 the project, the wind and the solar projects, remain
6 within the jurisdiction of Apache County.

7 MEMBER LITTLE: Mr. Derstine, I appreciate
8 your long harangue here; however, I just asked one
9 question, and that was what is the forum for the public
10 to use that might have some impact on the generation
11 projects?

12 MR. DERSTINE: And I think the zoning
13 process --

14 MEMBER LITTLE: I understand completely
15 what our position is here and what our responsibilities
16 are and where they begin and where they end.

17 MR. DERSTINE: Yeah. And I think the short
18 answer is through the zoning process at Apache County.

19 MEMBER LITTLE: Thank you.

20 CHMN STAFFORD: Were you going to have
21 Ms. Ambrose expand on that?

22 MR. DERSTINE: Yeah.

23 //

24 //

25 //

1 DIRECT EXAMINATION (Cont.)

2 BY MR. DERSTINE:

3 Q. Well, Ms. Ambrose, can you kind of, in summary
4 fashion, or however you'd like to present it, provide
5 some detail on the meetings, the interactions that we've
6 held, rezoning meetings and other interactions with the
7 towns, et cetera, where we've presented this project and
8 listened to officials and residents about the project?

9 A. (MS. AMBROSE) Yes, thank you, Matt.

10 Members of the Committee, I'll go into detail as
11 to what we have done thus far, and this is specifically
12 addressing the renewable energy projects. We've engaged
13 with the local towns, the towns of Springerville and
14 Eagar, starting in 2023, to discuss the projects, where
15 they had no material feedback to provide to us. As well
16 as in 2024, we really initiated the preapplication
17 process, so we were doing the required preapplication
18 requirements necessary of the applicants for the wind and
19 solar projects, including meeting with Mr. Fish who had
20 the time to testify yesterday.

21 On top of that we hosted open houses, which are
22 large venue events for folks to come in and attend to
23 voice public comment and concerns specifically regarding
24 the wind and solar projects. As Supervisor Davis
25 testified yesterday, these were well-attended, with over

1 200 individuals at each of the open house events. So
2 they had plenty of time and opportunity to speak with us.

3 I'll say, additionally, outside of the open
4 house events that we had for the wind and solar projects,
5 the team has been present at the planning and zoning
6 meetings this entire year, ever single month, where
7 they've been discussing the ordinance changes, so we have
8 been available at that venue as well to discuss any
9 concerns should individuals have about the projects.

10 MEMBER LITTLE: Thank you.

11 CHMN STAFFORD: Now, didn't they just have
12 a meeting about that zoning ordinance last Wednesday?

13 MS. AMBROSE: That is correct, they did.

14 CHMN STAFFORD: And what was the outcome of
15 that meeting?

16 MS. AMBROSE: I was not in attendance, but
17 another team member from Repsol was in attendance, and
18 they were primarily discussing setbacks. I think the
19 final discussion that was had at that meeting was they
20 were going to need to push back the ordinance updates
21 likely a month before it can go to the Board of
22 Supervisors, so it's looking like April or May for the
23 decision to ultimately be made.

24 CHMN STAFFORD: Okay. And so that decision
25 would determine whether or not a Conditional Use Permit

1 is required for the wind project?

2 MS. AMBROSE: Yes, that's -- that's
3 correct. I mean, their ordinance updates are very
4 thorough. They're looking at all kinds of things,
5 including setbacks and decommissioning and things like
6 that.

7 CHMN STAFFORD: Okay.

8 MS. AMBROSE: So it expands beyond --

9 CHMN STAFFORD: And so, okay, so the
10 revision is more comprehensive than just whether a C- --
11 Conditional Use Permit will be required for renewable
12 projects on State Land, then?

13 MS. AMBROSE: That is correct.

14 CHMN STAFFORD: Okay.

15 Member DiCiccio?

16 MEMBER DiCICCIO: Thank you, Mr. Chair.

17 So the concern I had earlier and I should
18 have been better at clarifying it when I said that it
19 creates a legal challenge for the County where they would
20 have to expend thousands, if not tens of thousands or
21 hundreds of thousands of dollars, challenging it is that,
22 from my belief, at least and from my experience, once
23 this passes here at the Corporation Commission, they
24 become -- they have a vested right and then they don't
25 have to go back and go through the challenges and through

1 the process of doing it, because they have a vested right
2 today.

3 So we've had situations at the City of
4 Phoenix and, you know, it's understandable that that
5 would happen because somebody can come back two weeks,
6 three weeks, three years later, and say you come under
7 the new rules. You come under the old rules. And they
8 can challenge it, but under the 207 law that we have in
9 Arizona, because I was part of that, I remember that back
10 in the '90s when it got passed by Mark Killian is that
11 what it says is that once you have your vested rights,
12 government cannot take it away.

13 And you understand why that would be, and
14 having it as part of a Conditional Use Permit would
15 require that. It would become a way of challenging,
16 where the applicant can challenge them and they end up
17 losing in court, or the County would. So if it was
18 already in place today, yes, they clearly would have to
19 go through. But now that it's going through process and
20 even now, that's why I've been adamant of them getting to
21 the County, getting to Mr. Shirley's point of getting
22 their voice in.

23 To the other point, just having a meeting,
24 listening to a meeting does not mean you're engaged.
25 Engagement means you go out and -- and I'm used to a

1 whole different level, I'm telling you -- it's, you know,
2 go out and you meet with people individually and talk to
3 them, find out what their concerns are. And then you
4 make those changes, those adaptive changes to your
5 project. We're still seeing the same thing that we saw
6 at the last meeting. Nothing's changed from that.

7 And so that's the type of engagement that I
8 look for at least, is engagement where you're actually
9 listening and making adaptive changes. You may not get
10 to 100 percent, those would be the adaptive changes you
11 make.

12 So from my end, again, you know, my
13 preference would always be to hold this off or even vote
14 no on it, let them go to the County and get that process
15 completed, and then come back to the Corporation
16 Commission because then their voice is heard. The way
17 it's set up now, I don't believe it can happen.

18 Thank you, Mr. Chair.

19 CHMN STAFFORD: Thank you.

20 If the CEC is ultimately approved by the
21 Commission, it wouldn't affect their rights as far as the
22 wind project is concerned, because all it would be is the
23 transmission line. If, for some reason, the wind
24 facility doesn't move forward, they would never construct
25 that line, even though they had a vested right to do so.

1 I think there was quite some discussion about that at the
2 last hearing. The other issue is that this CEC is for
3 more than just the wind facility. It also has a -- it's
4 going to tie in 450 megawatts of solar and storage, which
5 are located right outside of the Springerville Generating
6 Station.

7 I don't think I've heard hardly any
8 opposition to that facility. The big outcry that I've
9 heard from the public is the wind facility. And then the
10 27 miles of that stretch of the line that's going to feed
11 that. It's not the two- or three-mile section that's
12 going to tie in the solar facility.

13 So I think that the applicant gets a vested
14 right to build the transmission line, it doesn't -- it's
15 not a foregone conclusion that the section that will go
16 to the wind facility to be constructed if ultimately that
17 facility is not approved by the County. I think that
18 they're going to be subject to a change in the ordinance
19 if it takes place before they begin construction of the
20 wind facility, but I don't think they would be very wise
21 to do that, especially if they haven't constructed the
22 line.

23 So anything we do is not going to give them
24 the right -- anything we do with the CEC is not going to
25 give them the right to build the wind facility. I think

1 that's pretty clear.

2 Member Hill, you had something?

3 MEMBER HILL: Yeah. So I think my
4 observation -- what I've been trying to figure out is
5 what could happen in the Conditional Use Permit -- I
6 forget what the word is -- the Conditional Use Permit
7 process that could change our opinion? And I don't think
8 that there's anything in that process that could inform
9 this process.

10 So I feel like they are separate and apart.
11 They are separate processes. And I think in the spirit
12 of efficient and effective government, you know, the work
13 we've done on this case and the time that the applicants
14 and the money that's been spent to get to this place, I'm
15 comfortable with the CEC that we drafted. There are lots
16 of good mitigation measures in there for Game & Fish and
17 other things, hunting, those kinds of things.

18 I, too, agree that the public outreach and
19 the design of that wind farm needs a closer look and more
20 public participation. The question that I wanted to make
21 sure I understand, given that I didn't understand before,
22 that the CUP wasn't required for stuff on State lands.
23 Is there any reason to believe -- and I don't know who
24 can answer this -- is there any reason to believe that a
25 CUP wouldn't be needed by the applicant with the changes

1 to the ordinances that are being discussed? Is there any
2 reason to believe that they won't have to come in for a
3 CUP? The ordinance is going to change so that they have
4 to come in for that; is that right?

5 MR. RESARE: And I think that maybe I can
6 answer that for you. Obviously, I can't tell the future
7 on that, but I don't think that that part is going to be
8 changing. There still would be some kind of requirement
9 similar to -- or a CUP for that kind of like a wind or
10 solar project.

11 So that process is not going to be going
12 away, as far as I can tell at this point, regardless of
13 any of the information that we've been receiving and how
14 the ordinance has been changing. So there will still be
15 a process that someone will have to go through to build
16 those type of things.

17 MEMBER HILL: And then we learned yesterday
18 from Mr. Fish that there will be mitigation measures that
19 will be part of that CUP process for Game & Fish, for
20 environmental impacts, water discussions. I'm not sure
21 what the water thing it, but, like, understanding the
22 water pieces, because that was something we heard from
23 the public. And we may even have mitigation measures
24 that are more stringent than the County because we have
25 mitigation measures around access for hunting,

1 notification to hunting communities, those kinds of
2 things.

3 So it -- my biggest concern is that we're
4 mitigating all the factors. I know I'm always the person
5 that the birds and the bunnies and the bees, right, and
6 want to mitigate everything. But here I feel like
7 there's other mitigation that needs to be done. And so I
8 just want to make sure that the public can be involved in
9 that.

10 So I'm trusting that the County can do
11 their part on that.

12 CHMN STAFFORD: Member DiCiccio, you had
13 another comment?

14 MEMBER DiCICCIO: Briefly, yes.

15 Two things: One, one of the things I
16 brought up during my statement was that they should
17 bifurcate and split the approval, so whatever occurs here
18 is, you know, at this meeting when they go to the
19 Commission, they really should separate it. And, you
20 know, give the applicant at least the ability to finish
21 the solar part of it. But I believe there's been
22 absolutely no objection to that, that I've seen. And nor
23 have I heard that from anyone.

24 The second part of it, and I believe I put
25 a motion out, I can't remember, it was so long ago, we've

1 had so many other meetings, you know what I mean, you
2 forget, right, Bill? It's like, wow, I thought I had put
3 part of a motion that failed on a one-person vote that
4 required the applicant to go through the Conditional Use
5 Permit at the County, if I remember that correctly.

6 CHMN STAFFORD: My recollection is that you
7 had a motion to state in the CEC that if the wind
8 project -- wind facility was not approved by the County,
9 they would not build the stretch of the line that the CEC
10 covered to service that.

11 MEMBER DiCICCIO: And this is why age
12 matters. You're a lot younger than me. You remember a
13 lot better. And I know because you and I had that
14 conversation.

15 But, thank you, Mr. Chair. I'm done.

16 CHMN STAFFORD: All right. Let's get
17 the --

18 MEMBER LITTLE: Mr. Chairman?

19 CHMN STAFFORD: One second.

20 Before we keep the questions going, I want
21 to get through the exhibits and see which ones are going
22 to be withdrawn and which ones admitted so we don't
23 forget to do that and have them not be in there.

24 MEMBER LITTLE: Mr. Chairman, can I ask
25 Mr. Resare to clarify, because Member Hill and I heard

1 different things that he said about --

2 (Cross-talk.)

3 MEMBER HILL: -- only one brain.

4 MEMBER LITTLE: Right. Except now we don't
5 know anything.

6 CHMN STAFFORD: So now it's as clear as
7 mud.

8 MEMBER LITTLE: Right.

9 CHMN STAFFORD: All right. Please.

10 MEMBER LITTLE: Did you say that you
11 believe that under the new ordinances that a CUP on State
12 Land will be required or will not be required? And I
13 understand you can't say for sure.

14 MR. RESARE: I didn't address State Land
15 specifically, but I did say that any kind of wind or
16 solar or any kind of power project similar to that will
17 be requiring a CUP, so --

18 MEMBER LITTLE: Thank you.

19 MR. RESARE: -- I assume if it's partially
20 built or entirely built on State Land that since it's
21 within the County, that would also include that. So,
22 sorry, I didn't clarify that before.

23 MEMBER LITTLE: No, I think you did. I
24 just heard it wrong, and Member Hill was correct.

25 CHMN STAFFORD: All right. So,

1 Mr. Derstine, I believe CG-43 is the proposed amendment
2 to the zoning ordinance with Apache County?

3 MR. DERSTINE: Yes, and that was simply
4 informational to underscore the fact that the County is
5 undergoing a process to reevaluate and amend its
6 renewable energy ordinance.

7 CHMN STAFFORD: All right. And that -- so
8 let's -- we'll admit CG-43.

9 (Exhibit CG-43 was admitted into evidence.)

10 CHMN STAFFORD: But under the terms of the
11 zoning changes, none of them would contemplate -- my
12 understanding is currently right now the transmission
13 line is a permitted use. There's not an additional
14 permit need from the County to construct the transmission
15 line?

16 MR. DERSTINE: That's my understanding.

17 CHMN STAFFORD: Is that the County's
18 understanding as well?

19 MR. RESARE: Yes, Chairman. We're aware of
20 this board's ability to put those lines in, and you know,
21 the State specifically gave this board power to do that,
22 so taking any of that away, I think, is not really the
23 purview of a County to do. So making that rule I don't
24 even think would be applicable anyway. If you're telling
25 us we can do that, maybe that's a whole different story,

1 though.

2 CHMN STAFFORD: No, I'm just making sure
3 we're all on the same page of what the line is for the
4 transmission line, which is the subject of this hearing.
5 And then you also have, let's see, you have the plans,
6 the comprehensive plan for the counties, and the plans
7 for the towns of Springerville and Eagar.

8 Did you intend to move to admit those
9 or --

10 MR. DERSTINE: Yes, I think Mr. Casteel
11 covered those. There was some, I think based on the
12 limited appearances of Eagar and Springerville, they were
13 noting the existence of their general plans. And
14 Mr. Casteel addressed the boundaries of those plans, and
15 that those plans do not impact this -- the
16 interconnection project.

17 CHMN STAFFORD: Okay. All right. So
18 Exhibit CG-42, the Apache County Comprehensive Plan is
19 admitted. CG-44, the Town of Springerville General Plan
20 is admitted. CG-45, the Town of Eagar General Plan is
21 admitted. CG-46, the Town of Eagar General Plan Land Use
22 Map is admitted. I think we already discussed CG-47, the
23 interconnection project notification boundary map, that's
24 admitted. CG-48 is the letter from Matthew Fish,
25 director of Apache County Community Development, that's

1 admitted. That's already in the docket and the
2 commissioners have already all seen that.

3 (Exhibits CG-42 and CG-44 through CG-48
4 were admitted into evidence.)

5 CHMN STAFFORD: What about the rest of your
6 exhibits, Mr. Derstine? I don't think we talked about
7 those. Well, I guess CG-51, that's already a part of the
8 record, so that doesn't need to be admitted, because
9 that's the CEC that we issued, so would you withdraw that
10 one?

11 MR. DERSTINE: Sure. It's of the record,
12 it's in the docket. It doesn't need to be an exhibit.

13 CHMN STAFFORD: Okay. So that leaves 49,
14 50, 52, and 53 to cover.

15 MR. DERSTINE: As to 49, that was simply
16 there to address, as Member Little raised the questions
17 about FAA regulations and how they may or may not impact
18 the interconnection project. I think we established
19 what's contained there in those regulations are the
20 structure height below 200 feet don't require FAA
21 approval. I will note that during the construction
22 phase, the applicant may use cranes that are of a
23 sufficient height that they need temporary approval for
24 that during the construction phase, but that's an
25 intermittent or short-term requirement, and they will, to

1 the extent that FAA approval is required to utilize these
2 cranes during the construction phase, they will obtain
3 that. But as to the structures themselves, they don't
4 require FAA approval.

5 CHMN STAFFORD: Right. I believe Member
6 Little asked about expiration before, because FAA
7 regulations and approvals will be -- those are germane to
8 the wind facility, but not to the transmission line.
9 That's my recollection of the testimony.

10 MEMBER LITTLE: That's correct. Thank you.

11 CHMN STAFFORD: All right. So CG-49 is
12 admitted.

13 (Exhibit CG-49 was admitted into evidence.)

14 CHMN STAFFORD: And then CG-50, is that a
15 subset of CG-41?

16 MR. DERSTINE: Yes, it's a subpart. It's
17 already contained, I think, in what we have. We included
18 the entire zoning ordinance in 41. 50 relates
19 specifically, I think, to the renewable energy ordinance
20 and the various provisions, including, I think -- well,
21 yes, 445 and some of the items, the subparts that we
22 discussed. So I don't know that we need to separately
23 move 50.

24 CHMN STAFFORD: Well, I'll admit it for
25 ease of reference, because that's kind of what zeros in

1 on the more relevant portion for the --

2 MR. DERSTINE: That's fine.

3 CHMN STAFFORD: -- energy portions of
4 the wind and solar facility, not so much the transmission
5 line. So CG-50 is admitted.

6 (Exhibit CG-50 was admitted into evidence.)

7 CHMN STAFFORD: What about 52 and 53?

8 MR. DERSTINE: No need to admit
9 those -- move those at this time.

10 CHMN STAFFORD: Were they filed in the
11 docket?

12 MR. DERSTINE: They were.

13 CHMN STAFFORD: All right. So are you
14 withdrawing those or did you want them admitted?

15 MR. DERSTINE: I think, in line with the
16 fact that the other items that are part of the docket and
17 part of the record there, I don't think they need to be
18 admitted as exhibits here.

19 CHMN STAFFORD: Okay. So 52 and 53 are
20 withdrawn, then.

21 All right. And that covers all the
22 applicant's exhibits. Does that conclude the applicant's
23 direct testimony?

24 BY MR. DERSTINE:

25 Q. I think -- did you want to -- before we conclude

1 our direct case, I think Mr. Rieman wanted to speak to --
2 one of the questions was utilities that may serve this
3 area of Apache County. So I think they've run that down.
4 And then I think it was important to speak to, I guess,
5 going to Member DiCiccio's comments and good questions
6 about what are we doing to address concerns over the wind
7 and the solar project, although those issues are not
8 necessarily before the committee, I think it's worth
9 having Mr. Rieman speak to that. And he's willing to
10 provide you some additional information.

11 A. (MR. RIEMAN) Mr. Chairman, Members of the
12 Committee, in response to the comments made, I think we
13 have been engaged with the public, consistent with what
14 Ms. Ambrose said in terms of the meetings that we've held
15 with the public and with Town officials, et cetera. With
16 those meetings we have been absorbing the information,
17 and we have, you know, a tracker where we're tracking all
18 the public comments that have been made and the responses
19 to those comments. So we have been absorbing the
20 information and taking that back internally and
21 evaluating it.

22 With respect to the interconnection project, as
23 you will recall, in October, as part of the testimony, we
24 had evaluated three different routes associated with the
25 line. And so we ultimately settled on the one that we

1 focused particularly on yesterday, and it was on the
2 placemat in front of you.

3 And with one of the lines where we attempted to
4 co-locate the interconnection project with an existing
5 69-kV line that I believe is owned by TEP that resides on
6 a Navopache-owned easement, we had a meeting and
7 attempted to find opportunities where we could minimize
8 the impact associated with the line, and we were unable
9 to come to an agreement with that opportunity, and so
10 that resulted in us having the line that has been
11 presented yesterday in the application.

12 As it pertains to the wind project, you know,
13 since October we have been evaluating not only the siting
14 of the interconnection project, the location of the line,
15 the location of the project substations based on the
16 public comment that we've received not only during that
17 process, but in subsequent filings and comments that have
18 been submitted to the docket.

19 And so, in that process, we have evaluated
20 several design characteristics of the project, namely the
21 type of turbine that we have been currently
22 contemplating. We're evaluating a possibility of
23 increasing the nameplate capacity of the wind turbine so
24 that we would be able to reduce the number of turbines
25 within the project footprint.

1 We've also been evaluating design changes where
2 we would be able to set back further from Highway 60 to
3 help minimize the impact from a visual perspective for
4 folks that use that route for transportation. And then
5 we've been also identifying opportunities where we could
6 also re-site the turbines to minimize visual impact in
7 other areas of the project as well.

8 And so we've been actively engaged in the
9 exercise. It is quite an extensive process, just
10 recognizing the engineering design that goes into that
11 process, working within the constraints that we have
12 identified from an environmental, engineering, and from
13 an energy assessment perspective, given the wind resource
14 in the area. And so we're actively engaged in that
15 activity.

16 And we felt, given this process and the general
17 feedback that we received from the public, that we would
18 be best served to have answers to a lot of the comments
19 and questions that have been raised with respect to the
20 project to ensure that we had the most constructive
21 conversations possible with the public and with the Town
22 and County officials.

23 And so, with that exercise that's ongoing, it's
24 our estimation within the next four to six weeks, we'd be
25 able to be in a position to have concerted constructive

1 conversations with the public where we would be able to
2 share design changes that we are contemplating, share
3 that with the public, get their feedback, and continue to
4 tweak in order to try and find the most compatible
5 project that we can.

6 Certainly appreciate Member DiCiccio's comments
7 that compromise can be challenging and we may not be able
8 to recognize compromise on all fronts, but we are
9 hearing, listening, and absorbing what we've heard in
10 October, what's on the docket, what we heard yesterday,
11 and we'll continue to incorporate those comments and
12 feedback into the project design, to the extent that we
13 can.

14 MEMBER COMSTOCK: Mr. Chairman?

15 CHMN STAFFORD: And who are the electrical
16 providers for the area?

17 MR. RIEMAN: My apologies. Chairman,
18 Members of the Committee, it is Navopache and APS.

19 CHMN STAFFORD: Member Comstock?

20 MEMBER COMSTOCK: Thank you, Mr. Chairman.

21 Can you remind the committee, and
22 specifically myself, what is your anticipated start of
23 construction should you receive approval for the CEC?

24 MR. RIEMAN: The project construction
25 schedule will be contingent on the County process, which

1 is applicable, so as we are currently contemplating the
2 project, ideally we would be in a position to start
3 construction sometime in 2027.

4 MEMBER COMSTOCK: Q1 or Q4?

5 MR. RIEMAN: Likely Q2, just given the
6 weather constraints in the area, we would ideally start
7 construction sometime in the spring when the weather
8 breaks.

9 MEMBER COMSTOCK: Okay. Thank you.

10 MR. RIEMAN: And that's largely driven in
11 an effort to comply with the federal Production
12 Investment Tax Credit program that's currently in place.

13 CHMN STAFFORD: Member Fontes?

14 MEMBER FONTES: Yes, Mr. Chairman.

15 Can you remind us if you have an offtake
16 contract?

17 CHMN STAFFORD: Can you turn him up,
18 please, I can barely hear him.

19 MEMBER FONTES: Repeating the question.

20 Can you remind the committee members and the Chairman if
21 you have an existing offtake contract for the solar and
22 for the wind? What are the status for both?

23 MR. RIEMAN: Mr. Chairman, Members of the
24 Committee, the wind and the solar project do not
25 currently have a Power Purchase Agreement in place.

1 Currently there is an APS RFP that is soliciting
2 proposals, and we're actively working internally to
3 participate and submit a proposal on that RFP
4 opportunity, and then it is our understanding that TEP
5 will be coming out with a RFP very shortly. Then also
6 we're engaged with other potential offtakers for the
7 solar and wind energy for the projects.

8 MEMBER FONTES: So the sole commercial
9 justification for starting construction is exclusively
10 limited to tax credits; is that correct?

11 MR. RIEMAN: That is the key driver, but I
12 would not say the sole driver for the offtake strategy
13 for the project.

14 MEMBER FONTES: Can you point to Repsol
15 projects where you have started construction without
16 offtake contracts?

17 MR. RIEMAN: Under the IRS guidelines, we
18 have started construction from an off-site perspective in
19 order to secure tax credits, so we have purchased main
20 power transformers, which is a recognizable methodology
21 for off-site physical construction to preserve the tax
22 credits for this particular -- for the solar and the wind
23 projects.

24 MEMBER FONTES: The question -- let me
25 rephrase it -- do you have other projects where you don't

1 have a PPA that you've started construction on, other
2 than just procurement aspects, because I understand you
3 can do procurement for tax credit that are sunseting and
4 you've done that, you stated that. But have you started
5 construction, material construction, notice to proceed
6 where you don't have the EPC contract and can you name
7 the project?

8 CHMN STAFFORD: Member Fontes, did you mean
9 shovels and dirt construction, as opposed to
10 construction, meaning buying equipment that's necessary?

11 MEMBER FONTES: Yes, I'm talking about the
12 C in the EPC, Mr. Chairman.

13 MR. RIEMAN: Mr. Chairman, Members of the
14 Committee, to date we have not started construction on a
15 project without a PPA.

16 MEMBER FONTES: So it's reasonable to
17 assume that you don't have a precedent for starting
18 construction, physical construction, on a project without
19 a PPA?

20 MR. RIEMAN: Mr. Chairman, Members of the
21 Committee, that is correct.

22 MEMBER FONTES: I want that known for the
23 record for my fellow members. That's an important detail
24 here.

25 MEMBER COMSTOCK: Mr. Chairman?

1 CHMN STAFFORD: Yes, Member Comstock.

2 MEMBER COMSTOCK: Mr. Resare, can you give
3 me a timeline on what it looks like for the Board of
4 Supervisors to go through the revision process, bearing
5 in mind that we just heard that Q2 of '27 is the
6 construction start date?

7 MR. RESARE: I think in Mr. Fish's
8 testimony yesterday he was anticipating it going before
9 the Board of Supervisors in, I believe it was May of
10 this -- this year. And I guess it would depend on
11 whether or not they liked how it looked at that point.
12 If they approve it, then I would say May. If they don't,
13 then I don't know what it would be after that, but I
14 wouldn't anticipate it being too many changes at that
15 point, so I would say sometime in summer.

16 MEMBER COMSTOCK: Mr. Chairman?

17 CHMN STAFFORD: Yes, Member Comstock.

18 MEMBER COMSTOCK: Mr. Resare, if that
19 occurs, does it require the revision of the ordinance to
20 go before the voters of Apache County or is it simply a
21 vote by the Board of Supervisors?

22 MR. RESARE: No, Member, it would be just
23 for a vote of the Board of Supervisors, and so once
24 that's passed, I think there was a 90-day period where it
25 would come into effect after that 90 days.

1 MEMBER COMSTOCK: I'm trying to count on my
2 fingers the dates there. You're looking at May for the
3 tacit approval by Board of Supervisors, 90 days after
4 that is September?

5 MR. RESARE: Yes, sir.

6 MEMBER COMSTOCK: And then the applicant
7 would be required to come to Apache County for the CUP at
8 that point, should the ordinance change?

9 MR. RESARE: They would need to go through
10 that process if they hadn't already come under the
11 current ordinance. And if they came after that ordinance
12 was done, they'd have to follow the procedures of that
13 new ordinance at that point, yes.

14 MEMBER COMSTOCK: And the applicant
15 understands that?

16 MR. RIEMAN: Mr. Chairman, Members of the
17 Committee, yes, we understand that, and we would not
18 start -- to be clear, we would not start construction
19 without the requisite approvals from the County.

20 MEMBER COMSTOCK: Thank you, Mr. Chairman.

21 CHMN STAFFORD: Thank you.

22 Member Fant?

23 MEMBER FANT: Thank you, Mr. Chair.

24 We may have covered this, I can't remember.

25 Does the proposed transmission line cross the main flight

1 path for Springerville Airport? Does anyone know? Did
2 we talk about that? That was raised in the --

3 CHMN STAFFORD: I think we did last year.

4 MEMBER FANT: Can someone refresh my memory
5 what we said or what we talked about?

6 CHMN STAFFORD: I don't have the transcript
7 in front of me, but I'll look at the applicant's
8 witnesses.

9 MR. CASTEEL: I will take a look at the
10 transcript, but what we discussed yesterday was the
11 structures will be less than 200 foot tall. And I think
12 what we also wanted to say is the airport is over six
13 miles away from the interconnection project, so it's well
14 outside of what the FAA considers an obstruction in order
15 to get to that 200-foot guidance. But I'll take a look
16 at the transcript and see what we discussed.

17 MEMBER FANT: Thank you.

18 CHMN STAFFORD: So based upon what you just
19 said now, the towers are all less than 200 feet so
20 they're not subject to FAA regulations and the towers
21 would all be six miles away from the airport. How -- I'm
22 not a pilot, so I don't know, but I'm going to venture to
23 guess that a plane landing six miles away wouldn't be at
24 200 feet on the approach at six miles away?

25 MR. CASTEEL: I'm also not a pilot, but

1 going off the AA -- FAA guidelines, it was not a hazard.

2 CHMN STAFFORD: Okay.

3 Member Fant?

4 MEMBER FANT: One more -- one more

5 question, Mr. Casteel. Will there be lighting required
6 on the line because of the airport?

7 MR. CASTEEL: No. Well, there's no lights
8 proposed on the structures -- the interconnection project
9 structures, there's no lighting proposed.

10 CHMN STAFFORD: All right. Thank you.

11 Back to your exhibits, Mr. Derstine, are
12 you sure you don't want to admit CG-52? That's the
13 letter from a County -- a Navajo County Supervisor in
14 support of the transmission line.

15 MR. DERSTINE: I am happy to have it
16 admitted. My thought was it's part of the docket. It
17 was filed in advance of the open meeting. It was there
18 for consideration by the Commission, along with the
19 letter from Mr. Fish. Mr. Fish's letter got all the
20 attention. It just seemed to me that, given that we're
21 treating various items that are in the docket as part of
22 the formal record and don't need to be moved as exhibits,
23 but I'm happy to move Exhibit 52 and 53.

24 CHMN STAFFORD: All right. Well, 52 is
25 admitted. It seems appropriate, given that we've already

1 admitted, as a hearing exhibit, the letter from Mr. Fish,
2 so --

3 MR. DERSTINE: Very good.

4 (Exhibit CG-52 was admitted into evidence.)

5 CHMN STAFFORD: Thank you. All right.

6 Does that conclude your direct case? And
7 are your witnesses available for cross-examination?

8 MR. DERSTINE: That concludes our direct
9 case. The witnesses are available for cross-examination.

10 CHMN STAFFORD: Thank you.

11 Mr. Resare, do you have any questions for
12 the applicant's witnesses?

13 MR. RESARE: Just one or two, if that's all
14 right.

15 CHMN STAFFORD: Please.

16

17 C R O S S - E X A M I N A T I O N

18 BY MR. RESARE:

19 Q. All right. And I'm not sure if this one would
20 be for Mr. Rieman or Ms. Ambrose, but I guess you guys
21 can take your pick on who wants to answer it. But we've
22 obviously had a lot of the public coming in and
23 expressing their views and you said you've talked to the
24 public a lot. I think Mr. Rieman mentioned that after
25 listening to some of their comments that there's a

1 possibility of some changes, they're contemplating
2 changes, they're reviewing changes, they're evaluating
3 all of these things. And so I guess my question would
4 be, has there been actual -- any changes made based on
5 public comment up to this point or on this specific line?

6 A. (MR. RIEMAN) Yes, we've been evaluating changes
7 to the wind project in terms of locations of the
8 infrastructure, based on the feedback that we received
9 from the public. As I mentioned, we're continuing to
10 evaluate different areas and opportunities where we can
11 do that. So we have not formally shared any changes with
12 the public to date. That process is still ongoing.

13 Q. And I don't think I was referring to the wind
14 project, I was referring to this line specifically.

15 A. (MR. RIEMAN) Yes, we're evaluating potential
16 changes to the line as well that may reside within the
17 corridor that's before the committee in this application.

18 Q. So you said evaluating it, have any changes been
19 made based on public comment?

20 A. (MR. RIEMAN) As I mentioned in my remarks, we're
21 still in the process of evaluating potential changes.

22 Q. Is that a no, then?

23 A. We're still in the process.

24 Q. Thank you.

25 I think that was the only question that we had.

1 Thank you.

2 CHMN STAFFORD: Quick follow-up, though. I
3 mean, I don't recall any public comment that were looking
4 for changes to the transmission line, other than to not
5 build it at all. Do you recall any specific -- it would
6 be one thing if they were suggesting, oh, you're going to
7 do weathered steel, no, we prefer the dull galvanized.
8 That seems like a constructive criticism or constructive
9 feedback of something to change. You're not proposing
10 any changes to the route, because the corridor is what
11 the corridor will be. What types of changes could the
12 public suggest other than the finish of the poles, I
13 mean, and placement within the corridor itself?

14 MR. RIEMAN: Yeah, so we're evaluating the
15 finish of the poles, as well as potential changes of
16 location of the project substations within that corridor
17 to potentially minimize impacts from that perspective.

18 CHMN STAFFORD: Okay. So the location of
19 the project substation would be more relevant than the
20 actual placement of the poles themselves?

21 MR. RIEMAN: Correct.

22 CHMN STAFFORD: Any follow-up?

23 MR. RESARE: No follow-up, thank you.

24 Mr. Anable, do you have any questions for
25 these witnesses?

1 MR. ANABLE: I do.

2 CHMN STAFFORD: Please get the mic in front
3 of you.

4 MR. ANABLE: Yeah, I need the microphone.
5 I do have questions. Thank you.

6

7 C R O S S - E X A M I N A T I O N

8 BY MR. ANABLE:

9 Q. Let's start with Ms. Ambrose.

10 All right. On your application, in the
11 introduction on the second-to-last paragraph, you mention
12 project engineering design will be finalized in the
13 detail design phase after land negotiations and
14 permitting are complete.

15 Do you have a preliminary engineering design?

16 A. (MS. AMBROSE) Yes, Mr. Anable, we do. We have a
17 15 percent design at this point, and that's what we've
18 used to come to the committee today.

19 Q. And has that preliminary design been uploaded to
20 the docket so we can see it?

21 A. (MS. AMBROSE) No, I don't believe -- I think we
22 just have the corridor and the general route at this
23 point.

24 Q. So the public doesn't get to see the preliminary
25 design. Okay.

1 Intro, page 3, on the second paragraph under
2 "Purpose and need," you say, "The Lava Run Solar and Wind
3 Projects will add significant new generation of storage
4 capacity to help address Arizona's growing energy needs,"
5 but you don't have a PPA for Arizona service, correct?

6 A. (MS. AMBROSE) That's correct. We do not have
7 PPAs at this point in time for the wind and solar
8 projects, but we are actively engaging in RFP processes
9 with utilities right now.

10 Q. So is it fair to say that you're going to
11 address Arizona's needs when you don't have a Power
12 Purchase Agreement with anybody in Arizona yet?

13 A. (MS. AMBROSE) Our preferred customers are in
14 Arizona.

15 Q. But you could sell it elsewhere? You could do a
16 PPA with any state, any utility?

17 A. (MS. AMBROSE) Not easily, no. That's why our
18 preferred customers are in Arizona.

19 Q. Well, I think it was a yes or no. You could
20 sell it elsewhere, right?

21 A. (MS. AMBROSE) We could. It would not be our
22 preferred route, though.

23 Q. Okay. Thank you.

24 Intro page 4, the first sentence after the
25 bullets you say that, "Constructing the interconnection

1 project near the existing Springerville Substation will
2 help consolidate energy infrastructure, minimize overall
3 impact of the interconnection project," but just the line
4 will stretch almost 29 miles to the west, is that near
5 the substation?

6 A. (MS. AMBROSE) Not the entire corridor, no. But
7 the portion that is the point of interconnection, which
8 will have more infrastructure associated with it, will be
9 at the generating station, so --

10 Q. So only part of it will be near the substation?

11 A. (MS. AMBROSE) Yes.

12 Q. All right. Okay. Let's see, at the last
13 hearing I believe he was an employee of Repsol, a guy
14 named Troy Patton -- Trey Patton, he spoke that --
15 something about they were doing boring for the pole
16 locations as the meeting was happening; is that correct?

17 Do you remember that?

18 A. (MS. AMBROSE) Yeah, I looked back at that
19 testimony as Monica flagged that in her limited
20 appearance letter. He stated that we were doing staking
21 for the boring exercise that ultimately informs the
22 geotechnical work, so we did not begin any boring and
23 have not done that, but have began staking.

24 Q. Okay.

25 CHMN STAFFORD: Mr. Anable, I'm going to

1 ask you to wait until she finishes her answer before you
2 start asking the next question, please.

3 MR. ANABLE: Okay. Thank you. I'm not an
4 attorney --

5 CHMN STAFFORD: I know, that's why --

6 MR. ANABLE: That's why I'm having a hard
7 time acting like one.

8 CHMN STAFFORD: That's why I'm giving you
9 some slack. But it's very difficult for the court
10 reporter if you two are talking over each other, so you
11 will ask your question, she will wait until you finish to
12 start her answer, and then when she finishes talking, you
13 can ask the next question or clarifying question,
14 whatever you want.

15 MR. ANABLE: I'll try to do better. Thank
16 you.

17 Q. Let's see, do you have a right-of-way or
18 right-of-entry for this transmission line from the Land
19 Department?

20 A. (MS. AMBROSE) We do have an active right-of-way
21 application with the State Land Department specifically
22 for the gen-tie line and separately for the wind project.

23 Q. So just applications, not finalized documents?

24 A. (MS. AMBROSE) No, not finalized at this point.

25 Q. Okay. Let's see, Trey Patton also mentioned

1 fire emergency response plans; do you remember that?

2 A. (MS. AMBROSE) Yes, that's correct. Do you have
3 a question associated with them?

4 Q. Yes. Are those plans available? Have they been
5 uploaded to the docket?

6 A. (MS. AMBROSE) They're not in the docket, but
7 they're on our public website and you could view it
8 there. But those are specifically for the wind and solar
9 projects at this point.

10 Q. They're not for the interconnection project?

11 A. (MS. AMBROSE) No, but we will develop one for
12 the interconnection project.

13 Q. Okay. I think that's all I have for you,
14 Ms. Ambrose.

15 Now for Mr. Casteel. In the application, I'm
16 calling it C-2, is that a page number? Let me look here
17 real quick. Yeah, there must be a page number. C-2.
18 Let's see, under -- pardon me, there's C-2. In the
19 middle of that page there are a number of survey studies
20 mentioned, there's a reconnaissance visit, there's two
21 years of avian use surveys, there's raptor nest surveys,
22 there's two years of passive bat acoustic monitoring,
23 there's a Gunnison prairie dog colony survey, aquatic
24 resources inventories, and native plant inventories.

25 Have any of those been uploaded to the docket

1 for me to look at?

2 A. (MR. CASTEEL) No, they're not -- no, they're not
3 available in the docket.

4 Q. You don't think the public would be interested
5 in seeing those surveys?

6 A. (MR. CASTEEL) Those reports were specifically
7 done for the wind facility, but those reports were used
8 by SWCA and the applicant to develop the exhibits that
9 are provided in the application.

10 Q. Okay. But wouldn't the public benefit from
11 seeing the results of these studies?

12 A. (MR. CASTEEL) Again, those reports are specific
13 to the wind facility. And some of it doesn't apply to
14 the interconnection project, but what does apply was
15 provided in the application exhibits.

16 Q. I guess I'm not understanding you. Was the
17 public able to see these studies as they pertain to the
18 interconnection project at all?

19 A. (MR. CASTEEL) They were not posted to the docket
20 and as far as I know, they have not been shared with the
21 public, no.

22 Q. Might there be information in there that the
23 public could glean and better their comments to this
24 committee?

25 A. (MR. CASTEEL) What is relevant is displayed in

1 the application by our biologist from SWCA. Anything
2 else is not relevant to the interconnection project.

3 MEMBER HILL: Mr. Chair?

4 CHMN STAFFORD: Member Hill.

5 MEMBER HILL: Can I ask a similar question?
6 Do -- are those types of studies shared with Game & Fish,
7 so that Game & Fish can actually prepare the letter of
8 comment that we receive? What data do you share with
9 Game & Fish? I think that's more important. I'm
10 actually kind of sensitive about that kind of data being
11 transmitted to the public just because some species are
12 kind of sensitive or we have concerns about, but I am
13 concerned that Game & Fish does get to review some of
14 that data.

15 MR. CASTEEL: Yeah, the -- so we've done
16 extensive work with Game & Fish, we covered that at the
17 hearing. I just have some dates in front of me that the
18 applicant's been doing outreach since 2022, including
19 these surveys. We've had numerous discussions with Game
20 & Fish, and they're aware of our findings and
21 those -- the mitigation measures that were provided in
22 Exhibit H and that we carried forward, and I think you
23 helped --

24 MEMBER HILL: Yup.

25 MR. CASTEEL: -- pull a few into the

1 approved CEC, so -- again, I understand the question of
2 why are those reports not available, but they've -- we've
3 worked with Game & Fish and any relevant information has
4 been pulled into the application. And I think we've done
5 a great job about pulling forward mitigation measures and
6 minimization measures into the proposed CEC. So the
7 interconnection project, our impacts are avoided or
8 minimized.

9 MEMBER HILL: But the wind and the solar is
10 completely separate and a separate conversation that
11 you're having with Game & Fish?

12 MR. CASTEEL: Yeah, that's a separate
13 conversation, because there's different issues.

14 MEMBER HILL: Yeah, okay. Sorry, I just
15 wanted to clarify the Game & Fish piece.

16 MR. CASTEEL: But just one quick note.
17 Yes, all those reports have been shared with Game & Fish,
18 so they are aware. And that's, again, how we've been
19 able to develop the mitigation measures that are
20 applicable and help reduce impacts from the
21 interconnection project.

22 BY MR. ANABLE:

23 Q. Maybe you don't understand my concern. The
24 public is diverse, all right, in terms of the types of
25 people that are out there. There might be bat experts

1 out there that have interest in this project, for
2 example. And they might have liked to see your survey
3 results to make sure you did the surveys correctly and,
4 if not, they could have commented that perhaps there was
5 a problem, that's just as an example.

6 So I'm -- that's why I'm asking, why weren't
7 those made available to the public, might the public have
8 been able to make use of them?

9 A. (MR. CASTEEL) Again, I would just say that those
10 reports are specific to another project, and they're
11 not -- they're not relevant to what -- to this
12 application. The entire report is not relevant to this
13 application. And it's -- again, we've pulled -- we've
14 pulled the necessary information forward to provide a
15 great analysis for the interconnection project. I
16 understand your question. I, again, like those reports
17 are not shared because they're not the interconnection
18 project. They're for another facility.

19 Q. So the eagles flying through there aren't going
20 to hit your guy wires and break a wing? I think it is
21 relevant to the interconnection project.

22 CHMN STAFFORD: That's a statement, not a
23 question.

24 BY MR. ANABLE:

25 Q. Isn't it?

1 All right. We'll move on. Page C-3, you say in
2 the second-to-last paragraph that "there are no important
3 eagle use areas," then it goes on "within the corridor."
4 Correct? It's the last sentence in the second-to-last
5 paragraph.

6 A. (MR. CASTEEL) Excuse me, on C-3?

7 Q. Yeah. "Areas of biological wealth," the first
8 paragraph under that section, the last sentence.

9 A. (MR. CASTEEL) Oh, I see. Yes, there's no
10 nesting that occurs within the corridor. And that's --
11 that's what we were speaking to. There are known eagle
12 occurrences or nesting north and south of the
13 interconnection corridor, but not within the
14 interconnection corridor. Not within the study area.

15 Q. No, the -- you're not talking about nests in
16 that, you're just saying there's no eagle use -- no
17 important eagle use areas in there. They don't fly
18 through there, they don't hunt, they don't fish in that
19 area?

20 A. (MR. CASTEEL) Eagles could certainly cross
21 through the study area, but they're not using it for
22 nesting is what we're referring to.

23 Q. Well, I don't see "nesting" in there, but that's
24 a statement.

25 All right. We'll move on to C-6.

1 CHMN STAFFORD: And you're referring to
2 Exhibit CG-1, the application, Exhibit C to the
3 application, page --

4 MR. ANABLE: Correct. It's page C-6 in
5 that or page C-3 in the application.

6 CHMN STAFFORD: In the application, which
7 is hearing Exhibit CG-1, because we have quite a number
8 of exhibits from several days of hearing already, so I
9 just wanted to make sure the record's clear that you're
10 referring back to the application, which is hearing
11 Exhibit CG-1.

12 MR. ANABLE: Yes, Mr. Chairman. All of my
13 questions pretty much are going to be from their
14 application.

15 Q. Okay. On page C-6, under the "Endangered
16 Species Act," threatened, endangered, proposed
17 under-review species, in that second paragraph you say
18 there are six of the nine species in the range, in the
19 geographic elevational range, and there are three species
20 that are unlikely to occur in the study area, correct?

21 A. (MR. CASTEEL) There are six species that occur
22 in the study area.

23 Q. Yeah, and then you go on to say that three
24 species are unlikely to occur. Is that SWCA's opinion?

25 A. (MR. CASTEEL) Yes. And -- yes, that is SWCA's

1 opinion based on reviewing the data.

2 Q. Okay. And does Game & Fish or U.S. Fish &
3 Wildlife Service concur with that finding?

4 A. (MR. CASTEEL) Our information is based on
5 polling of the IPaC list from Fish & Wildlife Service, as
6 well as the Game & Fish tool. That -- I mean, that is
7 our determination. That is our biologist's determination
8 who have an experience and have worked on this project
9 for multiple years, that those are the species that could
10 occur in the area. And we've provided the analysis for
11 their potential to occur and why they are likely not to
12 occur in the study area.

13 Q. But the question is does either of those two
14 agencies I mentioned concur with your findings?

15 A. (MR. CASTEEL) There is no required submittal to
16 Fish & Wildlife Service to provide concurrence. We rely
17 on their IPaC tool to do so. And we've had meetings with
18 Fish & Wildlife Service to review the wind facility, so
19 we have, you know, a good understanding of what they feel
20 as well, and there's no formal submittal to Game & Fish
21 either, but as I noted, Exhibit H is a full list of
22 mitigation measures.

23 Q. Okay. Let's go on to C-7, Little Colorado River
24 spinedace. That last paragraph, you mention that the
25 species have been documented within 3 miles of the study

1 area both upstream and downstream of the interconnection
2 project's crossing.

3 Have you surveyed for the spinedace at the
4 crossing?

5 A. (MR. CASTEEL) No formal surveys -- no protocol
6 surveys were performed, but we have no effect to the
7 Little Colorado River, because we will not be impacting
8 the Little Colorado River. We are going to span the
9 river, so there's no potential -- other than the
10 potential for turbidity to occur from construction, which
11 we have the best management practices --

12 Q. We'll --

13 A. (MR. CASTEEL) -- to protect against that.

14 Q. We'll get to the sedimentation question in a
15 minute, but my question was, have you surveyed for the
16 spinedace at the crossing?

17 A. (MR. CASTEEL) No, no formal survey has occurred.

18 Q. Okay. Thank you.

19 C-9, the last paragraph, you said that -- and
20 we're talking about the southwestern willow flycatcher
21 here -- you said the -- where the interconnection project
22 crosses the Little Colorado River, habitats are not
23 suitable for breeding, they lack the necessary structure,
24 but then you go on, down into the last sentence and you
25 say, "but breeding individuals may occur up or downstream

1 from the interconnection project if appropriate habitats
2 are present."

3 Do you not know whether or not those habitats
4 are present? I mean, you were very definitive that there
5 weren't breeding habitats at the crossing, but you're
6 very indefinite about the habitats up and downstream from
7 it. Do you not know about those habitats, is that why
8 that statement is so vague?

9 A. (MR. CASTEEL) Our focus of the interconnection
10 project application is the study area. And things like
11 bird diverters that will be installed at the crossing of
12 the Little Colorado River a pass -- if there was a
13 flycatcher to pass through, that is our mitigation
14 measure to ensure that impacts are avoided or minimized.

15 Q. Does the Fish & Wildlife Service concur with
16 just that mitigation measure?

17 A. (MR. CASTEEL) Again, coordination with Fish &
18 Wildlife Service is not necessary for this project, and I
19 will go back to the -- our biologists at SWCA who have
20 worked with Game & Fish to recommend the mitigation
21 measures.

22 Q. We'll get to this again in just a minute.

23 All right. C-10, similar questions for the
24 yellow-billed cuckoo. Again, you were very definitive
25 that there weren't any suitable breeding areas within the

1 habitat area, but then again very vague about whether
2 there was appropriate habitats for them to cross. And it
3 just seems, again, that your -- you're very definitive
4 where you're crossing, but vague about what the habitats
5 are upstream and downstream. It doesn't provide the
6 public a good view of the likelihood that this is going
7 to occur, because you -- you're only answering half of
8 the question that needs to be asked and answered; is that
9 correct?

10 A. (MR. CASTEEL) I disagree with what you're
11 saying. No, we've done extensive analysis on what occurs
12 in the study area and the appropriate mitigation
13 has -- will be installed in the project area, in the
14 interconnection crossing. If -- if for something like
15 this, where if there are species that use the Little
16 Colorado River for migration, we will minimize or avoid
17 impacts if they were to travel up and downstream of the
18 river.

19 Q. Okay. What agency is responsible for threatened
20 and endangered species?

21 A. (MR. CASTEEL) Fish & Wildlife Service.

22 Q. Does the Fish & Wildlife Service concur with the
23 mitigation measures?

24 A. (MR. CASTEEL) It is unnecessary to coordinate
25 with Fish & Wildlife Service for this project. We rely

1 on Arizona State Game & Fish Department, which we have
2 done, to help with the mitigation measures for what I
3 just said, to avoid or minimize impacts from projects.

4 Q. Okay. We are now moving on to C-11. Under
5 bold -- excuse me -- bald and golden eagle protection
6 species -- excuse me -- you say that the -- there is a
7 golden eagle nest within .5 miles of the study area,
8 correct?

9 A. (MR. CASTEEL) There is a golden eagle nest
10 located approximately 5 miles north of the study area,
11 yes.

12 Q. It says .5 miles.

13 A. (MR. CASTEEL) Point 5 miles north of the study
14 area, yes.

15 Q. Correct. On page C-13, under "Little Colorado
16 River," second paragraph -- oh, I'm sorry -- oh, no, C-3,
17 sorry, let's go back to page C-3, not 13. On C-3 -- oh,
18 I've got the wrong page, I'm sorry. Where's C-3? On
19 C-3, under --

20 CHMN STAFFORD: Mr. Anable -- Mr. Anable,
21 we're coming up on 90 minutes for the court reporter, so
22 I think it's -- now's a good time to take a break before
23 we start going on to C-3. So let's take an approximately
24 10- to 15-minute recess, and we'll come back and you can
25 resume your cross-examination.

1 MR. ANABLE: All right. Thank you.

2 (Recessed from 11:27 a.m. until 11:48 a.m.)

3 CHMN STAFFORD: Let's go back on the
4 record.

5 Before we get back to Mr. Anable's
6 cross-examination, we have a number of limited
7 appearances, they've been previously marked. Those five
8 limited appearances are admitted.

9 (Exhibits ANRC-1, LW-2, MB-2, TE-2,
10 and TS-1 were admitted into evidence.)

11 CHMN STAFFORD: Mr. Anable, please continue
12 with your cross-examination.

13 MR. ANABLE: Okay. Thank you,
14 Mr. Chairman.

15 Q. Okay. In the application, page C-11, under the
16 "State-protected native plants," you -- the report says
17 that during preconstruction site visits eight
18 salvage-restricted species were observed within the study
19 area.

20 Does the public not need to know what the eight
21 species were?

22 A. (MR. CASTEEL) I want to verify that we -- I
23 thought we mentioned these in the application, but what I
24 would say is that those state-protected species would end
25 up being subject to the Arizona Native Plant list and

1 then a Notice of Intent would be sent by the applicant
2 prior to construction, so they could be salvaged, if
3 necessary. So that is a public -- that is a public
4 document that is made public by the applicant.

5 But if you're asking the actual plants, let me
6 look at the application, otherwise, they would be known
7 via that Notice of Intent.

8 Q. I didn't see them in there, that's why I asked
9 what were the eight species. I was curious.

10 Okay. Page C-12, under the "Little Colorado
11 River areas of biological wealth," second paragraph, you
12 talk about the sedimentation possibility at the Little
13 Colorado River. And you say you will use erosion control
14 measures as part of a Stormwater Pollution Prevention
15 Plan, has that plan been uploaded to the docket?

16 A. (MR. CASTEEL) No, that would be developed prior
17 to construction.

18 Q. So it hasn't been developed?

19 A. (MR. CASTEEL) No.

20 Q. So we don't really know how you're going to deal
21 with the sedimentation?

22 A. (MR. CASTEEL) A Stormwater Pollution Prevention
23 Plan would be developed prior to construction, an erosion
24 control plan. There's very common methods that are used
25 to prevent sedimentation into water bodies. I would

1 suspect that they would be very similar and it would be
2 developed prior to construction.

3 Q. Might there be someone in the public that has an
4 interest in this project that would want to see your
5 sedimentation plan so they could comment on it to this
6 committee?

7 A. (MR. CASTEEL) Possibly.

8 Q. But they won't have that chance, correct?

9 A. (MR. CASTEEL) Not at this time.

10 Q. Thank you. Okay. Let's see, page C-13, second
11 paragraph under "Other wildlife movement areas and
12 conservation opportunity areas." In the Coyote Creek
13 study area, the second sentence in that second paragraph
14 says that the -- that "available wildlife habitat within
15 this COA would be slightly reduced by the permanent
16 infrastructure of the interconnection project," what is
17 this permanent infrastructure that is going to be put in
18 the coyote watershed?

19 A. (MR. CASTEEL) Can you repeat what section of the
20 application you are referring to?

21 Q. Yeah, it's on page C-13, second paragraph down,
22 second sentence, it says, "Available wildlife habitat
23 within the COA would be slightly reduced by the permanent
24 infrastructure of the interconnection project."

25 What is this permanent infrastructure?

1 A. (MR. CASTEEL) The applicant is proposing to span
2 Little Colorado River and Coyote Creek. It would just be
3 the interconnection project itself, the transmission
4 lines.

5 Q. So are we putting a pole in the watershed or is
6 it just the lines crossing it?

7 A. (MR. CASTEEL) Just the lines crossing the creek.

8 Q. Okay. Thank you. Let's see, okay. Page C-14.
9 Under southwestern willow flycatcher and yellow-billed
10 cuckoo, you mentioned putting in bird diverters over the
11 Little Colorado River, and I think you've already
12 answered before that you don't believe Fish & Wildlife
13 Service has a role in deciding what mitigation you'll use
14 to protect these endangered species; is that correct?

15 A. (MR. CASTEEL) Correct. And I should note that
16 the reason that Fish & Wildlife Service doesn't have a
17 role, which we do use their information to develop the
18 application, is because this project does not have a take
19 under the U.S. Fish & Wildlife Service, and therefore,
20 coordination is not necessary.

21 Q. Okay. We'll revisit this in a minute.

22 Okay. Page C-15 under "State protected native
23 plants," second paragraph down, "Arizona State Land
24 Department requires a native plant inventory be conducted
25 in areas of ground disturbance."

1 Have you uploaded this native plant survey into
2 the -- have you entered it into the docket?

3 A. (MR. CASTEEL) No, it's not in the docket.

4 Q. You don't think the public would have an
5 interest in seeing that inventory?

6 A. (MR. CASTEEL) Again, it's not something that's
7 been made available to the docket, but it's been provided
8 to the Arizona State Land Department as part of the
9 right-of-way agreement.

10 Q. So the public wouldn't be interested in knowing
11 what native plants might be impacted by the project?

12 A. (MR. CASTEEL) Mr. Anable, I'm not sure how to
13 answer your question when it comes to this. I understand
14 that the public has interest in the project, but these
15 things are not typically uploaded to the docket as part
16 of the project, and we did not do so here.

17 Q. Let me maybe explain my background, all right?
18 I spent my entire career working in government land
19 management, State Land Department for a number of years,
20 including as a Commissioner. So native plant inventories
21 are something I'm extremely familiar with. I'd really
22 like to see it, but you don't give me the opportunity,
23 all right? Is that appropriate?

24 A. (MR. CASTEEL) I would just say that we did not
25 provide that as part of the application, but it has been

1 completed.

2 Q. Thank you.

3 A. (MR. CASTEEL) While we have a moment, I'll take
4 a second to answer one of your other questions, so the
5 eight plants that you mentioned that are
6 salvage-restricted in the project area, those are listed
7 on C-25 and Table -- excuse me -- and Table C-2, so I can
8 list them, but otherwise, I would just note that the end
9 of Table C-25 and there's one on C-26, those are the
10 salvage-restricted plants that are located in the project
11 area.

12 Q. All right. I'm not seeing it. So there's, you
13 say in that table it clearly says here are the eight
14 salvage-restricted plants that we found in the survey?

15 A. (MR. CASTEEL) Yes, as the SR.

16 Q. Well, I'll take your word for it. I'm having
17 trouble finding it. We'll move on.

18 CHMN STAFFORD: I'm going to need everybody
19 to get closer to their microphones, please.

20 MR. ANABLE: I'm sorry?

21 CHMN STAFFORD: I'm going to need to have
22 everybody get closer to their microphones. I'm having a
23 hard time hearing either of you up here. So if you can
24 get closer to the microphone and speak more loudly and
25 clearly, that would be highly appreciated. Thank you.

1 MEMBER KRYDER: And slowly.

2 MR. ANABLE: Slowly.

3 MEMBER HILL: Mr. Chair?

4 CHMN STAFFORD: Yes, Member Hill.

5 MEMBER HILL: Just a clarifying question
6 around those species in that table, because I am
7 following along, is that the "flowering plants" label?

8 MR. CASTEEL: Yeah.

9 MEMBER HILL: So those are the species that
10 would be salvageable. Okay, thanks.

11 BY MR. ANABLE:

12 Q. Okay. On page C-16 -- if you recall, we talked
13 about a golden eagle nest being .5 miles away from the
14 study area in a prior question?

15 A. (MR. CASTEEL) Right.

16 Q. On page C-16, third paragraph down, you now say
17 there's golden eagle nests more than a mile from the
18 interconnection project.

19 A. (MR. CASTEEL) The difference would be that
20 .5 miles from the study area, but over a mile away from
21 the project corridor itself.

22 Q. So where the transmission line itself is going
23 to be --

24 A. (MR. CASTEEL) Correct.

25 Q. -- versus the study area?

1 A. Correct.

2 Q. Ah, that's the difference. Okay, I got it.

3 Thank you.

4 All right. Now we're going to go to Exhibit C,
5 the U.S. Fish & Wildlife Service website exhibit. Okay.
6 The second paragraph down, about in the middle it
7 mentions a biological assessment is required for
8 construction projects yada, yada, yada. Do you know if a
9 biological opinion is going to be required for this
10 interconnection project?

11 A. (MR. CASTEEL) No, it will not.

12 Q. Okay. The second page of that, third paragraph
13 down, Fish & Wildlife Service, you know, they kind of
14 warn you that the Migratory Bird Treaty Act and the Bald
15 and Golden Eagle Protection Act are things that they
16 regulate, and that the Migratory Bird Treaty Act protects
17 nests, eggs, et cetera, et cetera, et cetera, and then
18 they go on to say that including disturbing of the eagles
19 requires a permit.

20 Do you need to get that permit from Fish &
21 Wildlife Service?

22 A. (MR. CASTEEL) No. Permits are only necessary
23 for -- for -- with eagle -- sorry -- permits are --
24 sorry -- permits are only necessary if there's no nesting
25 within one mile of a project.

1 Q. So they don't -- they don't consider putting a
2 power line in the middle of their flight path a
3 disturbance?

4 A. (MR. CASTEEL) To comply with MBTA, you do
5 preconstruction surveys prior to construction. And at
6 that time, the applicant will be reviewing the presence
7 of bald eagles, as well as all other avian species that
8 could be nesting, have eggs in the project area, and then
9 there are methods and mitigation measures specifically
10 called out by Arizona Game & Fish Department to either
11 buffer or avoid at that time. But those surveys are
12 specific to timing, and they would be done by the
13 applicant prior to construction to comply with the MBTA.

14 Q. And if there was a finding of disturbance, would
15 you need the permit?

16 A. (MR. CASTEEL) Fish & Wildlife Service offers
17 disturbance permits, but it's unlikely that that would be
18 applicable.

19 Q. Okay. On D-43, third-to-last bullet, you
20 mention a vegetation/habitat restoration plan, has that
21 plan been uploaded to the docket?

22 A. (MR. CASTEEL) No, it has not. And I do not
23 believe that has been prepared yet, but I can verify.

24 Q. So we don't -- the public doesn't get to know
25 what your vegetation habitat restoration plan is?

1 A. (MR. CASTEEL) It is not available.

2 Q. Thank you.

3 All right. Under Exhibit E, "Scenic areas and
4 visual resources," you develop a visual resource
5 assessment, and in the last sentence you're going
6 to -- you say you're characterizing the level of visual
7 modification in the landscape that will result from the
8 construction and operation of the project. And I think
9 there was some public comment on this yesterday. For
10 some reason in all the slides you took, you didn't show a
11 single slide with any of the -- the substations in them.
12 Was there a reason for that?

13 A. (MR. CASTEEL) Just that they're not
14 jurisdictional to this committee.

15 Q. Well, on the bottom of page E-10, in the
16 conclusion, you justified the impacts of your
17 transmission project by pointing to the substations and
18 the power plant as examples that should be weighed
19 against your transmission site. So if you're not going
20 to include a substation, you shouldn't use a substation
21 as your reference, should you?

22 A. (MR. CASTEEL) It -- the -- I'm not sure how to
23 answer your question, Mr. Anable. I would just refer you
24 to the conclusion of the application, and specifically
25 the paragraph that you are citing on E-10.

1 Q. Well, wouldn't the substation be the most
2 noticeable thing along the transmission line route?

3 A. (MR. CASTEEL) That's -- that's subjective. I
4 don't -- I don't believe so. Depending on where you are
5 in the location of the project area, it's a different
6 type of -- different viewers would have different
7 experiences, depending on where you are in the study
8 area.

9 MEMBER HILL: Mr. Anable, to your point,
10 we -- we don't regulate those. It has been a point of
11 frustration for us, because we've wanted to require some
12 mitigation around that, but the legislature made the
13 decision a few years ago that we don't -- and the
14 Commission made the decision that we don't get to
15 regulate those or request mitigation, so I'm hopeful that
16 the County can do some of that when they do that with
17 their process, so thank you for pointing that out.

18 MR. ANABLE: Yeah, I understand you don't
19 regulate that. My point was you justified the impacts of
20 your project by pointing to the substations that TEP has,
21 but you don't use a picture of your substations in your
22 thing, so you shouldn't compare like to like, you should
23 point to some other power lines, not a substation when
24 you're asking the public just to look at your power line,
25 that's my point. Okay. Thank you. I'm kind of tired of

1 that. Let's move on to cultural resources.

2 Q. Let's see, this is E-1, "Historic sites and
3 structures and archaeological sites." And maybe perhaps
4 before I ask the questions, I'll -- I'll give the witness
5 a little bit of an understanding of where I am asking
6 these questions from. I've been around long enough that
7 back when the state museum had a para-archaeology program
8 I was certified as a para-archaeologist. So I have done
9 many, many, many field studies. I've written up many
10 site surveys. And I've done many, many site carts, so
11 I'm very familiar with how cultural resource inventories
12 occur on the land, so keep that in mind as we go through
13 these questions, okay?

14 Page E-1 at the top, you admit that only
15 60 percent has been surveyed. And so this committee has
16 an obligation to consider the archaeology on the site and
17 the impacts to archaeology if only a little bit over half
18 of it's been surveyed and we only have information about
19 a little over half of the area, are they really
20 adequately able to gauge the impact on the cultural
21 resources on this project?

22 A. (MR. CASTEEL) Yes. And there's a lot to discuss
23 here. So I think I'm going to just start with that our
24 approved CEC has SHPO-issued conditions that the ACC has
25 adopted. And those are applicable to this

1 interconnection project. Those conditions include
2 surveying 100 percent of the corridor and then mitigating
3 where necessary. And that's exactly what would happen
4 here, if -- if -- specifically to mitigating, if
5 necessary.

6 Q. So --

7 CHMN STAFFORD: Member Fontes, you have a
8 question?

9 MR. ANABLE: I'm sorry?

10 CHMN STAFFORD: Member Fontes has a
11 question.

12 MEMBER FONTES: I do, Mr. Chairman.

13 On construction, I think a lot of the
14 questions that are being asked are performed on a limited
15 notice to proceed by the EPC contractor in concert with
16 the developer/owner. Many of the items being asked are
17 not done ahead of time, because of the timeliness of the
18 schedule to construction and the impact to the biological
19 resource, the wildlife, and many of these things. So I
20 think what I might suggest, Mr. Chairman, can the
21 developer educate the gentleman asking the questions on
22 the series of events that happened between Repsol and
23 their EPC award, limited notice to proceed, and those
24 preconstruction activities and studies that are
25 formalized and how they've managed them?

1 We've seen this in multiple hearings, and
2 would look for best practices for developers in how they
3 manage their EPC contractors. I think that context is
4 relevant here, because it seems like there's a little bit
5 of frustration. They're good questions, but I think the
6 sequence is out of line here.

7 Just a suggestion, Mr. Chairman.

8 CHMN STAFFORD: Mr. Casteel?

9 MR. CASTEEL: Yeah, on that point, I would
10 say that several of the requests that you made for the
11 NPIs or Stormwater Pollution Prevention Plans, that's
12 exactly right, those will occur closer to construction,
13 when the design is -- sorry, when the design is more
14 final and when the EPC is brought on. But a lot of these
15 studies that you're requesting that the public see will
16 come closer to construction.

17 BY MR. ANABLE:

18 Q. In my opening statement I said --

19 CHMN STAFFORD: Closer to the mic, please.

20 BY MR. ANABLE:

21 Q. In my opening statement I said this application
22 is premature, and I'm showing the public and the
23 committee exactly why it's premature because there's a
24 whole bunch of studies that you have that you know about
25 or that you haven't done that the public hasn't seen, the

1 public doesn't know about, and the public can't comment
2 to this committee on those studies. That's the problem.
3 You're premature -- oops, sorry.

4 CHMN STAFFORD: Member Fontes, you had a
5 question?

6 MEMBER FONTES: I don't want to get into a
7 debate with the gentleman there, but I think in this
8 County on the other projects sited by Mr. Derstine, we've
9 had a number of conditions and I would say that the
10 applicant should probably maybe expand upon his comment
11 there to educate the gentleman in terms of at what point
12 in the EPC contract award and then limited to proceed or
13 notice to proceed are these studies done and then how is
14 that information shared with the public. I'm trying to
15 create an education here, and not have this sort of
16 back-and-forth debate on that.

17 Because I think those things get put out in
18 the public, but the sequencing of them are based upon
19 contractual awards, financing, and other factors. And I
20 think that the developer, the Repsol gentleman, needs to
21 articulate that a little more.

22 CHMN STAFFORD: Are you specifically asking
23 about what surveys will be conducted in conjunction with
24 the execution of the right-of-way or lease with the State
25 Land Department and then additional preconstruction

1 surveys that are done before they actually break ground?

2 MEMBER FONTES: Yes, sir.

3 CHMN STAFFORD: Okay.

4 MR. DERSTINE: I would simply note that
5 Mr. Anable's statement that the application is premature,
6 there is no requirement as to many of the items in the
7 surveys that you're mentioning, Mr. Anable, that they be
8 completed prior to filing the application. For example,
9 the Class III cultural survey under SHPO's guidelines
10 incorporated into the CEC, those must be completed prior
11 to construction, not prior to filing the application.

12 Similarly, these other -- a number of these
13 other studies, the Stormwater Protection Plan, et cetera,
14 those are preconstruction items. They're not required to
15 be completed prior to the application. And so the
16 timing, as Member Fontes points out, the timing is tied
17 to preconstruction as to many of these surveys, and
18 that's important because you want to capture the most
19 recent and current information at the time of
20 construction because that's the greatest impact.

21 These are not requirements prior to filing
22 the application and, therefore, the application is not
23 premature.

24 MR. ANABLE: I disagree.

25 CHMN STAFFORD: Sounds like we're getting

1 into a preview of everyone's closing arguments. Please
2 proceed with the questioning.

3 MR. ANABLE: Thank you.

4 Q. All right. On page E-5 under archaeological
5 sites, the end of that first paragraph you say, "Three of
6 the sites have been recommended as eligible for listing
7 under the Antiquities Act and three sites are recommended
8 as ineligible."

9 Does SHPO concur with that finding?

10 A. (MR. CASTEEL) SHPO and the State Land Department
11 will be provided the full report when it's available, and
12 for concurrence on the findings made by the applicant's
13 archaeologist on the -- for the project. So not at this
14 time, but the report will be provided to SHPO and the
15 Arizona State Land Department for concurrence and review.

16 Q. But that will be after the committee makes their
17 decision, so the committee's not going to know whether or
18 not the SHPO agrees with what you stated in this
19 document, right?

20 A. (MR. CASTEEL) Again, our application's not
21 premature. This is a common process, but --

22 Q. We'll get to that.

23 A. (MR. CASTEEL) -- the SHPO will be provided the
24 report before that occurs.

25 MR. DERSTINE: What happens if SHPO

1 doesn't --

2 MR. CASTEEL: And if SHPO has a difference
3 of opinion on the report, as well as State Land, they'll
4 be reviewing it hopefully concurrently, they will provide
5 recommendations back to the applicant and updates will be
6 made, and their opinion will be incorporated.

7 CHMN STAFFORD: I believe that's standard
8 Condition Number 7 in certificates.

9 MR. CASTEEL: Correct.

10 BY MR. ANABLE:

11 Q. Okay. Maybe we should go right to the heart of
12 the matter. I'll find it.

13 CHMN STAFFORD: If you could please get a
14 little closer to your mic, Mr. Anable.

15 BY MR. ANABLE:

16 Q. Okay. Are you familiar with the State Historic
17 Preservation Act?

18 A. (MR. CASTEEL) I am. I am not an archaeologist,
19 but I am familiar with it.

20 Q. And agencies are responsible to consult with the
21 State Historic Preservation Office before they take
22 actions that may harm eligible resources, is that in
23 general what that act is there for?

24 A. (MR. CASTEEL) Yes, in most cases, correct, yes.
25 This being on State lands, that is absolutely correct.

1 And being a CEC application, that is correct.

2 Q. Will the Arizona Corporation Commission consult
3 with the State Historic Preservation Officer on this
4 project before they issue the CEC?

5 A. (MR. CASTEEL) The applicant has coordinated with
6 the State Historic Preservation Office as part of the
7 application and as reflected in the SHPO -- SHPO letter
8 that's an exhibit in the application, I don't have the
9 number offhand. But we've done that coordination and
10 will continue to do that coordination. As Mr. Derstine
11 pointed out, this report that's being developed must be
12 provided to them prior to construction. But concurred on
13 prior to construction.

14 Q. But the public and this committee doesn't get to
15 see what the SHPO's recommendations are for mitigation
16 until after they've issued the CEC; is that correct?

17 A. (MR. CASTEEL) I guess generally correct. The
18 public is not considered as a part of the consultation
19 process. So, no, the public wouldn't be included as part
20 of the process, but the ACC and the Line Siting Committee
21 has set up a process for that consultation to occur and
22 that's what we are working with here.

23 CHMN STAFFORD: Quick question,
24 Mr. Casteel. The locations of these archaeological or
25 historical sites, are those available to the public or

1 are those subject to confidentiality?

2 MR. CASTEEL: Those are confidential. I
3 think everybody knows that. They are not shared with the
4 public, for obvious reasons. So the report itself can
5 not be shared with the public.

6 CHMN STAFFORD: Unless it's redacted. I
7 think I've seen cases before where we had a report and
8 they said here's -- they talked about the cultural
9 resources they discovered but they redacted the actual
10 physical locations, obviously, to discourage looting?

11 MR. CASTEEL: Correct. The maps are
12 typically redacted, if ever shared with anybody outside
13 of an archaeologist-to-archaeologist consultation.

14 MR. ANABLE: And, actually, that was going
15 to be one of my questions, Mr. Chairman.

16 Q. Which is, in the past I have seen these cultural
17 resource studies presented in a public forum where the
18 location information was redacted. You did not do that
19 for this application, did you?

20 A. (MR. CASTEEL) We certainly did. It's not
21 included in the application. The SHPO letter itself
22 received from -- the letter received from SHPO included
23 maps, but those maps are not in our application.

24 Q. The survey reports were not uploaded to the
25 docket with the location information redacted, were they?

1 A. (MR. CASTEEL) No.

2 Q. Do you think somebody like me with a background
3 in para-archaeology would be interested in seeing those
4 survey results?

5 A. (MR. CASTEEL) If you're an archaeologist, maybe,
6 but no, you're not entitled to that information.

7 Q. I beg your pardon? The location information I'm
8 not entitled to, but I should be entitled to the
9 information about what was found, so that I could
10 reasonably conclude whether or not I agree with your
11 summations of the importance of those artifacts.

12 A. (MR. CASTEEL) The consultation with SHPO
13 contains the available information to date, the
14 applicant's working on the survey report that will cover
15 100 percent of the CEC corridor.

16 Q. After -- after this agency is going to give
17 permission for construction?

18 A. (MR. CASTEEL) We rely on the ACC and their work
19 with SHPO to make sure that archaeology and a Class III
20 survey report for the project is done, as required.

21 Q. Do you know where in statute the ACC has an
22 exemption from consulting with SHPO under the State
23 Historic Preservation Act?

24 A. (MR. CASTEEL) I'm not aware of that.

25 Q. I'm not aware of one either. I thought I'd ask,

1 though. So do you know where in statute an applicant is
2 allowed to consult with SHPO on the behalf of ACC?

3 A. (MR. CASTEEL) Our archaeologists commonly work
4 with SHPO and the State Land Department on reporting, and
5 that's --

6 Q. That's not what I asked. Where in statute does
7 an applicant get to consult with SHPO on the behalf of a
8 State agency?

9 MR. DERSTINE: Mr. Chairman?

10 CHMN STAFFORD: Yes, Member [sic] Derstine.

11 MR. DERSTINE: If I could read from
12 Condition 7 of the CEC for the project. "The issuance of
13 a Certificate by the Commission is a State action
14 pursuant to ARS Sections 41-861 through 41-864, also
15 known as the State Historic Preservation Act. The
16 applicant shall consult with the Arizona State Historic
17 Preservation Office regarding the project and its impact
18 on historic properties. Construction shall not commence
19 until SHPO has had an opportunity to review and comment
20 in accordance with the State Act. The applicant shall,
21 in cooperation with the landowner, complete a Class III
22 cultural survey inventory of the portion of the project
23 corridor that has not been previously surveyed to modern
24 standards. If any historic property will be
25 substantially altered or demolished as a result of the

1 construction or operation of the project, the applicant
2 shall take timely steps to make appropriate documentary
3 recordation in accordance with standards established by
4 SHPO."

5 There's an additional paragraph, Condition
6 8 and Condition 9, that goes on to set forth the
7 obligations of the applicant to coordinate with SHPO and
8 how to handle discoveries of any sort of archaeological,
9 paleontological or historical sites of significant
10 cultural discovery.

11 BY MR. ANABLE:

12 Q. Mr. Casteel, is the CEC a State law?

13 MR. DERSTINE: Object; it's asking for a
14 legal conclusion from this witness.

15 CHMN STAFFORD: Sustained.

16 BY MR. ANABLE:

17 Q. I will ask again. Mr. Casteel, where in statute
18 does an applicant get to consult on behalf of a State
19 agency instead of the State agency itself consulting, as
20 the State Historic Preservation Act requires?

21 MR. DERSTINE: Same objection.

22 CHMN STAFFORD: Sustained.

23 BY MR. ANABLE:

24 Q. Mr. Casteel, assuming that just putting in the
25 CEC a requirement for the applicant to consult on the

1 behalf of the ACC was legally adequate, that's a big
2 assumption, what does the SHPO provide to the applicant?

3 A. (MR. CASTEEL) SHPO -- SHPO and State Land will
4 provide the applicant a concurrence on the report and
5 that concurrence would ultimately allow for construction,
6 because we would need -- we would be satisfying the
7 conditions of the approved CEC.

8 Q. Doesn't the SHPO decide whether or not your
9 determination of registered eligibility is correct and
10 then provide recommendations for mitigation for any
11 cultural resources that would be damaged during
12 construction of the project?

13 A. (MR. CASTEEL) They will. If -- if the
14 conclusions reached in the applicant's survey report are
15 inadequate, then they will provide recommendations that
16 will be adopted.

17 Q. They're recommendations. They are not
18 mandatory. The applicant does not have to accept the
19 recommendations for mitigation by SHPO, neither does the
20 State agency.

21 A. (MR. CASTEEL) I am not familiar with what you're
22 referring to. We would be satisfying the approved CEC
23 issued by the ACC.

24 Q. The State Historic Preservation Act allows the
25 SHPO 30 days to review and comment on the plans of an

1 agency. It is not regulatory. They cannot tell the
2 agency that they must do X, Y, or Z. So the point is,
3 the public will never know whether or not the SHPO
4 recommendations for mitigation of the public's cultural
5 resources are adhered to.

6 What this committee is doing by delegating its
7 authority to the applicant is preventing the public from
8 being assured that the cultural resources will be dealt
9 with in a visible way in the future; is that correct?

10 MR. DERSTINE: Object to the question. I
11 think that's an issue you need to take up with the
12 Arizona Corporation Commission if you're concerned about
13 that issue, Mr. Anable.

14 CHMN STAFFORD: Sustained.

15 MR. ANABLE: All right. I tell you what,
16 I'm ready for my closing arguments. I have more
17 questions to ask, but I think I've made my point.

18 CHMN STAFFORD: All right. You have -- so
19 you're done with your cross?

20 MR. ANABLE: Yes, I am.

21 CHMN STAFFORD: Well, the next stage would
22 be redirect by the applicant.

23 MEMBER HILL: Mr. Chair?

24 CHMN STAFFORD: Yes, Member Hill.

25 MEMBER HILL: I'd like to know how long the

1 redirect is, because I -- it's lunchtime.

2 CHMN STAFFORD: Well, it's going to last
3 for five minutes and then we're going to take our lunch
4 break.

5 MEMBER HILL: Oh, okay. So you're --

6 CHMN STAFFORD: Yeah, we're stopping at
7 12:30.

8 MEMBER HILL: Okay. I just didn't want to
9 break it up. Like I thought this might be a good
10 stopping spot.

11 CHMN STAFFORD: Well, I'm optimistic that
12 the redirect might be five minutes, and we can squeeze it
13 in before lunch.

14 MEMBER HILL: Okay.

15 CHMN STAFFORD: If not, we're going to take
16 lunch and come back and finish.

17 MEMBER HILL: All right. Just as long as
18 we're thinking about lunch at some point, because I
19 didn't eat breakfast today, so I'm sorry.

20 CHMN STAFFORD: Yeah, I don't eat breakfast
21 either, so I'm ready for lunchtime when it rolls around,
22 so --

23 MEMBER HILL: All right. Great.

24 MEMBER KRYDER: Gotta eat.

25 CHMN STAFFORD: Well, actually, it seems

1 like the applicant needs a little time to --

2 MEMBER HILL: That's why I was, like --

3 CHMN STAFFORD: -- discuss what the scope
4 of their redirect would be. So with that, I think,
5 Mr. Derstine, I think before we get to your redirect,
6 unless it's one question, I think it would be appropriate
7 to take our lunch break and come back with the redirect
8 after the lunch.

9 MR. DERSTINE: Sounds like a great idea.

10 MEMBER HILL: Okay.

11 CHMN STAFFORD: Okay. All right. So it is
12 now 12:26. Let's come back at 1:45. Because it's a
13 little bit of a travel to decent lunch places from this
14 location. So we'll recess until 1:45.

15 (Recessed from 12:26 p.m. until 1:50 p.m.)

16 CHMN STAFFORD: Let's go back on the
17 record.

18 Mr. Derstine, I believe we were awaiting
19 your redirect for your witnesses.

20 MR. DERSTINE: Thank you. And I apologize
21 for being late, dawdling outside. It's a nice day. I
22 just have one follow-up with Mr. Casteel.

23 //

24 //

25 //

1 R E D I R E C T E X A M I N A T I O N

2 BY MR. DERSTINE:

3 Q. Mr. Anable had a number of questions about
4 consultations and reports that were prepared in support
5 of the application. To date, has the applicant
6 appropriately coordinated with Arizona Game & Fish and
7 U.S. Fish & Wildlife for the interconnection project?
8 And if the answer to that is yes, can you give us some
9 detail around that?

10 A. (MR. CASTEEL) We've shared our project survey
11 data with Arizona Game & Fish and Fish & Wildlife
12 Service. We've consulted and discussed those survey
13 results with each. And we've incorporated their
14 recommendations into the application.

15 Q. And then as to the timing of other surveys
16 and -- that are required, as spelled out in the CEC, the
17 applicants are obligated to and will perform all those
18 various surveys and make sure they get in the hands of
19 the right agencies; is that true?

20 A. (MR. CASTEEL) Yes.

21 MR. DERSTINE: I have no further questions.

22 CHMN STAFFORD: Thank you. All right.

23 Mr. Resare, you don't have any direct witnesses, do you?

24 MR. RESARE: No, thank you.

25 CHMN STAFFORD: Mr. Anable?

1 R E C R O S S - E X A M I N A T I O N

2 BY MR. ANABLE:

3 Q. Mr. Casteel, on the question --

4 CHMN STAFFORD: Please get close to the
5 microphone.

6 MR. ANABLE: Oh, I'm sorry.

7 Q. On the question you just answered, you said you
8 incorporated all of Game & Fish's comments into your
9 report, however, if you read the Game & Fish comments,
10 they required you or recommended that you do a whole
11 bunch of additional surveys that aren't of record. So
12 are all of those surveys done? I'll try to remind myself
13 what they were, eagle conservation plan, wildlife
14 conservation strategy, surveys for the mountain clover,
15 bird and bat conservation strategy, report on the pinyon
16 jays, eagle risk analysis.

17 Have you done any of those?

18 A. (MR. CASTEEL) No, those would be done prior to
19 construction.

20 MR. ANABLE: That's what I figured. Thank
21 you.

22 CHMN STAFFORD: So you have no direct
23 testimony, Mr. Anable?

24 MR. ANABLE: What was that?

25 CHMN STAFFORD: No direct testimony?

1 MR. ANABLE: No.

2 CHMN STAFFORD: No witnesses to call.

3 Well, I guess there will be no one for the
4 applicant to cross-examine, then.

5 MEMBER HILL: Check that box. Right down
6 the list.

7 CHMN STAFFORD: All right. So I guess
8 there's no need for applicant rebuttal because there was
9 no additional witnesses from the other parties. That
10 brings us now to closing arguments, unless there are
11 additional questions from members before we get to that.

12 MEMBER LITTLE: I have a few questions,
13 Mr. Chairman.

14 CHMN STAFFORD: Please, Member Little.

15 MEMBER LITTLE: And there are just a few.
16 Some of the questions I have are from reading all the
17 documents that I read and listening to the comments and a
18 couple of them are concerns that were expressed by others
19 in the public comment. And I would like to give the
20 applicant an opportunity to respond to those -- those
21 issues.

22 Several people mentioned concern over
23 traffic flow on U.S. 60 during construction. With the
24 long trailers with the big poles and big reels of
25 conductors, and that there is, in particular, one section

1 that I guess gets backed up periodically anyway that's 10
2 miles of a very narrow two-lane road. And I'm wondering
3 if the applicant has a plan for how to -- how to attempt
4 to keep backups from occurring, you know, it was
5 mentioned that, in particular, emergency vehicles would
6 have difficulty getting around all of that if there's a
7 backup.

8 MR. RIEMAN: Mr. Chairman, Committee
9 Members, we will develop a transportation impact
10 analysis, which will evaluate existing traffic patterns
11 on routes where equipment will be delivered, and then
12 we'll also develop a transportation route and haul route
13 plan to help minimize impacts to traffic flows in the
14 area of construction. With that we will work with the
15 County and other relevant jurisdictions on incorporating
16 and sharing that plan with them and developing the haul
17 routes. In conjunction, during construction we will
18 consult with area EMS agencies, as well as local school
19 districts or other public agencies or offices that will
20 have jurisdiction over those areas in order to help share
21 information about when and where we will have enhanced
22 traffic that's associated with the construction of the
23 project and so it's a coordinated effort with the local
24 and County agencies to ensure we're having as minimal of
25 an impact as possible.

1 MEMBER LITTLE: Great. Thank you. I'm
2 glad to have that on the record. Thank you.

3 Also, in a letter from the Town of Eagar or
4 City of Eagar, whichever it is, they mentioned that they
5 felt like there had not been a great deal of
6 communication. Residents of the Hideaway said that they
7 had not been communicated with, and they felt like they
8 had some impact. But there was some mention in the
9 letter from Eagar also that the fire department felt, in
10 reviewing the plan that they had received, and I gather
11 from today's testimony that that was just for the wind
12 farm, not the transmission line, that it was insufficient
13 and undoable by them with their budget.

14 I'm wondering if you could just take a
15 minute to -- to commit to us, if you will, that -- that
16 you will redouble your efforts in those areas with
17 respect to the transmission line.

18 MR. RIEMAN: Mr. Chairman, Members of the
19 Committee, yes, we will coordinate with the Town of Eagar
20 with respect to our emergency response plan, continue to
21 get feedback from them, and incorporate comments to the
22 extent that we can work with them and coordinate on a
23 safe operation of the project.

24 MEMBER LITTLE: Would the applicant be
25 willing to perhaps help subsidize any additional

1 equipment and/or manpower that the fire department --
2 fire departments, I guess there's one Round Valley Fire
3 Department for the two communities, Springerville and
4 Eagar.

5 MR. RIEMAN: Mr. Chairman, Members of the
6 Committee, that's a standard practice that we incorporate
7 at our projects. In our consultation with local fire
8 departments and local EMS agencies, we will work with
9 them to understand the existing equipment that they have
10 at their disposal, and then if there is additional
11 equipment that would be required in order to enhance the
12 services that they're able to provide due to the
13 infrastructure associated with our projects, that we're
14 able to equip those with them.

15 MEMBER LITTLE: And manpower, additional
16 manpower also?

17 MR. RIEMAN: We can work with them on that
18 to determine if that is a need and find out if that's a
19 need and enhance those resources as well.

20 MEMBER LITTLE: Okay. Thank you.

21 In some -- one of the letters that I read,
22 I believe one of the exhibits, a member of the public
23 mentioned geologic field operations plan, which is a
24 State Land Department requirement bef- -- that has to be
25 filed before ground disturbance activities can occur on

1 State lands.

2 Can you address that for me, please?

3 MS. AMBROSE: Member Little, I'm happy to
4 address that for you.

5 MEMBER LITTLE: Thanks.

6 MS. AMBROSE: The GFOP, which is the
7 Geological Field Operations Plan is required by ASLD, but
8 that's only for applications that are mineral related, so
9 mining operations and explorations to that nature. That
10 is not required of renewable energy lease and
11 applications at that time, so --

12 MEMBER LITTLE: Thank you.

13 MS. AMBROSE: Uh-huh.

14 MEMBER LITTLE: Also, ANRCD says in very
15 bold letters that they have only a draft agreement with
16 the applicant, not a formal agreement. Is that still the
17 case?

18 MS. AMBROSE: Member Little, that is the
19 case, absolutely. We still have draft agreements and
20 actually met with Apache NRCD after our October hearing
21 to discuss incorporating some more provisions after that
22 because the interconnection line was actually not in our
23 agreement so we want to include that in there. So they
24 still are in draft form and we intend to cooperate with
25 them and coordinate with them fully for construction and

1 operation of the wind, solar, and interconnection line.

2 MEMBER LITTLE: And what is your feeling
3 about that? Are you getting the feeling that they're
4 generally leaning toward finalizing an agreement or --

5 MS. AMBROSE: Yeah, and it's absolutely on
6 our end right now to incorporate the interconnection line
7 and then following that, we would look to execute that as
8 long as they're in agreeance with all of the provisions
9 in the agreement, so it will be soon.

10 MEMBER LITTLE: It will be done?

11 MS. AMBROSE: Yeah.

12 MEMBER LITTLE: Now, I have one other
13 question or a question about the KOPs. I'm wondering
14 whether there were any KOPs that were identified by SWCA
15 that were then nixed at some point by the applicant?

16 MR. CASTEEL: Yeah, there was other
17 locations that we visited and grabbed photographs of.
18 One of those was near the Green Peaks Hideaway -- yeah,
19 Green Peaks Hideaway, which was the HOA, the area west of
20 the study area, because it is a concern to see the line,
21 the public was saying there was a concern to see the
22 line. And from the observation point that we thought was
23 best, it would have been restricted by -- the view would
24 have been restricted by the vegetation, specifically
25 trees. So that's an example of us taking the

1 considerations, but ultimately, it wasn't a good KOP.

2 You could not see the project area.

3 MEMBER LITTLE: So there were valid reasons
4 for not using the other KOPs that were identified?

5 MR. CASTEEL: Yes.

6 MEMBER LITTLE: And I would just personally
7 like to address a concern that was expressed in the
8 comments about independent studies. I think the comment
9 was something to the effect did we as a committee have
10 any independent studies done or did we just believe what
11 the applicant says. And this whole process I know is
12 very confusing, it can be a little frustrating, even to
13 us. And I would just like to state that we do not have
14 the resources nor the direction to have independent
15 studies done. We depend upon the experts, some of which
16 are provided by Staff here at the Commission, some of
17 which are provided by the applicant.

18 And the fact that they -- everybody who
19 testifies in this hearing is under oath. And, you know,
20 that's -- we would love to be able to just hire a bunch
21 of consultants and have them go out and do all the work
22 for us, but unfortunately, we don't have those kinds of
23 resources. And with that, I'm done. For the moment
24 anyway.

25 CHMN STAFFORD: Are there any other

1 questions from members?

2 MEMBER MERCER: Mr. Chairman, I have a
3 question.

4 CHMN STAFFORD: Yes, Member Mercer.

5 MEMBER MERCER: Given -- given that this
6 committee's jurisdiction is limited to the gen-tie
7 transmission line and not associated with the wind and
8 solar facilities, is it your testimony that the Apache
9 County permitting changes or possible changes identified
10 on remand do not materially affect the statutory findings
11 supporting the issuance of the CEC for the gen-tie line?

12 MR. DERSTINE: Just a question of
13 clarification, Member Mercer. Your question is do the
14 changes that are under consideration by Apache County
15 concerning its renewable energy ordinance, do any of
16 those affect the findings and the conclusions in the CEC?

17 MEMBER MERCER: Correct.

18 MR. DERSTINE: Okay. My answer to that is
19 no.

20 MEMBER MERCER: Thank you.

21 MR. DERSTINE: Whatever the existing zoning
22 ordinance or whatever changes Apache County makes to its
23 zoning ordinance, they don't in any way affect or
24 contradict or call into question what this committee did
25 in its granting of the CEC for this project back in

1 October.

2 MEMBER MERCER: Thank you. I just wanted
3 it for the record. I wanted clarification. Thank you.

4 MEMBER LITTLE: Mr. Chairman?

5 CHMN STAFFORD: Yes, Member Little.

6 MEMBER LITTLE: I did have one other
7 question. I didn't have it written down. And this is
8 probably for Mr. Resare. When I look at the proposed --
9 was it CG-043 exhibit? When I look at the proposed
10 language or the draft language at this point in time for
11 the ordinance, the Section 445, the joint agency
12 approvals, item A and item B are exactly the same in the
13 draft ordinance as they were in the existing ordinance.
14 And it was my understanding that the interpretation of
15 445B it was the -- was interpreted to mean that under the
16 existing ordinance, a CUP was not needed. I'm a little
17 confused.

18 MR. RESARE: What I can tell you, Member
19 Little, is that this process has initiated some
20 additional ideas with the community development director
21 and the County manager in changes that they might want to
22 add to that section. So I'm not sure that those are
23 going to be the final changes that the County is going to
24 be making, particularly after the things that we've
25 learned over this process. And so I don't anticipate

1 that being the final version that goes to the Board of
2 Supervisors.

3 MEMBER LITTLE: Thank you. I guess I would
4 like to say that my interpretation of 445B is -- does not
5 preclude the requirement for a CUP application, even
6 under the old -- or the existing ordinances, but I'm glad
7 to have that on the record. In my opinion, it's
8 important. Thank you.

9 CHMN STAFFORD: I guess, following up on
10 that, Mr. Resare, is -- the State Land Department can
11 require the applicant to get a Conditional Use Permit
12 from the County, can it not, under the current standard?

13 MR. RESARE: I would think that they could,
14 yes.

15 CHMN STAFFORD: Okay. All right.

16 Any other questions from members?

17 (No response.)

18 CHMN STAFFORD: All right. Well, now it is
19 time for the closing arguments, beginning with the
20 applicant, Mr. Derstine.

21 MR. DERSTINE: I'm going to take the
22 admonishment from Member Little to heart that my answers
23 necessarily aren't succinct and that I should limit what
24 I have to say to the question before me or in this case I
25 will limit my -- my closing to what I think are just the

1 relevant high points. So thank you for that, Member
2 Little.

3 So I wanted to just start by saying thank
4 you. I want to again thank Apache County Board of
5 Supervisors for them being here, Chairman Shepherd, Vice
6 Chairman Shirley, Supervisor Davis, also thanking County
7 Manager Ryan Patterson, as well as the director of
8 community development, Mr. Fish, who provided testimony
9 to this committee, and I think helped the record.

10 In my opening I covered kind of the
11 procedural history of this thing in terms of how we got
12 here. This committee granted a CEC for the
13 interconnection project. That made its way to the
14 Commission on December the 3rd, and on December the 3rd
15 Mr. Fish submitted his letter on official Apache County
16 letterhead requesting that the Commission deny the CEC
17 until applicants had obtained a CUP for the project,
18 whatever "the project" meant, whether that was the
19 transmission line or the wind and solar. And I have to
20 assume, although it wasn't -- it's not clear from the
21 record, that that's what drove the Commission to issue
22 its decision, which sent this matter back to us here
23 today, and directed us to consider additional evidence on
24 County and municipal land use concerns and land use
25 impacts in Apache County. I think we've done that.

1 You know, Mr. Fish explained more about his
2 letter. I think it -- if I -- when I looked at it at the
3 time of the open meeting, it was on official Apache
4 County letterhead. I read it as the position of Apache
5 County. And I also read it when there was citations to
6 statutes that somehow there is a legal requirement that
7 applicants obtain a CUP before seeking a CEC. I don't
8 know if the commissioners read it that way, but I think
9 it's fair to assume that it had that effect.

10 And so I appreciate Mr. Fish explaining
11 that his letter of December the 3rd was not authorized by
12 anyone from the County. It doesn't state the position of
13 the County. He didn't ask for anyone's approval. The
14 Board of Supervisors didn't authorize or approve it. And
15 when it said -- requested that the Commission deny the
16 CEC until applicants had obtained a CUP, that was his
17 personal position. And I think it was important that
18 Mr. Fish noted that prior to sending his letter of
19 December the 3rd, he had never asked applicants to obtain
20 a CUP prior to seeking the CEC for the project.

21 So I think what that -- well, and the only
22 other point I'll add to that, in response to the question
23 from Member Hill, Mr. Fish indicated that he has no, and
24 I presume the County has no concerns with the CEC. They
25 have no additional input. They have no concerns with

1 what was granted by this committee in regard to a CEC. I
2 think Mr. Fish and his counsel have indicated that they
3 have -- they view this as something within the province
4 of this committee, and they're not looking to interfere
5 or undermine the decisions of this committee or the
6 decisions of the Commission. And I think that's
7 appropriate. Nor is this committee looking to undermine
8 or interfere with the process at Apache County.

9 And, as I noted in my opening, that the
10 granting of the CEC in no way undermines Apache County
11 and the Board of Supervisors from revising their zoning
12 regulations regarding renewable projects and applying
13 those regulations to this project, to the wind and solar
14 project, and ensuring that whatever restrictions that
15 they want to apply, whatever process they want to
16 utilize, they are free to do that. Nothing in the CEC
17 undermines or undercuts their ability.

18 And to supervisor's comments that, you know
19 it's important that people are heard and that people feel
20 like they're part of the process, that is for Apache
21 County to decide what that process is, how folks are
22 heard, how their concerns are addressed, and Apache
23 County has full authority to do that.

24 This process, this hearing or the hearing
25 that we heard in October granted a CEC for the gen-tie

1 line, and that's it. The record that you have before you
2 now is what the Commission directed us to do. Take
3 additional evidence on land use impacts and concerns.
4 Mr. Casteel provided testimony that reaffirmed all the
5 testimony that you heard back in October and that was
6 relied upon in granting the CEC for the project remains
7 true and correct. There is no existing -- existing land
8 use, planned land use. The project does not conflict
9 with and is compatible with all those existing
10 regulations, as well as those plans for the future.

11 And I think the County's testimony was, you
12 know, adds, you know, additional evidence that this
13 project is indeed compatible. There are no new
14 developments in the vicinity of the project. This
15 project doesn't impact or conflict with any of the
16 existing land use regulations. And I think on that
17 record, this committee will send it back to the
18 Commission to consider and do whatever it decides to do
19 with that record. But I think that, you know, where we
20 sit today we have done what the Commission asked us to
21 do. I think the record is clear.

22 And with that, we appreciate your time in
23 sitting here and taking -- doing what the Commission
24 asked of us, which was create this additional record on
25 land use, and we'll see what the Commission decides to do

1 with it. So thank you.

2 CHMN STAFFORD: Thank you.

3 Mr. Resare, for the County.

4 MR. RESARE: Thank you, Mr. Chairman,
5 Members of the Committee.

6 First off, I'd like to thank all of you for
7 allowing us to come down to help explain maybe the
8 County's input on this, and especially to give the
9 members of the public the opportunity to speak to this
10 board. I mean, I know that there's a lot of different
11 opinions, a lot of them are the same, but I think that
12 opportunity for input is necessary for any kind of public
13 organization. And so I appreciate this body taking that
14 seriously and giving that opportunity not only to the
15 County but to the public as well.

16 I will say, based off of some of the
17 testimony that Mr. Fish gave that -- and with the County,
18 it probably would be easier for the County to get some
19 kind of CUP in before, you know, this board is done with
20 it. I'm not saying that's legally necessary, but, you
21 know, obviously if the County has its druthers,
22 especially the community development, that would be
23 something we would like.

24 I understand, you know, that there may not
25 be necessarily legal requirements or obligations for

1 that, but in, you know, the perfect world maybe all the
2 reports would be done, all the stuff would be lined up
3 and ready to go for everybody in every situation.

4 For the public, you know, maybe it would be
5 different than that, maybe they would rather not have it
6 there at all or for some it's fine just as it is. But in
7 terms of just the community development department, it
8 seemed like they, based off of Mr. Fish's letter, it's
9 better for that to be in there.

10 Obviously, you've gotten a letter from one
11 of our Board of Supervisors, he, you know, as the letter
12 speaks for itself, but he likes the line. And you heard
13 from our other two Board of Supervisors, which again,
14 that's all three of them, so you've heard from all the
15 leadership, I think, in the County. And we appreciate
16 that and ask that you would lean on that in making your
17 determinations.

18 The other thing is, based on some of the
19 conversations going on here, it looks like the County can
20 do some stuff to help mitigate some of the ambiguity
21 that's going on with some of our codes and ordinances and
22 we're going to go take that seriously, make sure that it
23 goes into place so other folks don't have to go through a
24 remand hearing. It's obviously not something that we
25 prefer anyone to have to go through. So I will throw a

1 bit of a sorry out for you folks for having to go through
2 this twice.

3 And it has caused a little bit of a
4 political issue up in our County as well. So that being
5 said, I appreciate the time of this body, appreciate the
6 folks that came here. And that's all we have.

7 Thank you.

8 CHMN STAFFORD: Thank you.

9 Mr. Anable.

10 MR. ANABLE: Thank you, Mr. Chairman,
11 Members of the Committee. And I do thank you for
12 allowing me to intervene. This has been kind of an
13 interesting, very educational experience. Never too old
14 to learn, I guess.

15 But there are a few items that I was going
16 to get to, I cut my questioning a little short, but I'll
17 point out to the committee, when you are reviewing your
18 obligations under 40-360.06, one of the things -- first
19 thing you're supposed to examine is the plans of local
20 government in the vicinity of the proposed site.
21 Springerville is only 3 miles away from the proposed site
22 and yet was excluded from the analysis done by Repsol, so
23 I think that's kind of a hole in their obligations to
24 this committee.

25 The second is the fish, wildlife, and plant

1 life in the area is supposed to be examined by the
2 committee. There's a great many reports about the plants
3 and fish and such that haven't been done yet, that you
4 haven't seen, so you can't know completely about the
5 fish, animals, and such.

6 And the same thing goes with the cultural
7 resources, 40 percent of the area hasn't been surveyed,
8 you're supposed to consider the archaeology. You can
9 only consider 40 percent of it -- or 60 percent of it,
10 therefore, it's incomplete.

11 Again, this application is premature. You
12 can't control when they apply, but when they come in with
13 60 percent of the cultural resources done and I think I
14 counted up something like 15 or 17 studies that they
15 have -- that they haven't uploaded to the docket or
16 haven't done yet, it's a very incomplete picture. And
17 someone like me, who has done this kind of work my entire
18 life, could make use of those studies and could comment
19 to you -- to Member Little's question about the
20 independent analysis. Well, it wouldn't be independent,
21 but I could give you analysis about the studies that they
22 did, and I could tell you whether or not some of the
23 things they reference in their application were a little
24 off target or not, because I know how to read those --
25 those studies and I would understand them. I wasn't

1 given that opportunity.

2 There's a flaw in this process in that it's
3 driven by a time frame. In my opinion, you really ought
4 to tell applicants don't come in here until you've got at
5 least X, Y, and Z done, instead of letting them apply
6 with 20 percent of the archaeology done, 40 percent of
7 the archaeology done, 60 percent of the archaeology done.
8 That's denying the public of the ability to meaningfully
9 comment to this committee on the impacts to the public's
10 resources, the wildlife, the cultural resources, the
11 viewshed. There's a hole there.

12 And I believe Repsol could have done itself
13 a favor by providing some of these resources out there.
14 I would really have liked to see the fire plan because
15 when I was at the Land Department, I was also the State
16 forester, which meant I was responsible for rural fire
17 departments and firefighting in rural Arizona. I
18 probably would have understood that plan and might have
19 been able to tell you it's adequate or it's inadequate.

20 So there's just so much stuff that is being
21 backloaded into this process that I believe you're --
22 you're violating the due process rights of the public to
23 meaningfully engage this committee. And, as I raised
24 earlier, I think by pushing your responsibility under the
25 State Historic Preservation Act onto the applicant,

1 you're violating the State Historic Preservation Act.

2 You, the agency, are supposed to consult with SHPO.

3 You have 30 days to review and comment on
4 the plans of the agency which would be issuing a
5 construction permit, before you issued that permit. So
6 it's completely backwards. What I would like you to do
7 is tell these people that they need to come back when
8 they have a more complete application and we could have a
9 better understanding of exactly what the impacts are. At
10 least let them finish the other 40 percent of the
11 archaeology, and let you do what you need to do with
12 SHPO.

13 If you don't and if you pass it through,
14 one of my comment letters to the Arizona Corporation
15 Commission will be a letter of intent to sue over
16 violation of the State Historic Preservation Act. And I
17 will do it. I have the money. I've litigated before.
18 Not me personally; I have attorneys.

19 And my second one I'm going to investigate
20 is whether or not you have a 14th Amendment violation of
21 due process. Your process excludes meaningful public
22 comment when you backload all these studies after you've
23 made your decision. And I think that's very problematic.

24 With that, I will end. I thank you again
25 for allowing me to be here.

1 CHMN STAFFORD: Thank you.

2 All right. Members, I'm interested in your
3 thoughts on how to proceed. I will note that the matter
4 before the committee is just the transmission line. If
5 you look at the remand order from the Commission, it
6 reiterates that it does not have jurisdiction over the
7 solar or wind generation, and so it and they -- they and
8 we lack the ability to, the jurisdiction to impose a CEC
9 requirement on those elements, those -- the wind facility
10 and the solar plus storage facility. Our jurisdiction's
11 limited to the transmission line. There are -- the
12 existing CEC has quite a number of conditions attached to
13 it, including a whole separate exhibit of mitigation
14 measures to -- for especially Game & Fish, hunting, so I
15 guess there's -- we can either -- we've completed what
16 the Commission told us to do, to take additional
17 evidence. It's unclear from their order whether it even
18 requires a vote from this committee. So --

19 MEMBER COMSTOCK: Mr. Chairman?

20 CHMN STAFFORD: Yes, Member Comstock.

21 MEMBER COMSTOCK: I think that's where I'm
22 a little bit stuck is what's the status of our initial
23 vote on the CEC and what was the count on that?

24 CHMN STAFFORD: It was 8 to 2; Member
25 Little was absent for that hearing.

1 MEMBER COMSTOCK: And does that vote still
2 remain in place and process?

3 CHMN STAFFORD: Yes. My understanding is
4 that is still in effect, the -- how the statute spells it
5 out is the order -- the recommendation from the committee
6 goes to the Commission; the Commission can accept,
7 reject, or modify that decision. Instead of taking one
8 of those steps, they sent it to us to gather additional
9 evidence, which we have done. We've heard from the
10 County. The County actually showed up and participated.

11 MEMBER COMSTOCK: And do we have the option
12 to void that vote and revote on the CEC?

13 CHMN STAFFORD: Well, that's unclear. I
14 think they sent it back to us, it depends upon what the
15 evidence we heard was, I would think.

16 MEMBER LITTLE: Mr. Chairman?

17 CHMN STAFFORD: One second.

18 Would it merit a different outcome than we
19 already had or it's not clear from the order whether they
20 intended us to accept, reject, or modify our existing
21 CEC, but I think, you know, we had 10 members at the
22 hearing and we have all 11 here today. My thought is
23 that we would -- we'd want to vote to say, "Hey, we send
24 back the original CEC we did," or "we want to change it
25 because of this new evidence that came to light, we think

1 it merits something different," or it's based on the
2 evidence before us, we now deny the CEC.

3 I think those are the same options
4 presented to us when the application was filed. I think
5 by sending it they didn't explicitly say otherwise but
6 typically that's what we do when we get an application is
7 we make a decision to issue or deny or issue with
8 conditions the Certificate. So I think those are the
9 same choices before us. I think this one, because of the
10 way it's worded, I think we have the option to do
11 nothing, just adjourn the meeting and say we've conducted
12 the additional evidence, the commissioners can now read
13 the transcript and decide for themselves whether to
14 accept the CEC that we previously sent to them.

15 So I'm interested to hear thoughts on that
16 from the members.

17 Member Little?

18 MEMBER LITTLE: Mr. Chairman, I was just
19 wondering if it might be appropriate to vote on whether
20 the committee feels that the additional evidence changes
21 their vote on the CEC or their determination of the CEC
22 or whether there's a vote to determine whether or not to
23 reopen the C- -- not reopen or to redo the CEC.

24 CHMN STAFFORD: Well, yes, I think the
25 first step --

1 MEMBER LITTLE: If we didn't hear
2 anything -- I'm sorry, didn't mine to interrupt you --
3 but if we didn't hear anything that changes how we feel,
4 then nothing needs to be done.

5 CHMN STAFFORD: Because I'm -- I'm looking
6 at what the positions of the parties were. And the
7 applicant would like to see that they've got, we've
8 issued a CEC, they think the additional evidence doesn't
9 change the outcome. The CEC is right back to the
10 Commission to decide on, whether we vote or do nothing,
11 that's what's before the Commission right now is the CEC
12 we already voted.

13 And then Mr. Anable would like us to deny
14 the CEC, based on the incompleteness of the application.
15 But, again, the application is for the transmission line.
16 Having a Conditional Use Permit for the wind project is
17 irrelevant to the environmental compatibility of the
18 transmission line. That's my perspective. Other members
19 may feel differently.

20 And the County, I'm not entirely sure what
21 their position is, because they -- the transmission line
22 itself doesn't have any additional permitting
23 requirements from the County. The murky area is whether
24 or not a Conditional Use Permit is required for the wind
25 facility and/or the solar plus storage. But, again, I

1 don't recall much opposition to the solar plus storage
2 facility. What I heard was the transmission line and the
3 wind facility and mainly the transmission line, the
4 portion that runs from Substation 3 to 2 to 1 for the
5 Certificate.

6 So the first part, the lines that would
7 connect the solar plus storage to Springerville
8 Substation, I don't recall much opposition to that in and
9 of itself. It's the duration, the rest of that line and
10 the wind farm that I'm seeing the most opposition for.
11 And the thing is, for the County it seems like kind of
12 the keys to the kingdom are in their pocket. Do their
13 own ordinances allow them to require a Conditional Use
14 Permit for the solar and wind facility or not, I think
15 the Land Department could, certainly because they have to
16 get the lease and the right-of-way from the State Land
17 Department, which the vast majority, certainly the
18 entirety of the contested portion of the line, all is on
19 State Trust Land.

20 And so the State Trust Land bears the
21 ultimate responsibility for compliance with the act
22 because it's on State Trust Land. They own the land and
23 my understanding is they're not going to lease it, there
24 is going to be a right-of-way, it's not going to sell,
25 it's going to be a right-of-way or lease, they'll

1 maintain ownership of the land, even for the transmission
2 line and for the wind facility, is that accurate,
3 Mr. Derstine or Mr. Rieman?

4 MS. AMBROSE: That is correct, yes.

5 CHMN STAFFORD: Right. So all of the land
6 that is subject to the wind facility will still be owned
7 by State Trust Land, so they are the ones responsible for
8 compliance with the Act, not the Commission. But what
9 the CEC has been used to do is require those surveys on
10 private land for which under the statutes it's not
11 required. It's the State action granting the Certificate
12 that requires the applicants to do surveys on private
13 land.

14 It's always required on the State Trust
15 Land and that's the case here, as that is where the line
16 will be. So I gave my two cents. I'm interested to hear
17 from members how we would like to proceed, if we can get
18 a motion for something.

19 Member DiCiccio?

20 MEMBER DiCICCIO: For clarity's sake, I
21 mean, it was sent to us, I don't know if it would be any
22 change at all, but I think the easiest vote would be to
23 either support the original CEC or not. And I think that
24 would probably be the easiest motion to do with probably
25 the most clarity.

1 Other than that, I agree with you in the
2 fact that the majority of the concern, as a matter of
3 fact, all the concern dealt with the transmission line
4 going to the wind farm. Nobody that I heard -- I've not
5 heard one individual complain about the solar field and I
6 would have been completely supportive of just that
7 aspect, and that's one of the reasons why I say we should
8 separate them. But I think there has to be some type of
9 clarity to our -- the individuals that appointed us, you
10 know, to give them at least what you believe to be the
11 feeling, there are multiple things you can do here, but I
12 do believe there has to be some clarity given to them.

13 CHMN STAFFORD: Thank you.

14 MEMBER COMSTOCK: Mr. Chairman?

15 CHMN STAFFORD: Well, Member Fant, then
16 Member Comstock.

17 MEMBER FANT: Thank you, Mr. Chair. I'm
18 going to tell an anecdote and then make a suggestion.
19 After last October's meeting, I called my nephew, Greg,
20 who is a Phoenix Police -- lieutenant with the Phoenix
21 Police and said, "Hey, come on up to the White Mountains
22 and we'll go camp a night," and he said "Sure." So he
23 came up and we, after the hearing finished, we ran down
24 to Reservation Lake, which is down by Big Lake, and got a
25 permit from the White Mountain Apaches to camp there.

1 And didn't make a fire, got there late, so we -- and we
2 didn't have a tent, so I raked a bunch of pine needles
3 against a tree, a couple trees, and put a couple pine
4 bows on it, and had a space blanket, which with a jacket,
5 is good enough in the low 40s. And I used my little butt
6 pack, which I had with me for a pillow. And he did
7 something similar, he was about 10 feet from me.

8 Around 4:00 in the morning something wet
9 hit my face, and I thought it was maybe raining. So I
10 opened one eye and looked across to, I call him "little
11 Greg," he's about 6'1, there was a big black bear sitting
12 about this far from his face, sniffing his face. So I
13 didn't make a noise and the bear just kind of snorted and
14 walked away and disappeared into the forest, and I
15 realized later what was on my face was bear saliva and
16 bear snot.

17 But it makes a point, the White Mountains
18 are a beautiful place. And I think that needs to be
19 considered. And I would suggest we consider perhaps
20 splitting the CEC and voting the two pieces separately.
21 That's what I would suggest.

22 MEMBER DiCICCIO: Mr. Chair, I would agree
23 with that too.

24 CHMN STAFFORD: Do you have some proposed
25 language for that? Because that's kind of a vague

1 concept that we need some wordsmithing.

2 MEMBER DiCICCIO: Well, I think along the
3 lines of do you support the solar field or do you support
4 the transmission line going to the wind farm? It's as
5 simple as that.

6 MEMBER MERCER: Mr. Chairman, I prepared a
7 comment, and I would like to put it on the record.

8 CHMN STAFFORD: Please.

9 MEMBER MERCER: First of all, I want to
10 acknowledge the public comments we heard yesterday. The
11 public opposition to this project was specifically to the
12 wind farm project, both in the original hearing and again
13 yesterday. The communities from around the project
14 expressed their concerns, two of the supervisors from
15 Apache County expressed their concerns as well. This
16 issue before us on remand is narrow. However, public
17 opposition alone is not the legal standard before this
18 committee.

19 Based on the expanded record, I do not find
20 a material change that would alter the statutory findings
21 supporting the CEC. Again, I understand the concern,
22 however, absent a material change affecting the statutory
23 criteria, my obligation is to apply the law to the record
24 before us. Accordingly, my recommendation remains
25 consistent to the Arizona Corporation Commission with my

1 original vote.

2 CHMN STAFFORD: Thank you. And, yeah,
3 because I would notice that -- I would note that the
4 current land use for the State Trust Land that the
5 transmission line will traverse, it's used for ranching
6 and hunting. And I think we had a significant discussion
7 about that. And, again, I think we have an attachment B,
8 with a number of mitigation measures to be in place, so
9 that even once the transmission line's in place, the
10 land -- the uses that it's having right now would
11 continue to be used.

12 I mean, it's State Trust Land, people
13 aren't going to start building homes on it unless the
14 Land Department sells it to them. And it's currently
15 under grazing leases. I forget the number of
16 lessees -- was it eight lessees with nine leases, is that
17 the current --

18 MEMBER KRYDER: Yeah, seven and eight.

19 CHMN STAFFORD: Right. Something like
20 that. Yeah, so that's -- and those will all continue to
21 be used once the transmission line is built. The area
22 will still be able to be hunted subject to getting the
23 appropriate permits from Game & Fish and from the Land
24 Department to access the State Trust Land. And some of
25 the conditions we put in there in Exhibit B was to kind

1 of iron out the seams to make sure that the applicant
2 coordinates to make sure people are aware that hunting
3 season, that they have protocols in place in case they're
4 out there and there's hunters present or -- and hunters
5 are aware of what's going on in the area, so to mitigate
6 the impacts of that.

7 So I agree with Member Mercer. I think
8 nothing that we've heard so far would change my
9 determination that the transmission line is compatible
10 with existing land uses, with the environment, when it
11 comes to the cultural resources. I can't recall one
12 project where the entire right-of-way or corridor had
13 been adequately surveyed prior to the issuance of a CEC.

14 I -- typically they would just -- I think
15 before they would just require them to do the cultural
16 resources surveys for State Land. But the conditions we
17 use require them to do those surveys for private land as
18 well, based on the State action of issuance of the CEC.

19 But, again, in this case, the entire
20 transmission line, well, barring the last little bit
21 that's -- I think it's TEP's property outside the
22 Springerville Substation, the State Trust Land would have
23 to be surveyed regardless of whether we attach that
24 condition or not. The big impact of that condition will
25 be they'll have to survey the TEP land, so --

1 And then for the County, seems like the
2 majority of their objection was to having some kind of
3 control or impact -- or influence to the wind project.
4 And is that more like having to do with the setbacks
5 where the towers would be from the road or what that
6 would be.

7 Anything additional you care to add to
8 this, Mr. Resare?

9 MR. RESARE: I guess, I think you're
10 correct on that. The County wants to have some input on
11 all this. I don't think it's necessary for this specific
12 portion, because we understand that the State has given
13 you the power and the authority to make these type of
14 decisions and to understand that you're going to be
15 following the law correctly, but I think that some of the
16 concerns that we've had have been addressed by the
17 petitioner in saying that they're going to be following
18 all the rules and regulations when it comes to the wind
19 farm, when it comes to solar, when it comes to building
20 anything out there.

21 And that is, I think, the number one
22 concern for the County is, and especially the folks that
23 live out there, is because this went through first, that
24 gave that perception that something was being approved
25 without anyone in the County making that decision.

1 Because we know you folks were making the decisions on
2 this line, but no one in the County had been able to make
3 a decision on anything at all at that point. And so,
4 obviously, we do want to have that ability and have our
5 folks up in the County have that input on that, so yeah.

6 CHMN STAFFORD: And does the County have
7 any suggestions for any critique of the route of the
8 transmission line as it's proposed by the applicant?

9 MR. RESARE: I think that Mr. Fish
10 addressed that yesterday and based on his comments, I
11 don't think that was -- there was anything that the
12 County had in terms of the route.

13 CHMN STAFFORD: Okay. So it seems like the
14 County's main concerns would be addressed in a
15 Conditional Use Permit, which, you know, looking at the
16 plain language of the Commission's remand order that if
17 the Commission doesn't have jurisdiction to impose CEC
18 requirements regarding the solar or wind portion,
19 certainly neither do we, because our jurisdiction is
20 certainly not greater than the Commission's.

21 MEMBER KRYDER: Right.

22 CHMN STAFFORD: So I think what I would
23 like to -- the applicant would say, yes, we're going to
24 apply for a Conditional Use Permit for the wind facility
25 to the County to try to mitigate the impacts of it. And

1 I guess the problem is, how does that conversation go
2 mitigating impacts? Because all of the public comment
3 that I heard about the wind farm were don't build it, we
4 don't want it at all, none was constructive criticism
5 like, well, hey to make this project better do X, Y, and
6 Z. It was no, zero project. And so I don't know where
7 you go from there. I mean, how do you negotiate from
8 that position to, okay, we can live with it if you do X,
9 Y, and Z, as opposed to no way, heck no, not in a million
10 years?

11 MEMBER KRYDER: Mr. Chairman?

12 CHMN STAFFORD: Yes, Member Kryder.

13 MEMBER KRYDER: Based on comments by
14 everyone in the room and others from the public who
15 spoke, who spoke by phone and such yesterday, and by your
16 comment a moment ago, and just to get this moving. I
17 move that the committee accept the CEC as it was sent to
18 the Commission originally, that we have looked at it
19 under the terms of the remand order from the Commission,
20 and therefore, we have done what we were ordered to do.
21 So, therefore, I move that we vote on that. And please
22 help me with the proper language here.

23 CHMN STAFFORD: What is that sound?

24 MEMBER COMSTOCK: It's feedback from
25 his hearing --

1 MEMBER KRYDER: Oh, I'm sorry. It's lovely
2 to be deaf. My wife loves it.

3 CHMN STAFFORD: All right. I hear your
4 motion, Member Kryder. Is there a second?

5 MEMBER MERCER: Second.

6 CHMN STAFFORD: Further discussion?

7 I think --

8 MEMBER COMSTOCK: Mr. Chairman?

9 CHMN STAFFORD: Yes, Mr. Comstock.

10 MEMBER COMSTOCK: Just one point of order
11 since we were 10 and now 11, should the member who was
12 absent have a chance to log her vote on the original CEC
13 so that we have a full count from the committee?

14 MEMBER LITTLE: Mr. Chairman?

15 CHMN STAFFORD: Well, that's not the
16 motion. The motion is to send the existing CEC -- the
17 way I interpret Member Kryder's motion is that we would
18 simply send the CEC back to the Commission; however, we
19 would have to have sort of a cover sheet saying what
20 happened. Simply, if you look at the introduction
21 section of the existing CEC, I think the cover letter
22 would consist of the revised version of that describing
23 what happened at this committee meeting, this hearing,
24 that the County was present, represented by Mr. Resare,
25 that Mr. Anable was an intervenor as well. And then we

1 would take a new vote on whether to send the -- your
2 motion is to send the existing CEC back to the
3 Commission?

4 MEMBER KRYDER: That is correct.

5 CHMN STAFFORD: So I would ask -- if that
6 passes, I would ask for the committee -- to have a motion
7 from the committee to have me draft a cover letter that
8 resembles, you know, the introduction of the existing
9 Certificate that describes what happened, what took place
10 at this hearing.

11 MEMBER KRYDER: Thank you very much,
12 Mr. Chairman. I appreciate the words.

13 CHMN STAFFORD: Thank you.

14 Member Little?

15 MEMBER LITTLE: Mr. Chairman, although I
16 read the entire transcript of the original hearing, I was
17 not present during the hearing. I was not present during
18 the evalu- -- or the determination of what should be in
19 the CEC. I was not present at the -- during -- for the
20 field trip. And my intent is to abstain from the vote in
21 any event.

22 CHMN STAFFORD: Right. Thank you.

23 MEMBER HILL: Mr. Chair?

24 CHMN STAFFORD: Member Hill.

25 MEMBER HILL: Oh, shoot, now I forgot what

1 I was going to say. Come back to me.

2 MEMBER KRYDER: That's my line, Nicole.

3 MEMBER HILL: You have a hearing problem,
4 maybe I have a memory problem. I -- I guess we should go
5 ahead and -- I think I'm more concerned with what the
6 cover memo says. So I think -- I think there's a motion
7 on the floor, I think we should take that. And then I'm
8 hoping that we have a conversation about what a cover
9 memo would look like if we decide to send it back,
10 because I think it's important to communicate a couple of
11 key things in our learning here. So thank you.

12 CHMN STAFFORD: All right. So the motion
13 is to send the existing CEC back to the Commission.
14 We'll do a roll call vote.

15 Member Drago?

16 MEMBER DRAGO: I vote aye.

17 CHMN STAFFORD: Member Hill?

18 MEMBER HILL: Aye.

19 CHMN STAFFORD: Member Comstock?

20 MEMBER COMSTOCK: Aye.

21 CHMN STAFFORD: Member Little's abstained?

22 MEMBER LITTLE: Yes, your Honor [sic].

23 CHMN STAFFORD: Member Chandler?

24 MEMBER CHANDLER: Aye.

25 CHMN STAFFORD: Member DiCiccio?

1 MEMBER DiCICCIO: No.

2 CHMN STAFFORD: Member Mercer?

3 MEMBER MERCER: Aye.

4 CHMN STAFFORD: Member Fant?

5 MEMBER FANT: No.

6 CHMN STAFFORD: Member Kryder?

7 MEMBER KRYDER: Yes.

8 CHMN STAFFORD: Member Fontes?

9 MEMBER FONTES: (No audible response.)

10 MEMBER HILL: Can he see us or hear us?

11 MEMBER LITTLE: Looks like he's frozen.

12 MEMBER HILL: No, he's blinking.

13 CHMN STAFFORD: Member Fontes?

14 MEMBER FONTES: Aye.

15 CHMN STAFFORD: Okay. There you go.

16 And I vote aye. By a vote of eight ayes,
17 two nays, and one abstention, the committee has voted to
18 send the original CEC back to the Commission.

19 Now I guess the next part would be what
20 would accompany that transmittal to the Commission, what
21 will be filed in the docket.

22 MEMBER HILL: So -- so my thought was
23 knowing that it's insane to read an entire transcript
24 when it's 700 pages, but I'm glad that you did, knowing
25 that the Commission isn't in a position to review all of

1 those things, I think it is important that we
2 characterize the nature of the public comment that we
3 got.

4 So I did not hear a lot of public comment
5 on the transmission line, that's what I'm trying to get
6 at is I do feel like most of what we got were things that
7 we can't do anything about, right down to substations.
8 Like we can't even do anything about substations. The --
9 our job is so narrow -- I'm complaining about that -- but
10 our job is so narrow, so I think we have to have
11 something in the memo that characterizes the nature of
12 the evidence and the comments that we got back from the
13 public as part of this process.

14 And I don't know what that looks like. I
15 don't want to wordsmith you, but I think it's important
16 to outline what we took -- what we took in and what we
17 learned is my suggestion.

18 MEMBER DiCICCIO: Mr. Chair?

19 CHMN STAFFORD: Yes, Member DiCiccio.

20 MEMBER DiCICCIO: To that point, I get
21 wanting to do that, but you'll have 10 different
22 perceptions of what occurred in the meeting. But there
23 are factual things you can put into it. We heard from
24 so-and-so, we heard from so-and-so. Once you start
25 describing what they said or what they did, then you'll

1 still have a majority, I mean, that will occur, I mean,
2 if that's the direction you want to go, then that's your
3 choice to do that.

4 From my end, because I'm in the minority,
5 of course, I just think a more factual we heard from, you
6 know, the County, we heard from, you know, Mr. Anable, we
7 heard from so-and-so. And then if anybody wants to pick
8 up the transcript, they can read those sections. But
9 once we start talking about what they said or what they
10 believe that they can or cannot do, I think you start
11 crossing the subjective line, because everybody's going
12 to hear it different. I'm good either way because I'll
13 know how I'll vote once I hear it, but I don't have any
14 issues on voting on anything.

15 So at the end of the day, just giving you
16 just a word of advice on how you want to do it. If you
17 want to construct it in a way that's more favorable, then
18 that's what you would do, okay? If you want to construct
19 it as a fact, it's very simple. It doesn't become more
20 than a paragraph, at the most.

21 MEMBER HILL: So I do want to respond to
22 that.

23 MEMBER DiCICCIO: And I'm good either way.

24 MEMBER HILL: Okay. Because I am concerned
25 they're going to say, oh, there's 56 public comments, but

1 maybe four or five of them were actually things that we
2 could even do anything with, right, because they were
3 comments on -- so I think the factual statements don't
4 always serve either because they aren't things that we
5 could actually do something with. If we want to break it
6 down into the number of commenters and the number that
7 were germane to the line, I'm fine with that. But, I
8 mean, that's why I feel like -- I mean, even with
9 Baccara, you know, we -- there was a lot of public
10 comment, but there were some things that we just couldn't
11 do anything about, the data center, right? That wasn't
12 our job.

13 And with this one, I think that has been my
14 biggest challenge is I want to be more helpful and
15 support public contributions to the project design, but
16 it is outside of my scope. So I want to be thoughtful
17 about presenting a realistic picture of the experience we
18 had if we're sending a cover memo and what we learned.

19 MEMBER DiCICCIO: May I respond to that
20 too?

21 MEMBER HILL: Yeah, absolutely.

22 CHMN STAFFORD: Yes, yes. Please, Member
23 DiCiccio.

24 MEMBER DiCICCIO: I'm sorry, Mr. Chair.

25 MEMBER HILL: Would you like to go out and

1 have coffee, we'll figure this out?

2 MEMBER DICICCIO: No, no, no. Just giving
3 you a thought. There's multiple ways to construct
4 anything, but to give you at least a perspective from my
5 end. I understand what our charge is. I understand what
6 it is and what we can legally and not legally do. But we
7 are also, as I mentioned in the first meeting, we also
8 have the opportunity to be able to say, "I see a bigger
9 picture here." And I'll give you an example, a smaller
10 one, but an example.

11 I believe I was put on this board to take a
12 look at it also on the political side of whether or not
13 this is going to be damaging to some of the board of
14 sup- -- to some of the commissioners. I mean, I believe
15 the line will probably never end up getting built, that's
16 my belief, okay?

17 So I take that belief with me when I --
18 with what I'm saying here, is that it's wrong to subject
19 an elected official, especially in an election year, to a
20 political process of something that will probably never
21 happen and making them die on their sword one way or the
22 other on an issue.

23 Now, whether that's their responsibility or
24 not, I believe I have it. It's incumbent upon me to feel
25 that out on my end and make sure that they don't get put

1 in a bad position. And I'll give you an example, when I
2 had a village planning committee, I ended up switching
3 everybody out. I made sure and I told them very clearly
4 upfront, do not send me a mess, do not do that. And so
5 they worked hard at it.

6 And when we talked about the deed
7 restrictions, remember that, the City of Phoenix doesn't
8 have anything to do with deed restrictions, but many
9 people would come in -- not many, people would come in,
10 and they had deed restrictions to clear up. The chair
11 literally told them, he said, "Go back and fix that
12 problem, take care of that problem, then come to us."
13 Because the chances are you're probably never going to be
14 able to build it anyway. Nine times out of 10, that's
15 what occurred.

16 So my perspective's a little different just
17 from the history that I have, but I don't believe you put
18 people in a position where you want them to commit
19 political suicide over something that may not happen.
20 And that's how I feel about it. And so that's going to
21 be my bias going into how it's worded.

22 Thank you, Mr. Chair. I probably won't say
23 anything else.

24 CHMN STAFFORD: Thank you.

25 Member Fant?

1 MEMBER FANT: Thank you, Mr. Chair.

2 I move that we have a majority and minority
3 position in the letter in which we forward to the ACC.

4 CHMN STAFFORD: Well, any member is free to
5 draft a dissent, it's in the statute. So --

6 MEMBER HILL: We didn't know that.

7 CHMN STAFFORD: No, it's in the statute.
8 Any member can write a dissent and attach it to the
9 Certificate.

10 MEMBER FANT: Thank you. But I move that
11 we have a majority and minority position in the letter we
12 forward to the ACC.

13 CHMN STAFFORD: That's not what the statute
14 says. The statute says that the committee will act. The
15 committee is acting by majority. Can only act by
16 majority. And a dissenting commissioner can write a
17 dissent.

18 MEMBER FANT: So you're going to ignore my
19 motion?

20 CHMN STAFFORD: Well, it's -- you're asking
21 to do something we can't do.

22 MEMBER FANT: Right.

23 MEMBER KRYDER: Mr. Chairman?

24 CHMN STAFFORD: Yes, Member Kryder.

25 MEMBER KRYDER: As they say, there's a lot

1 of ways of slicing the piece of meat. We have a piece of
2 meat in front of us, that is to prepare a letter to
3 accompany our recent vote back to the Commission,
4 explaining somewhat in some terms various views around
5 the counter what we did.

6 I would propose the following: That you --
7 I know you personally have a very high level of skill in
8 wordsmithing -- and that you choose one or several of the
9 committee members, give us a recess for the rest of us,
10 and come up with a draft, and then we can wordsmith that
11 draft. That's not a -- that's not a motion. That's
12 simply a suggestion because I know your skill.

13 CHMN STAFFORD: Well, that's definitely
14 possible. I could draft something up and we could come
15 back and then move that, amend it, and then vote on it.
16 And so that would be the document that would accompany
17 evidencing what the vote was. I mean, it could be
18 something as simple as we held the hearing on this date
19 and voted 8, 2 to 1 to send the CEC issued on yada, yada
20 date back to the Commission.

21 MEMBER KRYDER: The following were in
22 attendance, we heard from X, Y, and zed. We had these
23 kind of primary issues involved, Mr. -- Member Fant's
24 minority and majority positions.

25 CHMN STAFFORD: Well, the committee -- the

1 committee has one position, that of the majority.

2 MEMBER KRYDER: Yeah, okay. So but however
3 you put it out, give it back to us, and then we can -- we
4 have something to put on the table so that we can finally
5 go home.

6 CHMN STAFFORD: Right. I think basically
7 what I would do is I would write up the introduction to
8 reflect what we have done here today. We're not going to
9 editorialize the positions of the parties. We'll just
10 say who participated and what the vote was and that it
11 would be attached to the CEC we already sent to them. We
12 send that same CEC and all the conditions and maps
13 attached to this cover.

14 MEMBER KRYDER: Are you willing to do that?

15 CHMN STAFFORD: That seems like the most
16 reasonable thing to do.

17 MEMBER KRYDER: In that case, let's recess
18 and go to work.

19 CHMN STAFFORD: Because it seems like
20 everyone wants to wait for this, because it's going to
21 be -- I have to go back to my office, because I don't
22 have my computer here with me.

23 Mr. DiCiccio?

24 MEMBER DiCICCIO: Mr. Chair, do you really
25 want to draft a letter? When you rush things like -- I'm

1 just giving you another thought. Again, you know,
2 subject to whatever the majority, it is the majority
3 position on things, right, so when you get a letter like
4 that, sometimes they look rushed unless they're very
5 simple.

6 CHMN STAFFORD: Yeah, it will be simple.
7 Basically if you look at the -- you have the existing
8 Certificate in front of you, it's one of the -- it was
9 marked but not admitted because it's the Certificate,
10 it's the decision of the -- it's the prior decision of
11 the Committee, it didn't need to be a hearing exhibit,
12 it's already --

13 MR. DERSTINE: It's Exhibit 51.

14 CHMN STAFFORD: 51. It's on your tablet in
15 case you didn't bring a copy with you. But the
16 introduction, it would just be an updated version of
17 that, it's the first two pages.

18 MR. DERSTINE: Mr. Chairman?

19 CHMN STAFFORD: Yes, Mr. -- Mr. Derstine.

20 MR. DERSTINE: Far be it from me to tell
21 you how to go about this, and I think Member DiCiccio is
22 correct and Member Kryder. There are probably a number
23 of different ways to approach it. What I had in my mind
24 was however this committee came out on this issue is that
25 it would issue an order -- order on remand hearing that

1 would do as you've indicated, recite that on
2 such-and-such a date the committee was convened for the
3 remand hearing, it took evidence on these items, these
4 parties appeared, we had these limited appearances, and
5 then how, you know, how in depth you want to go in terms
6 of getting into the details of the hearing, and then
7 attach the original CEC as an exhibit to that order.
8 That's what my thought was.

9 CHMN STAFFORD: That's exactly what I'm
10 proposing to do. And then, Member Fant, if you wanted to
11 draft a dissent, it can also be attached to it, as well
12 as you, Member DiCiccio. Or the two of you can
13 collaborate and draft one.

14 MEMBER FANT: Right now?

15 CHMN STAFFORD: Right, well, I'm saying, we
16 have Room Number 1 tomorrow, so it's -- if we can get it
17 done between now and 10:00 a.m. tomorrow, we could come
18 back and --

19 MR. DERSTINE: Could you not prepare that
20 draft and have the committee consider it at your next
21 regularly scheduled CEC hearing and notice that you're
22 going to -- the committee will vote on finalizing this
23 order on remand at that time, or is that -- are you
24 running up against the clock? I don't know what your
25 considerations are.

1 CHMN STAFFORD: Yeah, I think it's -- I
2 think it's the clock. Because my perspective is that the
3 time, the 180 days' time frame under the statute for the
4 committee to act, that's still running from the time the
5 notice went out.

6 MR. DERSTINE: Right. I don't know how
7 that jibes with whenever your next -- when the committee
8 will be together again.

9 CHMN STAFFORD: We don't have any regularly
10 scheduled meetings, we have hearings that are coming up.

11 MR. DERSTINE: That's what I mean,
12 hearings.

13 CHMN STAFFORD: And under the current
14 rules, we have to have notice to the members 10 days
15 prior by certified mail. So any meeting has to be
16 greater than 10 days from tomorrow when presumably the
17 certified mail could go out.

18 MR. DERSTINE: Gotcha.

19 MEMBER HILL: Mr. Chair?

20 CHMN STAFFORD: Yes, Member Hill.

21 MEMBER HILL: Wouldn't you issue an order
22 with just the facts in it anyway? Do we actually have to
23 vote on that or that is just a common practice, like
24 maybe we don't have to vote on an order like that, if
25 it's written real simply.

1 CHMN STAFFORD: Right. Well, that's what
2 the motion would be for me to draft the order and I'm
3 saying, what it's going to look like is basically the
4 introduction from the Certificate we already approved
5 with the updated information about the addition of the
6 parties, you know, who the members were present, the vote
7 count, the additional limited appearance statements that
8 were admitted. All that. So I think that's what -- bare
9 minimum, that would be it.

10 I would sign it and say, you know, we would
11 attach the existing CEC, the one we already voted on back
12 in October to that letter, just kind of a basic update to
13 the introduction to reflect the additional hearing has
14 taken place, so we wouldn't need to --

15 MEMBER HILL: That's great. Let's do that.

16 CHMN STAFFORD: So I said I'll have the
17 motion to do that, it's like the correcting scrivener's
18 errors and fine tuning the Certificate to make sure it
19 jibes with what we voted in the transcript. So I think
20 we did it before in another case where I laid out what I
21 thought the committee should do and I got a vote to say
22 yes, draft an order that says that, and we did. And we
23 didn't vote again after that, we just --

24 MEMBER HILL: I move that the Chair draft
25 the order and include the current CEC and send that back

1 to the Commission.

2 MEMBER DiCICCIO: And I would second that,
3 as long as it stays along with what we did here. And we
4 trust you. At the end of the day you know there's a
5 varied opinion, so --

6 CHMN STAFFORD: Right. So basically, the
7 introduction portion of the CEC we voted back in October
8 would be updated and then signed and dated from when I
9 file it and attach to the CEC.

10 MEMBER DiCICCIO: If it's -- sorry, I
11 interrupted.

12 CHMN STAFFORD: Right. So that will take
13 place within the next five days. So in that time frame,
14 if you, Member Fant and Member DiCiccio, want to draft
15 your own, or together, a dissent to attach to that as
16 well, that is also something you can do if you choose to,
17 but you don't need a vote for that.

18 MEMBER DiCICCIO: No, we don't. I was just
19 going to say we don't need a vote for that. And I'll
20 just talk to Mr. Fant about it.

21 CHMN STAFFORD: Yeah, I think technically
22 you don't need to get it to me, you can just file it to
23 the docket and the Commission under the statute -- the
24 Commission is supposed to attach it to the CEC. But, I
25 mean, if we file it all at once it would probably look

1 better, because then, I don't know -- the docket's going
2 to -- I don't think it's happened before, so I don't know
3 if they're up to speed on how that would work. It would
4 actually just be a separate dissent in the docket, which
5 is also fine. I'm good with that way too.

6 MEMBER DiCICCIO: And I'm good with what
7 Nicole said, and that's why I say I feel very
8 comfortable. You've always been fair on everything.

9 CHMN STAFFORD: Okay. So Member Hill's
10 motion was to have the Chairman draft an order that's an
11 updated version of the introduction to the Certificate we
12 passed in October of last year, and attach that
13 Certificate to that letter and file it with the
14 Commission?

15 MEMBER HILL: Correct.

16 MEMBER KRYDER: Second.

17 CHMN STAFFORD: Further discussion?

18 (No response.)

19 CHMN STAFFORD: All in favor say aye.

20 (A chorus of "ayes.")

21 CHMN STAFFORD: Opposed?

22 (No response.)

23 CHMN STAFFORD: Hearing none, the motion
24 carries. And then, Member Fant, Member DiCiccio, you are
25 free to file a dissent, however you wish.

1 MEMBER DiCICCIO: Well, it's going to be
2 very biased. I'm kidding. I'm kidding. I'm kidding.

3 CHMN STAFFORD: Anything further?

4 (No response.)

5 CHMN STAFFORD: Well, thank you to the
6 applicant for going through phase two of the hearing.
7 Thank you to the County, we appreciate you showing up,
8 that was kind of the driving force for having the second
9 hearing in the first place was to get the County input.

10 And thank you, Mr. Anable, for your
11 participation. It's quite the experience doing this for
12 the first time. So I appreciate that you kept your
13 questions to the transmission line and not the wind
14 project. So that was -- that was better than most do on
15 their first time out, so thank you.

16 And thank you to Peaks Audio for enabling
17 this remote public comment session. I don't think we've
18 done that before. I think that may be something we do
19 more often in the future, because I think that certainly
20 was effective, especially for the second time and not
21 having to travel to --

22 MEMBER HILL: The second time, not the
23 first time. We need to be present in the communities the
24 first time.

25 MEMBER LITTLE: Yes, we do.

1 MEMBER HILL: We always harp on that.

2 CHMN STAFFORD: All right. Well, thank you
3 very much. Anything further?

4 (No response.)

5 CHMN STAFFORD: All right. With that we
6 are adjourned.

7 MR. DERSTINE: Thank you.

8 (The hearing concluded at 3:04 p.m.)

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COUNTY OF MARICOPA)

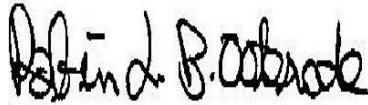
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4 BE IT KNOWN that the foregoing proceedings were
5 taken before me; that the foregoing pages are a full,
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8 the parties hereto nor am I in any way interested in the
outcome hereof.

9 I CERTIFY that I have complied with the ethical
10 obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206
11 (J)(1)(g)(1) and (2). Dated at Phoenix, Arizona, this
12 12th day of February, 2026.

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ROBIN L. B. OSTERODE, RPR
CA CSR No. 7750
AZ CR No. 50695

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19 has complied with the ethical obligations set forth in
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