

Slavin, Francis
Phoenix, AZ
Page 1 of 5

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May 3, 2001

HAND DELIVERED

Mr. John Holt, Environmental Manager
Desert Southwest Region
WESTERN AREA POWER ADMINISTRATION
615 South 43rd Avenue
Phoenix, Arizona 85005

RE: Sundance Energy Project – Draft Environmental Impact Statement Dated March, 2001 (the "Draft EIS")

Dear Mr. Holt:

Our law firm represents Gail Robertson and companies owned by her and/or family members which collectively own approximately 3,000 acres of land located within a 5-mile radius of the proposed site of the Sundance Power Generating Facility ("Power Generator"). Some of the new high voltage transmission lines which are proposed to be built in connection with this project will cross through our clients' lands.

This land is currently being used for agricultural production. It is located in the path of future residential growth. Enclosed are maps which depict the land ownership by Federal, State, Native American and private holdings. The maps also depict the location of various master planned communities in the area. Several land owners within the impact area of the proposed Power Generator and consequent high voltage transmission lines have plans to convert their properties from agricultural to residential uses. Our clients intend to master plan and rezone their lands for residential use and to phase out their agricultural operations. Our clients believe that the proposed Power Generator and high voltage transmission lines will have a significant negative impact on the future use and enjoyment of their lands – both for the continuation of agricultural operations and conversion to residential uses.

Specifically, the Draft EIS does not provide the results of a noise study of the operations of the Power Generator. Without providing the specifications and the operating characteristics of the jet turbines, there is no way for our acoustical consultant, Bob Larabell, to analyze the accuracy or completeness of the conclusions set forth in the Draft EIS that the Power Generator will have minimal impact (see enclosed 2-page report from Mr. Larabell dated April 30, 2001). Moreover, the noise assessment does not take into consideration noise associated with start up or shut down of the jet turbines. Inasmuch as the Power Generator will only be used to address peak demands for electrical energy, there would be frequent cycling on and off of one

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Comment No. 01

Issue Code: 01

The current land use of the properties over which each alternative transmission line would run is agricultural. In the future, some of this land could be developed for residential housing. The market price of the land would depend on many factors including location, economic factors, local demand for housing, interest rates, aesthetic value, and psychological factors. The fear and the sight of the power lines could contribute negatively to the aesthetic and psychological factors for homeowners in the vicinity of the power lines.

01/01

Comment No. 02

Issue Code: 04

The DEIS considered the manufacturer's estimated noise effects (63 dBA at 400 feet) for each of the 12 LM6000 turbines. Noise propagation equations were used to predict the noise from each turbine at locations at the proposed Property boundary and beyond. The contribution from each turbine was then logarithmically added to calculate the total noise at each location at the proposed Property boundary and beyond. Noise during a startup sequence would actually be less than during normal operations. This is because the generators are not yet operating during the startup sequence.

02/04

Slavin, Francis
Phoenix, AZ
Page 2 of 5

Mr. John Holt, Environmental Manager
May 3, 2001
Page 2

or more of these turbines. The Draft EIS is devoid of any information as to the anticipated frequency of cycling. Furthermore, the conclusion (page S-6, top) that nearby residences would experience increased noise of 10 dBA conflicts with Table 3-3 (page 3-8) which shows quiet rural nighttime at 30 dBA. Thus, the noise increase would be at 25 dBA which exceeds the level of perception considered to be "striking" (see Section 4-3, page 4-18). Unless the turbines would not be cycling on or off during the "quiet nighttime hours", the increase in noise due to start up and shut down will be very disturbing and disruptive to the residents and become an actual nuisance.

The air quality analysis draws comparisons against published standards but does not state what impact the emission from the Power Generator would have on nearby residents, nor does it take into consideration the future development of the area with residential subdivisions. There is no consideration given (leaving a person uneducated in this field without a clue) as to impacts on health of present and future residents. If there will be health impacts, then this should be quantified. The land owner should not be forced to employ one or more consultants to interpret the Draft EIS air emission results. If there are health risks, then Sundance cannot escape potential liability because unsophisticated farmers and rural dwellers could not ascertain the risks inherent in the data disclosed.

One of the more egregious statements may be found in the summary on EMF effects from high voltage transmission lines found in Table S-1 on page S-7 - "Magnetic fields would be similar to that of common household appliances". This is extremely misleading to an average person who would rely on this conclusion without referring to the specific discussion on EMFs buried in the Draft EIS minutiae (Section 3.4.3.2) under the general heading "3.4 Infrastructure/Waste Management." There is considerable double-talk set forth on pages 3-14 to 3-16 about the health risks associated with EMFs. If you examine the NIEHS 99 report, you will discover that the scientists involved did not conduct new studies or analyze new data of the health risks associated with EMFs. Rather, they sought to reinterpret results from prior studies performed by others. It was an attempt to debunk prior negative reports so as to alleviate regulators and power companies from adopting EMF standards. Several of the scientists had strong ties to power companies, and one-half of the cost of the study conference was underwritten by the powerful power industry.

I have enclosed a copy of a 1995 publication of the National Institute of Environmental Health Sciences and United States Department of Energy which explains many of the negative health risks associated with EMFs. This report and its contents need to be discussed and disclosed in the Draft EIS. Also, enclosed is a statement published by Salt River Project which discusses the inconclusive results of EMF health based studies and allows the reader to draw his/her own conclusions. Finally, in 1998, on behalf of a client we were defending in a condemnation case filed by Salt River Project, we hired Behavior Research Center to conduct

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03/04

04/04

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06/15

07/07

08/06

Comment No. 03

Issue Code: 04

The expected noise level at the nearest residences from the proposed Facility is 55 dBA, which is an increase of 10 dBA from the average noise level of 45.2 measured in mid-December for this specific rural area. There would be an increase of 14 dBA above the nighttime average of 41.3 dBA. Also see response to the Public Hearing Comment No. 31.

Comment No. 04

Issue Code: 04

Information about the start-up and shutdown of the turbines has been added to the FEIS. Noise during a startup sequence is actually less than during normal operations. This is because the generators are not yet operating during a startup sequence. However, due to the lower average noise level at night, the noise of the plant would be more disturbing at night than during the day. Also see response to Public Hearing Comment No. 31.

Comment No. 05

Issue Code: 03

An analysis of potential health impacts is presented in Section 4.2 of the DEIS. Since all ambient air concentrations are well below the National Ambient Air Quality Standards (NAAQS) which are health based standards, there would be no health impacts. The NAAQS were developed to protect the public health and welfare with a adequate margin of safety.

Comment No. 06

Issue Code: 15

The discussion of cumulative impacts in Section 4.13 in the FEIS now includes discussion of the potential for suburban development in the area. An analysis of potential health impacts is presented in Section 4.2 of the DEIS. Since all ambient air concentrations are well below the NAAQS, there would be no health impacts.

Slavin, Francis
Phoenix, AZ
Page 3 of 5

Mr. John Holt, Environmental Manager
May 3, 2001
Page 3

a random digit-dial survey of 400 City of Chandler residents regarding high voltage transmission lines. We have enclosed a copy of the survey results. It proves what we all suspect – that the general public is fearful about living near high voltage transmission lines. No power company or anyone else has figured out a way to address this problem without incurring substantial liability from potential tort lawsuits based on EMF damages to health. Owners of land through which the proposed new high voltage transmission lines will be constructed and operated will suffer value diminution based upon fear of residing near high voltage transmission lines. Also, they are unsightly, which further will lead to value diminution.

Finally, our clients would be operating farm machinery under high voltage transmission lines which are proposed to be built through one of their farm fields. The "field effects" described on pages 3-12 and 3-13 are of grave concern.

As to the impact on water resources, Sundance purports to rely upon future purchase of excess CAP water, but has not produced any evidence that any such purchase contracts have been secured. Moreover, Sundance has not provided any proof that it would be allowed to pump groundwater for use at the Power Generator. Our clients are concerned about the impact that future pumping of groundwater might have on their farming operations.

We request that the Draft EIS be rejected and that Sundance be required to provide better and more useful information so that persons who would be most impacted by the proposed project would gain a complete understanding of the forecasted impacts on them and on their lands and that they be given a reasonable opportunity to provide informed input.

Very truly yours,


Francis J. Slavin

FJS:jaa
Enclosures

cc: Gail Robertson (w/encs.)
John G. Ryan, Esq. (w/encs.)

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Comment No. 07

Issue Code: 07

Section 3.4.3.2 of the DEIS provides information regarding the effects of electric and magnetic fields (EMFs). There is considerable uncertainty about EMF and health effects. The DEIS presents the both sides of the published information that is available on the subject, including findings presented in the NIEHS 1999 report. There is no conclusive evidence in the existing studies that indicates EMFs are responsible for health effects. The study published by the Salt River Project on EMF states that studies show that the primary sources of EMF exposure for most people are inside the home and workplace. It further states that people are closer to sources in the home and work place than they are to power facilities. (Also see Salt River Project attachment).

08/06
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10/06

Comment No. 08

Issue Code: 06

The information cited and provided by the commentor was considered. See response to Comment No. 07 above.

11/07

Comment No. 09

Issue Code: 01

The current land use of the properties over which the each alternative transmission line would run is agricultural. In the future, some of this land could be developed for residential housing. The market price of the land would depend on many factors including location, economic factors, local demand for housing, interest rates, aesthetic value, and psychological factors. The fear and the sight of the power lines could contribute negatively to the aesthetic and psychological factors for homeowners in the vicinity of the power lines.

12/26

Comment No. 10

Issue Code: 06

The general field effects described in Chapter 3 of the DEIS are meant to be informational in that they define the terms used and describe the individual field effects. These discussions include statements that EMF effects are mitigated by placing the power lines high above the

Comment No. 10 (cont.)

Issue Code: 06

ground to reduce the impact on persons working beneath power lines. The specific EMF impacts are discussed in Chapter 4. Western's power lines are placed high enough that the field effects are minimized and little or no impacts are expected.

Comment No. 11

Issue Code: 07

The Central Arizona Water Conservation District (CAWCD) has offered Sundance an Excess CAP Contract for CAP water. This option is currently under consideration by Sundance. Such a contract would be obtained a subsequent to the completion of the EIS. The water use by the proposed Project is anticipated to be roughly equivalent to the current agricultural use.

Groundwater wells already exist on the proposed Site as well as in the general area in the vicinity of the proposed Site. There is no reason to expect that applications for additional groundwater wells would not be approved. Groundwater modeling has been conducted and data have been presented that shows the impacts of groundwater pumping by the proposed Facility would be minimal.

See responses to Public Hearing Comments 18 and 19. Sundance has negotiated and is currently documenting the long-term lease of Type 2 Non-irrigation Grandfathered Groundwater Rights from a private party in the Pinal Active Management Area whose rights are freely transferable and assignable to well(s) on the Sundance property pursuant to the 1980 Arizona Groundwater Management Act (GMA), as amended. These Type 2 grandfathered pumping rights would constitute the legal basis for withdrawal of groundwater, if and when needed to backup CAP water outages of a duration sufficient to exhaust the substantial capacity of the Project's onsite water storage. Additionally, as a second supplemental groundwater right, Sundance has the legal right under the GMA, should it so elect, to retire the

Slavin, Francis
Phoenix, AZ
Page 5 of 5

Comment No. 11 (cont.)

Issue Code: 07

irrigated portion of its farm property from irrigation and convert the farm's appurtenant Irrigation Grandfathered Groundwater Rights to Type 1 Non-irrigation Grandfathered Rights for use in the Project's operations. Such retirement and conversion is not currently anticipated to be necessary, and would be inconsistent with the desires expressed by local government officials to retain as much agricultural use of the proposed Property as feasible. However, if necessary, the legal right to do so remains available.

All uses of groundwater by the proposed Project must comply with the GMA and the applicable management plan of the Pinal Active Management Area administered and enforced by the Arizona Department of Water Resources, including industrial user conservation plans, metering, reporting, and payment of groundwater withdrawal fees.

Comment No. 12

Issue Code: 26

The commentor's request is noted. The issues raised by the commentor were either addressed in the DEIS or have been addressed in the FEIS. The NEPA process was instituted to provide the public the opportunity for informed input to the decision process.

Tohono O'odham Nation
Sells, AZ
Page 1 of 2



TOHONO O'ODHAM NATION
CULTURAL AFFAIRS DEPARTMENT
P.O. BOX 837 · SELLS, AZ 85634
Telephone (520) 383-3622



May 1, 2001

John Holt
Environmental Manager
Western Area Power Administration
Desert Southwest Region
P.O. Box 6457
Phoenix, Arizona 85005-6475

Dear Mr. Holt:

Thank you, for the opportunity to review and comment on the Sundance Energy Project Draft Environmental Impact Statement your office recently sent to my office.

The Cultural Affairs Office of the Tohono O'odham Nation has the following concerns, comments, questions, and recommendations:

- 1) On page 3-43, it should be noted that the Casa Grande National Monument is also regarded as a significant traditional cultural place to the Tohono O'odham Nation as well as the Hopi Tribe, Gila River Indian Community and Ak-Chin Indian Community.
- 2) Please send the Cultural Affairs Office copies of all archaeological survey reports for the different areas of this project, including the building site, pipelines and transmission.
- 3) If cultural resources sites are located during the surveys, every effort should be made to avoid impacting on them.

01/10

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03/10

Comment No. 01

Issue Code: 10

The significance of the Casa Grande National Monument to the Hopi Tribe, Gila River Indian Community and Ak-Chin Indian Community has been incorporated in the discussion of cultural impacts, Section 3.8 in the FEIS.

Comment No. 02

Issue Code: 10

The commentor's request has been forwarded to the personnel conducting the cultural consultations.

Comment No. 03

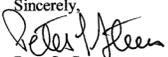
Issue Code: 10

Surveys have established the presence of cultural resources in the proposed Project area. Western's Historic Preservation Officer will initiate consultation with the State Historic Preservation Officer and the Tribes to evaluate whether avoidance or mitigation measures are more practical.

Tohono O'Odham Nation
Sells, AZ.
Page 2 of 2

4) In Table 5-1 that lists Federal Environmental Statutes Regulations and orders-you should add:

- A) Executive Order 13084 (1998)
Government-to-Government Relations with Native American Tribal Governments.
- B) Executive Order 13007 (1996)
Protect and Preserve Indian Sacred Sites.

Sincerely,

Peter L. Steere
Manager Cultural Affairs

04/25

Comment No. 04

Issue Code: 25

The Orders have been added to discussion of Cultural Resources,
Section 4.8.