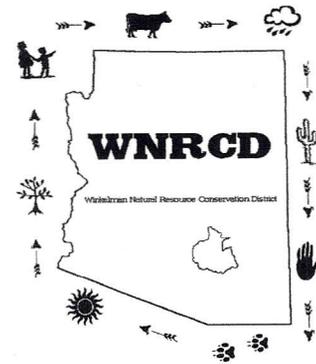




Redington
Natural Resource
Conservation
District

Winkelman
Natural Resource
Conservation
District



January 20, 2012

To:
Director of the U.S. Bureau of Land Management (BLM)
c/o Michael J. Pool
Deputy Director, Operations
Bureau of Land Management
U.S. Department of the Interior
1849 C Street NW, Rm. 5665
Washington DC 20240

By Petitioners:
Winkelman Natural Resource Conservation District (WNRCD)
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FINAL APPEAL TO THE BUREAU OF LAND MANAGEMENT REGARDING THE
REQUEST FOR CORRECTION OF INFORMATION CONTAINED IN THE SCOPING
DOCUMENTS FOR THE SUN ZIA SOUTHWEST TRANSMISSION PROJECT

Dear Director:

The first two paragraphs of this letter contain technical requirements for an appeal letter, as outlined in the BLM's Information Quality Guidelines. Given the BLM's propensity during this process to use technicalities as the basis for delaying action, we feel compelled to once again include this information. This appeal pertains to the response of January 6, 2012 by Ronnie Levine, Assistant Director of Information Resources Management, on behalf of an executive panel that was convened in November of 2011 to review our Appeal of September 6, 2011. All four documents relevant to this case are on file in your Information Resources department. This Appeal is made by the original Petitioners, the Winkelman Natural Resource Conservation District (WNRCD) and Redington Natural Resource Conservation District (RNRCD), and is submitted under Public Law 106-554- Section 515, Office of Management and Budget (OMB) Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies, the Department of Interior (DOI) Information Quality Guidelines, and the BLM's Information Quality Guidelines. The latter document prescribes an appeal to the Director of the BLM if the Petitioners do not agree with the panel's decision. We do not agree with the panel's decision.

Also in accordance with the BLM's Information Quality Guidelines regarding the requirements for letters of appeal, we repeat to you that both Petitioners are Natural Resource Conservation Districts, local units of government of the State of Arizona, that are charged with the protection and restoration of natural resources through active engagement with District Cooperators and the public. Several of the proposed routes for the SunZia Southwest Transmission Project pass through the Conservation Districts of the Petitioners, and would have significant effects on the landscape, associated habitats, and local plans and policies for conservation. As such, the Petitioners are "affected persons" under the Data Quality Act.

It's time for some straight talk. We disagree with the panel's decision for the following reasons. It has now been over 15 months since one of our District cooperators wrote to the BLM office in New Mexico during the last comment period requesting correction of a gross misrepresentation of the purpose of and need for the proposed SunZia project in BLM scoping documents, and it has now been six months since the two Districts as a whole have requested the same correction. Both attempts were made in good faith, and both attempts were unsuccessful in resolving this issue in a timely manner and with a remedy that effectively addresses the actual harms caused by the mistake in this National Environmental Policy Act (NEPA) process. As a result, the volunteer citizen members of the two petitioning Districts have wasted countless hours of their time trying to get a taxpayer-supported federal agency employees to correct a glaring mistake in a timely manner. Instead, the BLM has stonewalled, delayed, and crouched behind the selective and erroneous use of technical aspects of the Information Quality Guidelines, thus undermining the purpose of the scoping period and contaminating the first 32 months of the federal process.

Regarding the stonewalling and delaying, the BLM never responded to the first request for correction, despite assurances from Project Manager Adrian Garcia that it would be considered by his office. No explanation was ever given for the reasons or technicalities why this request for correction was never afforded a response. That petitioner was simply told over the telephone six months after filing the request that it was still with the "legal people". The recent Appeal, related to the second and subject

petition, was "lost" in the BLM's national office for over two months, before a panel was even convened to review it. Despite assurances that we would receive an explanation for this apparent breach in the custody of our document and this violation of BLM and DOI Information Quality Guidelines regarding response time, we never received an explanation for this extended delay.

Regarding the selective and erroneous use of technical aspects of the Information Quality Guidelines to avoid making the corrections in a timely and relevant manner, the most recent letter from the BLM quotes DOI Information Quality Guidelines regarding the use of comment periods to correct information in *draft documents*. We are not requesting *corrections of information in draft documents*. The draft Environmental Impact Statement (EIS) has not even been published yet, and making some unspecified corrections in the draft or final EIS is equivalent to closing the barn door after the horses are already loose. Burying these corrections in a draft or final EIS during the last several months of a three year public process will perhaps constitute the greatest bait-and-switch maneuver in NEPA process history. In this situation, the endlessly repeated mantra has been "renewable energy". However, like other bait-and-switch schemes, if it sounds too good to be true, it probably is.

To repeat, we are not requesting correction of information in a *draft document*, as inferred in the recent BLM response. We have been requesting and continue to request corrections of information contained in scoping documents published as long as 32 months ago and continuously disseminated **to this day** by the BLM. Do the BLM responses and lack of responses during the past 15 months mean that it is OK for an agency to misrepresent a project in scoping documents, so long as the mistakes are papered over in the final stages of the process? These scoping documents provided the basis for public and stakeholder understanding of the purpose of and need for the proposed project, and thus the basis for comments received during the scoping period. These documents contained a grossly biased presentation of purpose and need, with 20 references to renewable energy, and not a single reference to non-renewable energy. These documents failed to disclose that the majority owner of the proposed project is also the owner of a large permitted non-renewable energy generation plant awaiting transmission capacity along the proposed transmission route, and that other large non-renewable generation plants along the proposed route are also awaiting transmission capacity. These documents failed to disclose that the applicant has very limited control over access to the proposed line, and that there are open access regulations that will ultimately determine the relative proportions of renewable and non-renewable generation resources on the proposed line(s). These documents failed to disclose that the applicant is under no obligation to construct the entire proposed line, if approved, thus potentially affecting future access for renewable energy projects. These documents misled the public and the stakeholders into thinking that this proposed transmission project would actually primarily stimulate the development of renewable energy resources, contrary to a) the history of the project, b) an inventory of imminently pending non-renewable generation resources within the study area, c) the *Stage 1 Feasibility Study* for the closely related High Plains Express Project, d) the complimentary relationship between highly reliable non-renewable dispatchable energy resources and less reliable wind and solar resources in providing full utilization of a major transmission line, e) the regulatory factors and development time constraints that will affect the ultimate makeup of generation sources on the proposed line, and f) the current political trends regarding subsidies for large scale renewable energy projects in order to make them economically attractive to investors.

There is actually very little to zero chance that this particular transmission project will primarily stimulate renewable energy generation, and yet the SunZia marketing myth persists, mostly due to the biased information published and continuously disseminated by the BLM in scoping documents. What

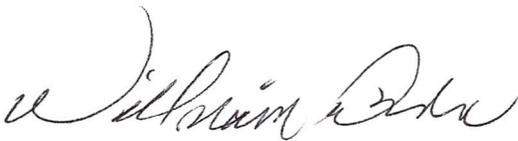
a gift to SunZia it has been for the taxpayers to subsidize their marketing campaign!

One of the main legal standards for a valid NEPA process is whether the process fostered informed decision making and informed participation by the public and stakeholders. Continuous promotion of this marketing myth for the overwhelming majority of the public process, despite requests for correction for the past 15 months, does not meet this legal standard. All we have been requesting is the corrections, the disclosures, and a 45 day period to set the record straight and allow the public to comment on whether the benefits of this project warrant intrusion on specific route alternatives. Using the same distribution list compiled during the scoping period, stakeholders and the public must be informed that the project description has not been presented in an objective manner and must be allowed to revise or withdraw comments that have now become the basis for designations in the draft EIS. This could have easily been remedied six months ago when two Districts filed their Petition, or even four months ago when the two Districts filed their Appeal. With the draft EIS now complete and being reviewed by Cooperating Agencies, your agency has stonewalled and delayed its way into a corner. At this point, the only solution that will address the effects of this compounded mistake will require a delay in the schedule for releasing the draft EIS.

Regarding another myth, the statement made by Ronnie Levine in his recent response that the *BLM New Mexico office has reported that they are aware of your specific concerns and is in direct communication with you to ensure that your concerns are addressed via the ongoing public comment period* is big news to us. We have not heard from that office since Acting Director Jesse Juen sent us a very brief and non-specific response to our requests for correction on August 17, 2011. To the contrary, the Arizona BLM offices have been indicating to us that the DOI Solicitor's office has prevented them from assuring us that any of our concerns will be specifically addressed in the draft EIS unless we sign up as Cooperating Agencies.

Please, move the lawyers out of the way and fix this problem the right way. Citizens should not have to beg and prod and jump through hoops for months on end in order to get their civil servants to tell the truth about a proposed project. We have better things to do than constantly having to bird-dog our federal land management agency.

Sincerely,



William Dunn, Chairman
Winkelman NRCD



Andrew Smallhouse, Chairman
Redington NRCD