

MEMORANDUM OF UNDERSTANDING

between:

**U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office;
U.S. Department of Energy, Western Area Power Administration;
and
Cochise County, Arizona**

concerning:

Relationship as a Cooperating Agency on the Southline Transmission Line Project

I. Introduction.

This Memorandum of Understanding (MOU) establishes a cooperating agency relationship between the Bureau of Land Management's New Mexico State Office ("BLM"), Western Area Power Administration (Western), and Cochise County, Arizona ("Cooperator") on the Southline Transmission Line Project (Southline Project). As a Cooperating Agency, Cochise County will participate in the preparation of an Environmental Impact Statement (EIS) on the Southline Project. The BLM New Mexico State Office has designated signatory authority for this document to the Las Cruces District Office.

The BLM and Western are joint lead federal agencies ("Lead Agencies") for development of the Southline Project EIS. The Lead Agencies acknowledge that the Cooperator has special expertise applicable to the EIS effort, as defined at 40 CFR 1508.15 and 1508.26. This MOU describes responsibilities and procedures agreed to by Cochise County, as a Cooperating Agency, and the Lead Agencies (individually a "Party" and collectively the "Parties").

The cooperating agency relationship established through this MOU shall be governed by all applicable statutes, regulations, and policies, including the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (in particular, 40 CFR 1501.6 and 1508.5), the BLM's planning regulations (in particular, 43 CFR 1601.0-5, 1610.3-1, and 1610.4), and the Department of the Interior Manual (516 DM 2.5).

II. Purpose.

The purposes of this MOU are:

1. To designate Cochise County, Arizona as a Cooperating Agency in the EIS process.
2. To provide a framework for cooperation and coordination between the Lead Agencies and the Cooperator that will ensure successful completion of the EIS in a timely, efficient, and thorough manner.
3. To recognize that the BLM and Western are the Lead Agencies with responsibility for the completion of the EIS and the Records of Decision (ROD).

4. To describe the respective responsibilities, jurisdictional authority, and expertise of each of the Parties in the EIS process.

III. Authorities for the MOU.

Statutory authorities for BLM and Western to enter into this MOU include, but are not limited to:

- National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
- Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)
- Department of Energy Organization Act of 1977, as amended (42 U.S.C. 7101)

Regulations in place that implement the above authorities:

- Council on Environmental Quality regulations (40 CFR 1501 et seq.)
- Bureau of Land Management planning regulations (43 CFR 1601 et seq.)
- Department of Energy NEPA Implementing Procedures (10 CFR Part 1021)

Statutory authorities for Cooperator to enter into this MOU include, but are not limited to:

- Title 11 of Arizona Revised Statutes

IV. Roles and Responsibilities.

A. BLM and Western Responsibilities:

1. As Lead Agencies, the BLM and Western retain final responsibility for the content of all planning and NEPA documents, which include the Draft EIS, any Proposed Plan Amendments, the Final EIS, and each agency's ROD. The Lead Agencies' responsibilities include determining the purpose of and need for the EIS, selecting reasonable alternatives for analysis, identifying effects of the proposed alternatives, selecting the preferred alternative, and determining appropriate mitigation measures. In meeting these responsibilities, the Lead Agencies will follow all applicable statutory and regulatory requirements.
2. To the fullest extent consistent with their responsibilities as Lead Agencies, the BLM and Western will consider the comments, recommendations, data, and/or analyses provided by the Cooperator in the EIS process, giving particular consideration to those topics in which the Cooperator is acknowledged to possess special expertise.
3. To the fullest extent practicable, after consideration of the effect such releases may have on the Lead Agencies' ability to withhold this information from other parties, the Lead Agencies will provide the Cooperator with copies of documents underlying the EIS relevant to the Cooperator's responsibilities (as set forth below), including technical reports, data, analyses, comments received, working drafts related to environmental reviews, and draft and final EISs.
4. Select and direct the activities of a third-party EIS contractor.

5. Coordinate the exchange of information among the Cooperator and the third-party EIS contractor and subcontractors.
6. Maintain the Administrative Record for the Southline Project, protecting proprietary information and data collected by the third-party EIS contractor and subcontractors.
7. Establish goals and an EIS schedule. The Lead Agencies will provide the Cooperator adequate time to review documents, including administrative draft versions of the Draft EIS and Final EIS, technical reports, and cultural reports.
8. Advise, in writing, Native American Tribes and state and local agencies with jurisdiction over any aspect of the Southline Project and invite them to participate in the EIS process.
9. Inform the Cooperator about the progress of the EIS, additional data needs, changes needed in the terms of the third-party EIS Contract, and other aspects of document preparation.
10. To the fullest extent consistent with its responsibilities as a lead agency, the Lead Agencies will consider the comments, recommendations, data, and/or analyses provided by the Cooperator in the EIS planning process, giving particular consideration to those topics in which the Cooperator has jurisdiction by law or special expertise.

B. Cooperating Agency Responsibilities:

1. Cochise County is a Cooperating Agency in this EIS process and is recognized to have jurisdiction by law and special expertise in the following areas:
 - a. Cochise County's jurisdiction by law is outlined in the Arizona State Constitution and Title 11 of the Arizona Revised Statutes.
 - b. Cooperator's special expertise relates to land use, economic, environmental, social and historical issues and concerns relevant to the Southline Project.
2. Cooperator responsibilities shall include the following:
 - a. Assist Lead Agencies in the preparation of the EIS, ensuring that interests associated with Cochise County are incorporated as part of the EIS. Review relevant documents and submit comments to the BLM Project Manager within agreed-upon time frames.
 - b. Provide the BLM Project Manager with information to assist in the development of a range of reasonable alternatives and in the analysis of effects on the wildlife throughout the state of Arizona.

- c. Participate in communications regarding the EIS for the Southline Project, including, but not limited to, conference calls, meetings, and e-mails. When appropriate, send a representative(s) to attend EIS-related meetings scheduled by the BLM.
 - d. Provide written comments on EIS-related documents within time frames provided by the BLM. These documents include, but are not limited to, draft versions of the Draft EIS and Final EIS, technical reports, and public notices.
 - e. Respond to comments on the Draft EIS that pertain to Cooperator interests and advise the Lead Agencies if the findings of the EIS do not support Cooperator needs.
 - f. The Cooperator will provide information, comments, and technical expertise to the Lead Agencies regarding those elements of the EIS, and the data and analyses supporting them, for which it has special expertise or the Lead Agencies request its assistance. In particular, the Cooperator will provide information on:
 - (1) Cooperator will provide NEPA review assistance and data and information that pertain to land use, economic, environmental, social and historical issues and concerns relevant to Cochise County, Arizona. Cooperator will identify and evaluate project-related impacts on, and develop alternatives and mitigation strategies related to their areas of special expertise or jurisdiction.
3. Within the areas of its special expertise, the Cooperator may participate in any of the activities identified in Attachment A. These activities include, but are not limited to: providing guidance on public involvement strategies; identifying data needs, suggesting management actions to resolve planning issues, providing input to the draft Analysis of the Management Situation, identifying effects of alternatives, suggesting mitigation measures, and providing written comments on working drafts of the EIS and supporting documents. (See also Section C.4.)

C. Responsibilities of the Parties:

- 1. The Parties agree to participate in this EIS process in good faith and make all reasonable efforts to resolve disagreements. Where procedural or substantive disagreement may impede effective and timely completion of the EIS, the Parties agree to utilize the facilitation and conciliation procedures described below (see Section V.G).
- 2. The Parties agree to comply with the EIS schedule provided as Attachment B, which includes dates for EIS milestones and time frames for the Cooperator's reviews and submissions. This schedule is subject to amendment by the Lead Agencies.
- 3. Each Party agrees to fund its own expenses associated with the Southline Project EIS process, except that the Lead Agencies may contract with the Cooperator for technical studies within its special expertise.

4. The Parties agree to carefully consider whether proposed meetings or other activities would waive the Unfunded Mandates Reform Act exception to the Federal Advisory Committee Act (2 U.S.C. 1534(b) and 5 U.S.C. App.).

V. Other Provisions.

- A. Authorities not Altered. Nothing in this MOU alters, limits, or supersedes the authorities and responsibilities of any Party on any matter within their respective jurisdictions. Nothing in this MOU shall require any of the Parties to perform beyond its respective authority.
- B. Financial Obligations. Nothing in this MOU shall require any of the Parties to assume any obligation or expend any sum in excess of authorization and available appropriations.
- C. Immunity and Defenses Retained. Each Party retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.
- D. Conflict of Interest. The Parties agree not to utilize any individual or organization for purposes of plan development, environmental analysis, or Cooperator representation, including officials, employees, or third party contractors, having a financial interest in the outcome of the Southline Project. Questions regarding potential conflicts of interest should be referred to BLM HQ or Field Ethics Counselors for resolution.
- E. Documenting Disagreement or Inconsistency/Conflict Resolution. If a Lead Agency and the Cooperator disagree on substantive elements of the EIS (such as designation of the alternatives to be analyzed or analysis of effects), and the disagreement cannot be resolved, the Lead Agencies will include a summary of the Cooperator's views in the Draft EIS and Final EIS. The Lead Agencies will also describe substantial inconsistencies between the proposed action or actions and the objectives of state, local, or tribal land use plans and policies. The Parties agree to make reasonable efforts to resolve procedural or substantive conflicts, and may agree to initiate an Alternative Dispute Resolution (ADR) process. The Parties acknowledge that the BLM and Western retain final responsibility for the decisions identified in the Southline Project EIS and their respective RODs.
- F. Management of Information. The Cooperator acknowledges that all supporting materials and draft documents may become part of the administrative record and may be subject to the requirements of the Freedom of Information Act (FOIA) and other Federal statutes. The Lead Agencies acknowledge that the Cooperator's handling of these materials may be impacted by Arizona Public Records Law. The Parties agree that the Lead Agencies, at their discretion, may withhold from the Cooperator those documents that would otherwise be available for public release under Arizona Public Records Law.
- G. Contractors. SWCA serves as the Lead Agencies' third-party EIS contractor. As such, SWCA is responsible to the Lead Agencies for preparing an EIS that meets the requirements of NEPA and applicable NEPA procedures. Galileo Project serves as the Lead Agencies' Project Management Assistance Contractor (PMAC). The PMAC is responsible to the Lead Agencies for coordinating administrative activities and supporting

documents. The Cooperator may provide information and comments directly to contractors and collaborate with the contractors' technical staff and subcontractors on matters within the Cooperator's jurisdiction or special expertise.

VI. Agency Representatives.

- A. Each Party will designate a representative and alternate representative, as described in Attachment C, to ensure coordination between the Cooperator and the Lead Agencies during the EIS process. Each Party may change its representative at will by providing written notice to the other Parties.

VII. Administration of the MOU.

- A. Approval. This MOU becomes effective upon signature by the authorized officials of the BLM, Western and the Cooperator.
- B. Amendment. This MOU may be amended through written agreement of all signatories.
- C. Termination. If not terminated earlier, this MOU will end when each Lead Agency's ROD for the Southline Project EIS is approved by the BLM State Director and Western's Administrator, respectively. Western or BLM may end its participation in this MOU by providing written notice to the other.

VIII. Signatures.

The Parties hereto have executed this MOU on the dates shown below.

**Department of the Interior
Bureau of Land Management
New Mexico State Office
Las Cruces District Office**

Bill Childress
Las Cruces District Manager

Date

**Department of Energy
Western Area Power Administration**

Anthony H. Montoya
Acting Administrator
Western Area Power Administration

Date

Cochise County, Arizona

Richard Searle
Chairman
Cochise County Board of Supervisors

Date

ATTACHMENT A
COOPERATING AGENCY PARTICIPATION IN THE SOUTHLINE TRANSMISSION
LINE PROJECT
ENVIRONMENTAL IMPACT STATEMENT

	RMP/EIS STAGE	POTENTIAL ACTIVITIES OF COCHISE COUNTY, ARIZONA (COOPERATING AGENCY - CA) WITHIN THEIR ACKNOWLEDGED AREAS OF EXPERTISE.
1	Conduct public scoping meetings and identify issues	Provide input on preparation plan; identify coordination requirements based on Cooperator's plans; identify significant issues; identify relevant local and regional organizations and interest groups; collaborate in reviewing/ assessing scoping comments (review of scoping report); identify connected, similar, and cumulative actions; identify other relevant agencies.
3	Collect inventory data	Identify data needs; provide data and technical assistance for analysis within Cooperator's expertise
	Formulate alternatives	Collaborate with BLM and Western Project Managers, EIS Contractor (SWCA), PMAC Contractor (Galileo) and BLM Field Managers and ID Team reps. in developing alternatives. Suggest land allocations or management actions to resolve issues. [Decision to select alternatives for analysis is reserved to the Lead Agencies]
6	Estimate effects of alternatives	Provide effects analysis within Cooperator's expertise, identify direct, indirect, and cumulative effects, suggest mitigation measures for adverse effects.
7	Select the preferred alternative; issue Draft Resource Management Plan Amendment(RMPA)/EIS	Collaborate with BLM and Western Project Managers, EIS Contractor (SWCA), PMAC Contractor (Galileo) and BLM Field Managers and ID Team reps in evaluating alternatives and in developing criteria for selecting the preferred alternative; provide input on Preliminary Draft RMPA-EIS. Cooperator may also provide written, public comments on draft if desired. [Decision to select a preferred alternative and to issue a draft is reserved to the Lead Agencies.]
8	Respond to Comments	As appropriate, review comments within Cooperator's expertise and provide assistance to the Lead Agencies in responding
8a	Issue Proposed RMPA/Final EIS	[Action reserved to the BLM and Western.]
8b	Initiate Governor's Consistency Review	[Action reserved to the BLM if a proposed RMP amendment is part of the Final EIS.]
9	Sign Records of Decision (ROD) [or]	[Action reserved to the BLM and Western.] <ul style="list-style-type: none"> • BLM will issue a ROD for the ROW portion of the project and any proposed RMP amendments. • Western will issue a separate ROD for the 120-mile rebuild and upgrade portion of the project.
9a	Resolve protests; modify Proposed RMP/Final EIS if needed, sign ROD	[Action reserved to the BLM.] If Cooperator provided information relevant to a protest, they may be asked for clarification.

ATTACHMENT B SCHEDULE

Note: This Schedule portion of the MOU will be updated and finalized as the project progresses and as issues are identified. BLM, Western, and Cochise County will work together, as well as other Cooperating Agencies to finalize and agree on a schedule that is realistic and achievable.

Milestone	Start Date	Finish Date
Application		
SLT SF-299 Application with BLM	6/14/11	6/14/11
Initial POD submitted	07/08/11	09/15/11
NEPA Process		
Publish Notice of Intent (NOI) in Federal Register	04/04/12	04/04/12
EIS Public Scoping Period	04/04/12	07/05/12
Alternatives Development	07/20/12	09/21/12
Resource Report Preparation/Submission	05/01/12	10/30/12
Resource Report Data sufficiency review. Final data requests and responses	10/31/12	01/15/13
Administrative Draft EIS/RMP Amendments	03/26/12	04/17/13
NOA DEIS Publication in Federal Register	08/02/13	08/02/13
Comment Period	08/02/13	11/04/13
Comment Responses	11/08/13	12/13/13
Administrative Final EIS/Proposed Plan Amendment	11/18/13	03/07/14
NOA FEIS Publication in Federal Register	03/07/14	03/07/14
RMPA Protest Period	03/07/14	04/07/14
RMPA Protest Resolution	03/07/14	07/01/14
BLM Record of Decision	03/07/14	06/27/14
Western Record of Decision	06/27/14	07/25/14
Section 106 and Tribal Consultation		
Tribal consultation letters	04/20/12	04/20/12
Programmatic Agreement	04/02/12	07/02/12
Tribal meetings/site visits	04/02/12	04/02/13
SHPO notifications	11/13/13	12/13/13
Class I report approval	12/14/13	12/14/13
Class II or III inventories	10/01/13	12/01/13
Section 7 Consultation		
Species list	04/01/13	04/28/13
Biological Assessment	04/28/13	06/14/13
Formal Section 7 Biological consultation	06/17/13	10/28/13

**ATTACHMENT C
AGENCY REPRESENTATIVES**

BUREAU OF LAND MANAGEMENT

EIS Name: Southline Transmission Line Project EIS

Primary Representative: Tom Hurshman, BLM National Project Manager
Phone: (970) 240-5345
E-Mail Address: thurshma@blm.gov
Physical Address: Bureau of Land Management
Southwest District Office
2465 S Townsend Avenue
Montrose, CO 81401

Backup Representative: Bill Childress, Las Cruces District Manager
Phone: (575) 525-4499
E-Mail Address: wchildre@blm.gov
Physical Address: Bureau of Land Management
Las Cruces District Office
1800 Marquess Street
Las Cruces, NM 88005

WESTERN AREA POWER ADMINISTRATION

Primary Representative: Mark Wieringa, Western NEPA Document Manager
Phone: (720) 962-7448
E-mail Address: wieringa@wapa.gov
Physical Address: 12155 W. Alameda Parkway
P.O. Box 281213
Lakewood, CO 80228

Backup Representative: Matthew Blevins, Environmental Team Lead
Phone: (720) 962-7261
E-mail Address: Blevins@wapa.gov
Physical Address: 12155 W. Alameda Parkway
P.O. Box 281213
Lakewood, CO 80228

COCHISE COUNTY, ARIZONA

Primary Representative: Richard Searle, Chairman, Cochise County Board of Supervisors
Phone: (520) 432-9200
E-Mail Address: board@cochise.az.gov
Physical Address: 1415 Melody Land, Building G
Bisbee, Arizona 85603

Backup Representative: Name, Position
Phone:
E-Mail Address:
Physical Address: