



RECEIVED  
COCHISE COUNTY  
3610 North 44th Street, Suite 250  
Phoenix, Arizona 85018  
Tel: 602.808.2004 Fax: 602.808.2099  
SouthWesternPower.com

March 25, 2020

VIA EMAIL and USPS  
Supervisor Peggy Judd  
Cochise County  
1415 Melody Lane, Bldg. G  
Bisbee, AZ 85603  
[pjudd@cochise.az.gov](mailto:pjudd@cochise.az.gov)

RE: Bowie Power Station Development

Dear Supervisor Judd:

Bowie Power Station, LLC (BPS), a development entity of SouthWestern Power Group (SWPG), owns approximately 1618 acres in Cochise County located just north of the town of Bowie. As you may know, BPS has planned for many years to develop a 1000-megawatt natural gas-fired combined cycle power plant on a 260-acre portion of that property (the Site).

In March of 2002, BPS obtained a Certificate of Environmental Compatibility (CEC) from the Arizona Corporation Commission (ACC) permitting the power plant at the Site (Decision #64625). The CEC included a condition requiring substantial construction of the power plant to occur by a specified date. (A copy of the CEC approval is attached for your reference.) Later that year, in September of 2002, the Cochise County Board of Supervisors approved rezoning of the Site from RU-4 to HI (rezoning case Z-02-13), and also approved a Special Use Permit (SUP) for development of a power plant on the Site (case SU-02-08). Both the rezoning and the SUP approvals were subject to stipulations requiring substantial construction of the power station to occur by a specified date, concurrent with the date stipulated in the CEC approval. (Copies of both the rezoning and SUP approvals are attached for your reference.)

The ACC subsequently approved several extensions to the CEC expiration date, and the Cochise County Board of Supervisors also subsequently extended the rezoning and SUP deadlines several times, remaining consistent with the CEC expiration date. The current expiration date for all three approvals - the CEC, the rezoning and the SUP - is December 31, 2020. (A copy of the most recent CEC extension, and a copy of the latest extension approval for the rezoning and SUP are attached for your reference.)

Supervisor Peggy Judd  
March 25, 2020  
Page 2

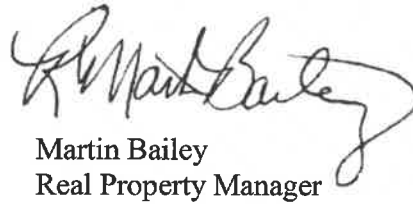
Unfortunately, in the interim years since the CEC and zoning approvals were obtained for the project, market demands did not progress as anticipated, and thus development of the planned power station has remained economically unfeasible. I wanted to make you aware that BPS has now determined that it will not seek any further extensions to the CEC and zoning approvals, and instead intends allow those approvals to expire at the end of this year.

At this time, BPS is actively working to return the property to agricultural use. We are currently seeking farm tenants for the property, in conjunction with other surrounding parcels also owned by BPS. Discussions and meetings have already occurred with several prospective farmers, and BPS is now evaluating potential proposals for agricultural use.

I also wanted to let you know that due to the upcoming reversion of the Site's zoning, and the anticipated return of the Site to agricultural use, in a separate letter and appeal petition, we have requested a review by the County Assessor of the valuation of the Site (tax parcel 301-04-033G) for future tax assessments.

I will keep you apprised of any significant changes in our plans regarding the BPS property. In the meantime, please feel free to contact me should you have any questions regarding the BPS property.

Respectfully,

A handwritten signature in black ink, appearing to read "Martin Bailey", written in a cursive style.

Martin Bailey  
Real Property Manager

Attachments:

- Attachment 1: ACC approval of CEC for Power Plant (Decision #64625)
- Attachment 2: ACC approval of time extension for CEC
- Attachment 3: Cochise County Rezoning Approval (Z-02-13)
- Attachment 4: Cochise County SUP Approval (SU-02-08)
- Attachment 5: Cochise County approval of time extension for Rezoning/SUP

MAR 07 2002

BEFORE THE ARIZONA POWER PLANT  
AND LINE SITING COMMITTEE

DOCKETED BY	✓
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CASE NO. 118

Docket No. L-00000BB-01-0118

(POWER PLANT)

DECISION NO. 64625

1  
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4 IN THE MATTER OF THE APPLICATION OF  
5 BOWIE POWER STATION, L.L.C., IN  
6 CONFORMANCE WITH REQUIREMENTS  
7 OF ARIZONA REVISED STATUTES 40-360.03  
8 AND 40-360.06 FOR TWO CERTIFICATES OF  
9 ENVIRONMENTAL COMPATIBILITY  
10 AUTHORIZING CONSTRUCTION OF A  
11 1,000 MEGAWATT NATURAL GAS-FIRED,  
12 COMBINED-CYCLE POWER PLANT, 345 kV  
13 AND 345 kV/230kV SWITCHYARDS, 345 kV  
14 230 kV INTERCONNECTION AND RELATED  
15 FACILITIES IN COCHISE AND GRAHAM  
16 COUNTIES, ARIZONA. THE PROPOSED  
17 POWER STATION SITE IS LOCATED IN  
18 SECTIONS 28 AND 29, TOWNSHIP 12 SOUTH,  
19 RANGE 28 EAST, TOWNSHIP 11 SOUTH,  
20 RANGE 28 EAST, TOWNSHIP 11 SOUTH,  
21 RANGE 27 EAST, AND TOWNSHIP 11 SOUTH,  
22 RANGE 26 EAST, GILA AND SALT RIVER BASE  
23 AND MERIDIAN

17 The Arizona Corporation Commission ("Commission") has conducted its review, as  
18 prescribed by A.R.S. § 40-360.07. Pursuant to A.R.S. § 40-360.07, the Commission, in compliance  
19 with A.R.S. § 40-360.06 and in balancing the broad public interest, the need for an adequate,  
20 economical and reliable supply of electric power with the desire to minimize the effect thereof on the  
21 environment and ecology of this state:

22 The Commission finds and concludes that the Certificate of Environmental Compatibility  
23 ("CEC") issued by the Arizona Power Plant and Transmission Line Siting Committee for Applicant's  
24 Power Plant is granted as modified and amended by this Order.

25  
26 The Commission modifies Condition Number 2 with an additional provision as follows:

27 2(F). Make arrangements with local and county law enforcement to support their efforts to  
28 serve and protect the public and the Project and its employees.

1 The Commission modifies Condition Number 3(A) as follows:

2 3(A). In the event of the occurrence of an "alert condition," as defined in the Monitoring  
3 Program, Applicant, ADWR, Cochise County and the United States Geological  
4 Survey ("USGS") shall confer as to the investigative and/or mitigation program(s), if  
5 any, to be undertaken in response to such "alert condition." In the event Applicant,  
6 ADWR, Cochise County and USGS are unable to agree as to the program(s) or  
7 course(s) of action to be undertaken, Applicant shall refer the matter to the  
8 Commission for a hearing and decision to determine the investigative and/or  
9 mitigation programs, if any, to be undertaken in response to such "alert condition."  
10 Copies of a written report describing the nature and manner of resolution of each such  
11 "alert condition" as may be observed will be distributed by Applicant to ADWR,  
12 Cochise County, USGS and the Commission.

13  
14 The Commission modifies the CEC to add the following two conditions:

15 23. Applicant shall enter into a groundwater monitoring program, at Applicant's sole  
16 expense, with the Arizona Department of Water Resources within 180 days of this  
17 decision. Applicant shall annually provide copies of any and all reports,  
18 correspondence or data from such program to the Town of Bowie, the Pistachio Pass  
19 Irrigation District and the Cochise County Board of Supervisors. None of these  
20 documents shall be considered proprietary or confidential under Arizona Public  
21 Records Law.

22  
23 A. Commencing with the first year of commercial operation of the initial power  
24 block of the Project, Applicant shall annually contribute One Hundred  
25 Thousand Dollars (\$100,000) to a Groundwater Impact Mitigation Fund  
26 (Fund) to be established and maintained by Applicant at a national or state-  
27 chartered bank. Such contribution obligation shall be suspended whenever the  
28

1 balance in the Fund reaches the principal amount of Five Hundred Thousand  
2 Dollars (\$500,000). Interest earned on the Fund shall belong to Applicant.  
3

4 B. Persons claiming property or economic damage as a result of ground water  
5 decline allegedly directly attributable to Project operation may submit a claim  
6 for mitigation payment to Applicant. Applicant shall investigate the  
7 circumstances surrounding the claim and make a determination, if possible, as  
8 to the cause of the claimant's alleged property or economic damage. If it is  
9 determined that the damage in question has been caused by Project operations,  
10 funds shall be disbursed from the Fund to compensate claimant for the amount  
11 of damage determined to be directly attributable to the Project. If the cause or  
12 amount of the alleged damage is in dispute, Applicant agrees to submit the  
13 matter to binding arbitration with the American Arbitration Association, if the  
14 person claiming damage agrees.  
15

16 C. The Groundwater Impact Mitigation Fund account shall be maintained for  
17 three (3) years after the end of the Project's economic life, as determined by  
18 Applicant. Once the three (3) year period has passed, the account shall be  
19 closed, and any remaining funds shall be disbursed back to Applicant.  
20

21 24. The Applicant, its successor(s) or assignee(s) shall submit a self-certification letter  
22 annually, identifying which conditions contained in the CEC as amended, have been  
23 met. Each letter shall be submitted to the Utilities Division Director on December 31,  
24 beginning in 2002, describing conditions which have been met as of November 30.  
25 Attached to each certification letter shall be documentation explaining, in detail, how  
26 compliance with each condition was achieved. Copies of each letter, along with the  
27 corresponding documentation, shall also be submitted to the Arizona Attorney General  
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and the Directors of the Arizona Department of Environmental Quality, Department of Water Resources, and Department of Commerce Energy Office.


**APPROVED AS AMENDED BY ORDER OF THE  
ARIZONA CORPORATION COMMISSION**

  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 7<sup>th</sup> day of MARCH, 2002.

  
BRIAN C. McNEIL  
Executive Secretary

DISSENT: \_\_\_\_\_



1	Mark McWhirter	Designee for Director of Energy Office of Arizona Department of Commerce
2		
3	Patrick Schiffer	Designee for Director of Arizona Department of Water Resources
4	Richard Tobin	Designee for Director of Arizona Department of Environmental Quality
5		
6	Jeff McGuire	Appointed Member
7	Mike Palmer	Appointed Member
8	A. Wayne Smith	Appointed Member
9	Sandie Smith	Appointed Member
10	Margaret Trujillo	Appointed Member
11	Mike Whalen	Appointed Member

12 The Applicant was represented by Lawrence V. Robertson, Jr. The Arizona Corporation  
 13 Commission ("Commission") staff was represented by Jason D. Gellman. Wayne Bryant appeared on  
 14 his own behalf as an individual intervenor.

15 At the conclusion of the public hearings, after consideration of (i) the Application and the  
 16 evidence presented during the public hearings, (ii) the closing arguments of the parties, and (iii) the  
 17 legal requirements of Arizona Revised Statutes §40-360 through §40-360.13 and A.A.C. R14-3-213,  
 18 upon motion duly made and seconded, by a 9-1 vote the Committee voted to grant the Applicant the  
 19 following Certificate.

20 Applicant is hereby granted a Certificate to site and construct the following facilities ("Project"):

21 A natural gas fired, combined cycle electric generating plant with an  
 22 operating capability not to exceed a nominal site rating of 1000  
 23 megawatts (MW). The facilities shall consist of up to two (2) power  
 24 blocks, each rated up to 500 MW nominal. Each power block shall  
 25 consist of (i) two combustion turbine generators (CTG), (ii) two heat  
 26 recovery steam generators (HRSG) and (iii) one steam turbine electric  
 27 generator. The plant design may also incorporate supplementary or  
 28 duct-firing of the HRSG for a given power block. The duct-firing  
 29 design would be incorporated in the HRSG's. The power plant and  
 30 supporting infrastructure shall be located in Section 28 and a portion of  
 31 Section 29, Township 12 South, Range 28 East, G&SRB&M.

32 As testified to by the Applicant during the public hearings, electric power and energy produced  
 33 at the Bowie Power Station are intended primarily to serve Southeastern Arizona markets. The

1 supporting power plant infrastructure shall include (i) an air pollution control system, (ii) water handling  
2 and treatment facilities, (iii) fuel system, (iv) instrumentation and control system, (v) switchyard and  
3 electrical interconnection(s), (vi) chemical and petroleum product storage facilities, (vii) vehicular  
4 access facilities, (viii) evaporation ponds, and (ix) other site improvements. Each of these infrastructure  
5 components is described in some detail in the Application.

6 In connection with the design and construction of Project facilities, Applicant shall use low  
7 profile structures, moderate stacks, neutral colors, compatible landscaping and low intensity directed  
8 lighting for the power plant. The transmission facilities shall include the use of non-reflective  
9 conductors and towers. In addition, Applicant shall use a zero discharge system for cooling water,  
10 subject to existing regulatory requirements. Further, Applicant shall operate the evaporation ponds so  
11 that any salt residue(s) contained therein shall not cause damage to crops grown on fields adjacent to  
12 the Project site.

13 This Certificate is further granted upon the following conditions.

14 1. Applicant shall comply with all existing applicable air and water pollution control  
15 standards and regulations, and with all existing applicable ordinances, master plans and  
16 regulations of the State of Arizona, Cochise County and Graham County, the United  
17 States of America, and any other governmental entities having jurisdiction, including but  
18 not limited to the following:

- 19 A. all applicable zoning stipulations and conditions, including but not limited to  
20 landscaping and dust control requirements and/or approvals;  
21 B. all applicable air quality control standards, approvals, permit conditions and  
22 requirements of the Arizona Department of Environmental Quality ("ADEQ")  
23 and/or other State of Arizona or Federal agencies having jurisdiction, and  
24 Applicant shall install and operate selective catalytic reduction at the level  
25 determined by ADEQ.  
26 C. all applicable water use and conservation requirements of the Arizona  
27 Department of Water Resources ("ADWR").  
28 D. all applicable water use and discharge requirements of ADEQ.

1 E. all applicable noise control standards, and during normal operations the project  
2 shall not exceed applicable (i) HUD or EPA residential noise guidelines or (ii)  
3 OSHA worker safety noise standards; and

4 F. all applicable regulations and permits governing storage and handling of  
5 chemical and petroleum products;

6 In connection with approvals of or permits for Project facilities to be issued by Cochise County or  
7 Graham County, Applicant shall attach a copy of this Decision and Certificate to any applications or  
8 requests it submits to such counties. A courtesy copy will also be provided to the community of Bowie  
9 and the City of Willcox.

10 2. In anticipation of the impact of the Project upon the demand for local services, and prior  
11 to the commencement of construction, Applicant shall do the following:

12 A. Donate to the Bowie Fire District ("Fire District") as a capital outlay to enable  
13 it to acquire, through purchase or lease, an additional emergency services  
14 vehicle, with the manner of acquisition to be determined by the Fire District. In  
15 addition, funds will be provided to assist the Fire District to train its personnel  
16 and/or volunteers in emergency response and the handling of hazardous  
17 materials.

18 B. Donate to the Bowie School District ("School District") such additional  
19 classrooms and portable classrooms, together with related utility hook-ups, in  
20 the event the Superintendent of the School District concludes that formally  
21 adopted student-teacher ratios will be exceeded by reason of the construction  
22 of Project facilities.

23 C. Make arrangements with high schools in the Bowie and Willcox area to support  
24 science and vocational academic and training programs.

25 D. Make arrangements that state and local employment agencies be consulted in  
26 connection with the hiring of employees for the construction and operation of  
27 Project facilities.

1 E. Make arrangements with Cochise County to address and resolve traffic control  
2 problems and concerns, including consideration of paving roads, adding traffic  
3 lights and/or staggering Project construction work shift changes.

4 3. <sup>F → Sec Insert</sup> In connection with the engineering, design, construction, operation and maintenance of  
5 the Project facilities, Applicant and its consultants and contractors shall apply  
6 recognized and accepted geotechnical engineering and civil engineering standards and  
7 practices. In addition, Applicant shall implement the Ground Subsidence and Earth  
8 Fissure Monitoring Program agreed to between Applicant and the Arizona Department  
9 of Water Resources, which was received into evidence as Exhibit No. A-11, and as  
10 amended by Exhibit No. A-20.

11 *Modified* ( A. In the event of the occurrence of an "alert condition," as defined in the  
12 Monitoring Program, Applicant, ADWR, Cochise County and the United States  
13 Geological Survey ("USGS") shall confer as to the investigative and/or  
14 mitigation program(s), if any, to be undertaken in response to such "alert  
15 condition." In the event Applicant, ADWR, Cochise County and USGS are  
16 unable to agree as to the program(s) or course(s) of action to be undertaken,  
17 Applicant shall refer the matter to the Commission for a hearing and decision  
18 to determine the investigative and/or mitigation programs, if any, to be  
19 undertaken in response to such "alert condition."

20 B. Commencing with the fifth year of commercial operation of the initial power  
21 block of the Project, Applicant shall annually contribute One Hundred Thousand  
22 Dollars (\$100,000) to a Subsidence Mitigation Fund ("Fund") to be established  
23 and maintained by Applicant at a national or state-chartered bank. Such  
24 contribution obligation shall be suspended whenever the balance in the Fund  
25 reaches the principal amount of Five Hundred Thousand Dollars (\$500,000).  
26 Interest earned on the Fund shall belong to Applicant.

27 C. Persons claiming property damage as a result of ground subsidence allegedly  
28 directly attributable to Project operation may submit a claim for mitigation

1 payment to Applicant. Applicant shall investigate the circumstances  
2 surrounding the claim and make a determination, if possible, as to the cause of  
3 the claimant's alleged property damage. If it is determined that the damage in  
4 question has been caused by Project operations, funds shall be disbursed from  
5 the Fund to compensate claimant for the amount of damage determined to be  
6 directly attributable to the Project. If the cause or amount of the alleged damage  
7 is in dispute, Applicant agrees to submit the matter to binding arbitration with  
8 the American Arbitration Association, if the person claiming damage agrees.

9 D. The Subsidence Mitigation Fund account shall be maintained for three (3) years  
10 after the end of the Project's economic life, as determined by Applicant. Once  
11 the three (3) year period has passed, the account shall be closed, and any  
12 remaining funds shall be disbursed back to Applicant.

13 4. Applicant shall prepare a plan for shutdown, decommissioning and cleanup of the plant  
14 site that shall be filed with the Commission's Docket Control section within one year  
15 of beginning construction. Such plan shall provide for a return of the power plant site  
16 to original pre-construction grade elevation. In that regard, the Committee  
17 recommends that Applicant work with Cochise County and/or any other local governing  
18 body with jurisdiction over the plant site to ensure that such plan is reasonable, and is  
19 followed or amended as needed.

20 5. Applicant, its affiliates, successors and assignees may withdraw groundwater for  
21 electrical generation and related uses, to include but not limited to landscape  
22 maintenance, in an amount not to exceed 55,000 acre-feet per ten-year period as  
23 determined by using a ten-year rolling average commencing on the date the Bowie  
24 Power Station first begins withdrawing groundwater in connection with the Project;  
25 provided, however, Applicant's withdrawal in any given year shall not exceed 6,000  
26 acre-feet.

27 6. Applicant's plant interconnection must satisfy the Western Systems Coordinating  
28 Council's ("WSCC") single contingency outage criteria (N-1) and all applicable local

1 utility planning criteria without reliance on remedial action such as reducing generator  
2 output, generator unit tripping or load shedding.

- 3 7. Prior to construction of any facilities, Applicant must provide the Commission with  
4 technical study evidence that sufficient transmission capacity exists to accommodate the  
5 full output of the plant and that the full output of the plant shall not compromise the  
6 reliable operation of the interconnected transmission system. The technical studies shall  
7 include a power flow and stability analysis report showing the effect of the plant on the  
8 existing Arizona electric transmission system. The technical study report(s) shall  
9 document both physical flow capability as well as contractual schedule capability to  
10 deliver full plant output to its intended market. In addition, Applicant must provide the  
11 Commission with updates to the information required in this condition not more than  
12 one year and not less than three months prior to commercial operation of the plant.  
13 Prior to commencing operation of a given power block, transmission facilities  
14 improvements necessary to deliver the full output of that power block to intended  
15 markets, as identified in the aforesaid technical studies, shall have been completed.
- 16 8. Applicant shall become and remain a member of the WSCC, or its successor, and file  
17 an executed copy of its WSCC Reliability Management System ("RMS") Generator  
18 Agreement with the Commission. Membership by an affiliate of Applicant satisfies this  
19 condition only if Applicant is bound by the affiliate's WSCC membership.
- 20 9. Applicant shall apply to become, and if accepted, thereafter remain a member of the  
21 Southwest Reserve Sharing Group or its successor, thereby making its units available  
22 for reserve sharing purposes, subject to competitive pricing.
- 23 10. Applicant shall continue to participate in good faith in state and regional transmission  
24 study forums to identify and encourage expedient implementation of transmission  
25 enhancements, including transmission cost participation as appropriate, to reliably  
26 deliver power from the Project throughout the WSCC grid in a reliable manner.
- 27 11. Applicant shall first offer wholesale power purchase opportunities to credit-worthy  
28 Arizona load-serving entities and to credit-worthy marketers providing service to those  
Arizona load-serving entities.

1 12. Applicant shall offer for Ancillary Services, in order to comply with WSCC RMS  
2 requirements, a total of up to 10% of its total plant capacity to (A) the local Control  
3 Area with which it is interconnected and (B) Arizona's regional ancillary service  
4 market, (i) once a Regional Transmission Organization (RTO) is declared operational  
5 by FERC order, and (ii) until such time that an RTO is so declared, to a regional reserve  
6 sharing pool.

7 13. Pursuant to applicable Federal Energy Regulatory Commission ("FERC"), regulations,  
8 Applicant shall not knowingly withhold its capacity from the market for reasons other  
9 than a forced outage or pre-announced planned outage.

10 14. Within 30 days of the Commission decision authorizing construction of the Project,  
11 Applicant shall erect and maintain at the site a sign of not less than 4 feet by 8 feet  
12 dimensions, advising:

- 13 A. that the site has been approved for the construction of a 1000 megawatt  
14 (nominal) generating facility;
- 15 B. the expected date of completion of the Project; and
- 16 C. phone number for public information regarding the Project.

17 In the event that Applicant requests an extension of the term of the Certificate prior to  
18 completion of the construction, Applicant shall use reasonable means to directly notify all landowners  
19 and residents within one-mile radius of the Project of the time and place of the proceeding in which  
20 the Commission shall consider such request for extension. Applicant shall also provide notice of such  
21 extension to Cochise County, Graham County, the community of Bowie and the City of Willcox.

22 15. Applicant shall pursue all necessary steps to ensure a reliable supply and delivery of  
23 natural gas for the generating facility.

24 16. In connection with the construction of the Project, Applicant shall use commercially  
25 reasonable efforts, where feasible, to give due consideration to use of qualified Arizona  
26 contractors. In addition, Applicant shall encourage the hiring of qualified local  
27 employees in connection with construction and operation of the Project facilities.  
28

1 17. Applicant shall participate in good faith in state and regional workshops and other  
2 assessments of the interstate gas and pipeline infrastructure.

3 18. Within five days of Commission approval of this CEC, Applicant shall request in writing  
4 that El Paso Natural Gas Company ("El Paso") provide Applicant with a written report  
5 describing the operational integrity of El Paso's Southern System facilities through the  
6 Bowie and San Simon areas. Such request shall include:

7 A. a request for information regarding inspection, replacement and/or repairs  
8 performed on this segment of El Paso's pipeline facilities since 1996 and those  
9 planned through 2006; and

10 B. an assessment of subsidence impacts on the integrity of this segment of pipeline  
11 over its full cycle, together with any mitigation steps taken to date or planned  
12 in the future.

13 Applicant shall file El Paso's response under this docket with the Commission's Docket  
14 Control. Should El Paso not respond within thirty (30) days, Applicant shall docket a copy of  
15 Applicant's request with an advisory of El Paso's failure to respond. In either event, Applicant's  
16 responsibility hereunder shall terminate once it has filed El Paso's response or Applicant's advisory of  
17 El Paso's failure to respond.

18 19. In conjunction with its construction of the Project facilities, Applicant shall implement  
19 the Landscape Plan set forth at Exhibit B-2 to the Application [Ex. #A-1].

20 20. Applicant shall work with the United States Fish and Wildlife Service and the Arizona  
21 Game and Fish Department to develop screening or other methods to protect wildlife  
22 from harm at the Project's evaporation ponds. In addition, Applicant shall transmit  
23 copies of its Aquifer Protection Permit application concurrent with the filing of same  
24 to the United States Fish and Wildlife Service and the Arizona Game and Fish  
25 Department.

26 21. Applicant shall utilize in the design, construction and operation of the second 500 MW  
27 power block, solar technology for inlet cooling of both combustion turbines. Applicant  
28 shall select such technology based on, but not limited to, Applicant's evaluation of initial  
installed cost, operating cost, and proven performance of the technology itself.

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Applicant shall be released from any responsibility to revegetate land associated with installation and operation of the solar application contemplated by this condition.

22. This authorization to site and construct the Project facilities shall expire five (5) years from the date the Certificate is approved by the Commission unless construction is completed and the plant is in operation. If construction on a power block has not begun before expiration of the five-year limit, Applicant shall no longer be authorized to begin construction on such power block. However, before such expiration Applicant may request that the Commission extend this time limitation.

GRANTED this 3<sup>RD</sup> day of January, 2002.

Arizona Power Plant and Transmission Line  
Siting Committee

By: Laurie A. Woodall  
Laurie A. Woodall, Chair

Decision No. \_\_\_\_\_

219037.1

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APPROVED BY ORDER OF THE ARIZONA CORPORATION COMMISSION

\_\_\_\_\_  
Commissioner Commissioner Commissioner

In Witness Hereof, I, Brian C. McNeil, Executive Secretary of the Arizona Corporation Commission, set my hand and cause the official seal of this Commission to be affixed, this \_\_\_\_ day of \_\_\_\_\_, 2002.

By \_\_\_\_\_  
Brian C. McNeil  
Executive Secretary

Dissent: \_\_\_\_\_

2190371



0000119318

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

Arizona Corporation Commission

DOCKETED

NOV -1 2010

DOCKETED BY [Signature]

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CD

IN THE MATTER OF THE APPLICATION OF BOWIE POWER STATION, L.L.C. IN CONFORMANCE WITH REQUIREMENTS OF ARIZONA REVISED STATUTES 40-360.03 AND 40-360.06 FOR TWO CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING CONSTRUCTION OF A 1,000 MEGAWATT NATURAL GAS-FIRED, COMBINED-CYCLE POWER PLANT, 345kV AND 345kV/230kV SWITCHYARDS, 345kV and 230kV INTERCONNECTION AND RELATED FACILITIES IN COCHISE AND GRAHAM COUNTIES ARIZONA. THE PROPOSED POWER STATION SITE IS LOCATED IN SECTIONS 28 AND 29, TOWNSHIP 12 SOUTH, RANGE 28 EAST, TOWNSHIP 11 SOUTH, RANGE 28 EAST, TOWNSHIP 11 SOUTH, RANGE 27 EAST, AND TOWNSHIP 11 SOUTH, RANGE 26 EAST, GILA AND SALT RIVER BASE AND MERIDIAN.

DOCKET NO. L-00000BB-01-0118

CASE NO. 118

Decision No. 71951

ORDER

Open Meeting  
October 19 and 20, 2010  
Phoenix, Arizona.

BY THE COMMISSION:

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On July 27, 2001, Bowie Power Station, L.L.C. ("Bowie" "Company" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for two Certificates of Environmental Compatibility ("CEC"). Decision No. 64625 (March 7, 2002) authorized the construction of a 1,000 megawatt ("MW") natural gas-fired, combined-cycle power plant. Decision

1 No. 64626 authorized the construction of the 345 kV and 345 kV/230 kV switchyards, a 345 kV  
2 double-circuit transmission line and a 230 kV interconnection and related facilities in Cochise and  
3 Graham Counties. Both CECs were granted subject to a number of conditions.

4       2.       On August 18, 2006, the Company filed a Request for Extension of the CECs  
5 approved in Decision Nos. 64625 and 64626. The extension request was based upon Condition No.  
6 22 in Decision No. 64625 and Condition No. 10 in Decision No. 64626, which allow the Company to  
7 seek extension of the CECs before the time limit to complete construction. Decision No. 69339  
8 (February 20, 2007) granted the extensions until December 31, 2010 and also included several new  
9 conditions.

10       3.       On July 8, 2010, Bowie applied for an extension of time requesting that the expiration  
11 date of the CECs be extended from the current expiration date of December 31, 2010 to December  
12 31, 2020.

13       4.       On August 12, 2010, the Commission's Utilities Division ("Staff") filed a  
14 Memorandum recommending that the Company's request for extensions be granted. Staff stated that  
15 Bowie's request for this extension is based on "reduced load forecast in the current depressed  
16 economy and on the uncertainty of economic recovery in the short term." Staff explained that even  
17 though Bowie began "very preliminary construction activity in August 2008, the Company is not able  
18 to continue this construction, under the present economic circumstances." Staff also stated that the  
19 Company has concluded that it would "not be able to market the output of the proposed power station  
20 to the Arizona utilities or export it out of state for some period of time."

21       5.       Staff believes that the request for an extension of time is reasonable and therefore,  
22 recommends approval of the requested CECs' time extension to December 31, 2020. Staff proposed  
23 a modification to the Company's "Proposed Revised CEC Expiration Condition(s) Language" to  
24 include a provision that Bowie could request a time extension in the future provided that appropriate  
25 facilities have been "substantially constructed."

26       6.       The language as recommended by Staff is as follows:

27 **Decision No. 64625:**

28

1 "This authorization to site and construct Bowie Project Generation Facilities shall  
 2 expire on December 31, 2020. However, before such expiration, Applicant or any  
 3 assignee of Applicant may request that the Commission further extend this time  
 4 limitation, provided that the Bowie Project Generation Facilities have been  
 5 substantially constructed as of the time of such extension request. The  
 Commission will determine what "substantial construction" is, at the time of  
 Applicant's filing for time extension. In determining whether the facilities have  
 been substantially constructed, the Commission shall include consideration of the  
 status of Bowie Project financing and physical site construction."

6 **Decision: 64626:**

7 "This authorization to site and construct Bowie Project Transmission Facilities  
 8 shall expire on December 31, 2020. However, before such expiration, Applicant  
 9 or any assignee of Applicant may request that the Commission further extend this  
 10 time limitation, provided that the Bowie Project Transmission Facilities have been  
 11 substantially constructed as of the time of such extension request. The  
 Commission will determine what "substantial construction" is, at the time of  
 Applicant's filing for time extension. In determining whether the facilities have  
 12 been substantially constructed, the Commission shall include consideration of the  
 status of Bowie Project financing and physical site construction."

13  
 14 7. Bowie did not object to Staff's recommended language, and we find that Staff's  
 recommended language is reasonable and appropriate.

15  
 16 8. Decision Nos. 64625 and 64626 both contain language requiring Bowie to provide  
 17 notice of requests for extension of the terms of the CECs.

18 Decision No. 64625 provides that:

19 In the event that Applicant requests an extension of the term of the  
 20 Certificate prior to completion of construction, Applicant shall use  
 21 reasonable means to directly notify all landowners and residents within a  
 22 one-mile radius of the Project of the time and place of the proceeding in  
 23 which the Commission shall consider such request for extension. Applicant  
 shall also provide notice of such extension to Cochise County, Graham  
 County, the community of Bowie and the City of Willcox.<sup>1</sup>

24  
 25 Decision No. 64626 provides that:

26 In the event that the Project requires an extension of the term of this  
 27 Certificate prior to completion of construction, Applicant shall use

28 <sup>1</sup> Decision No. 64625 at CEC p.8, Condition 14.

1 reasonable means to directly notify all landowners and residents within a  
2 one mile radius of the Project facilities of the time and place of the  
3 proceeding in which the Commission shall consider such request for  
4 extension.<sup>2</sup>

5 9. Accordingly, by Procedural Order issued October 4, 2010, Bowie was directed to  
6 provide notice pursuant to those Decisions.

7 **CONCLUSIONS OF LAW**

8 1. The Commission has jurisdiction over the Bowie Power Station, LLC and the subject  
9 matter contained herein pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-252 and  
10 40-360 et seq.

11 2. Notice of the matter was given in the manner prescribed by law.

12 3. Amending Decision Nos. 64625 and 64626 as set forth herein is in the public interest  
13 in balancing the need for the projects with their impact on the environment and ecology of the state.

14 **ORDER**

15 IT IS THEREFORE ORDERED that Decision Nos. 64625 and 64626 are hereby amended as  
16 follows:

17 **Decision No. 64625:**

18 “This authorization to site and construct Bowie Project Generation Facilities shall  
19 expire on December 31, 2020. However, before such expiration, Applicant or any  
20 assignee of Applicant may request that the Commission further extend this time  
21 limitation, provided that the Bowie Project Generation Facilities have been  
22 substantially constructed as of the time of such extension request. The  
23 Commission will determine what “substantial construction” is, at the time of  
24 Applicant’s filing for time extension. In determining whether the facilities have  
25 been substantially constructed, the Commission shall include consideration of the  
26 status of Bowie Project financing and physical site construction.”

27 **Decision: 64626:**

28 “This authorization to site and construct Bowie Project Transmission Facilities  
shall expire on December 31, 2020. However, before such expiration, Applicant  
or any assignee of Applicant may request that the Commission further extend this  
time limitation, provided that the Bowie Project Transmission Facilities have been  
substantially constructed as of the time of such extension request. The  
Commission will determine what “substantial construction” is, at the time of  
Applicant’s filing for time extension. In determining whether the facilities have

<sup>2</sup> Decision No. 64626 at CEC p. 4-5, Condition 3.

1 been substantially constructed, the Commission shall include consideration of the  
2 status of Bowie Project financing and physical site construction.”

3 IT IS FURTHER ORDERED that all other provisions of Decision Nos. 64625 and 64626 as  
4 amended remain in full force and effect.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7  
8 

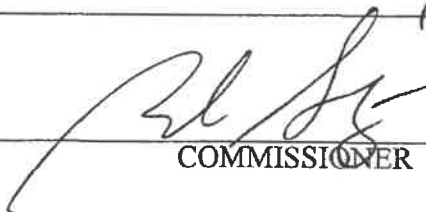
9 CHAIRMAN



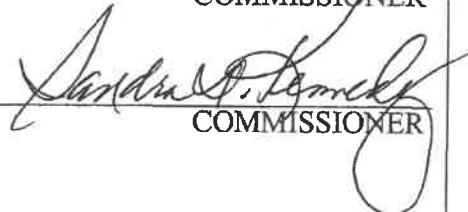
COMMISSIONER

10 

11 COMMISSIONER



COMMISSIONER



COMMISSIONER

12  
13 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
14 Executive Director of the Arizona Corporation Commission,  
15 have hereunto set my hand and caused the official seal of the  
16 Commission to be affixed at the Capitol, in the City of Phoenix,  
17 this 15<sup>th</sup> day of Nov., 2010.

18   
19 ERNEST G. JOHNSON  
20 EXECUTIVE DIRECTOR

21 DISSENT \_\_\_\_\_

22 DISSENT \_\_\_\_\_

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1 SERVICE LIST FOR: BOWIE POWER STATION, L.L.C

2 DOCKET NO.: L-00000BB-01-0118

3

4 Lawrence V. Robertson, Jr.  
5 ATTORNEY AT LAW  
6 P.O. Box 1448  
7 Tubac, AZ 85646  
8 Attorney for Bowie Power Station, L.L.C.

6

7 John Foreman, Chairman  
8 ARIZONA POWER PLANT AND TRANSMISSION  
9 LINE SITING COMMITTEE  
10 Office of the Attorney General  
11 1275 W. Washington St.  
12 Phoenix, AZ 85007

10

11 David Getts  
12 Tom Way  
13 SOUTHWESTERN POWER GROUP II, LLC  
14 3610 N. 44th St., Suite 250  
15 Phoenix, AZ 85018

13

14 Wayne Bryant  
15 UNITED ASSOCIATES OF PLUMBERS AND  
16 STEAMFITTERS LOCAL 741  
17 2475 E. Water St.  
18 Tucson, AZ 85719-3455

16

17 Janice Alward, Chief Counsel  
18 Legal Division  
19 ARIZONA CORPORATION COMMISSION  
20 1200 West Washington Street  
21 Phoenix, AZ 85007

19

20 Steve Olea, Director  
21 Utilities Division  
22 ARIZONA CORPORATION COMMISSION  
23 1200 West Washington Street  
24 Phoenix, AZ 85007

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**COCHISE COUNTY PLANNING DEPARTMENT**

1415 W. Melody Lane, Bisbee, Arizona 85603

(520) 432-9450

Fax 432-9429

*James E. Vlahovich, Director*

September 25, 2002

Tom C. Wray  
General Manager  
Bowie Power Station, LLC  
PO Box 15491  
Phoenix, Arizona 85060

RE: Docket Z-02-13, Tax Parcels 301-04-028, 032, 033A, 033C, 034

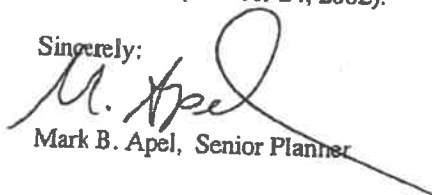
Dear Mr. Wray:

As you are aware, at their regular meeting of September 24, 2002, the Board of Supervisors voted unanimously (3-0) to approve your rezoning of approximately 260 acres from RU-4 to HI and approximately 443 acres to RU-36 on your parcels located north of Bowie for the purposes of legally establishing a power generation plant with the following condition:

Per Section 2206.05 of the Cochise County Zoning Regulations and consistent with the expiration provision of the ACC's Certificate for Environmental Compatibility, the entire property will revert to its original RU-4 zoning if no substantial progress is made on the construction of the electric generation facility after 5 years from the date of the approval by the Board of Supervisors.

Per Arizona State Law, please be aware that the new zoning does not go into effect until 30 days after the Board action (October 24, 2002).

Sincerely:

  
Mark B. Apel, Senior Planner

xc: James E. Vlahovich, Director  
Dawn Turner  
Les Thompson, Board of Supervisors, District 3  
Docket File  
Parcel File



**Proposed Rezoning Plan  
Attachment F**

Comprehensive Plan Category: D (Rural)  
Comprehensive Plan Designation: Rural Area  
Existing Zoning: RU-4  
Features

- Minimum required HI zoning for development of the 1000 mw high efficiency natural gas fired combined cycle electric generation plan.

**Proposed Rezoning**

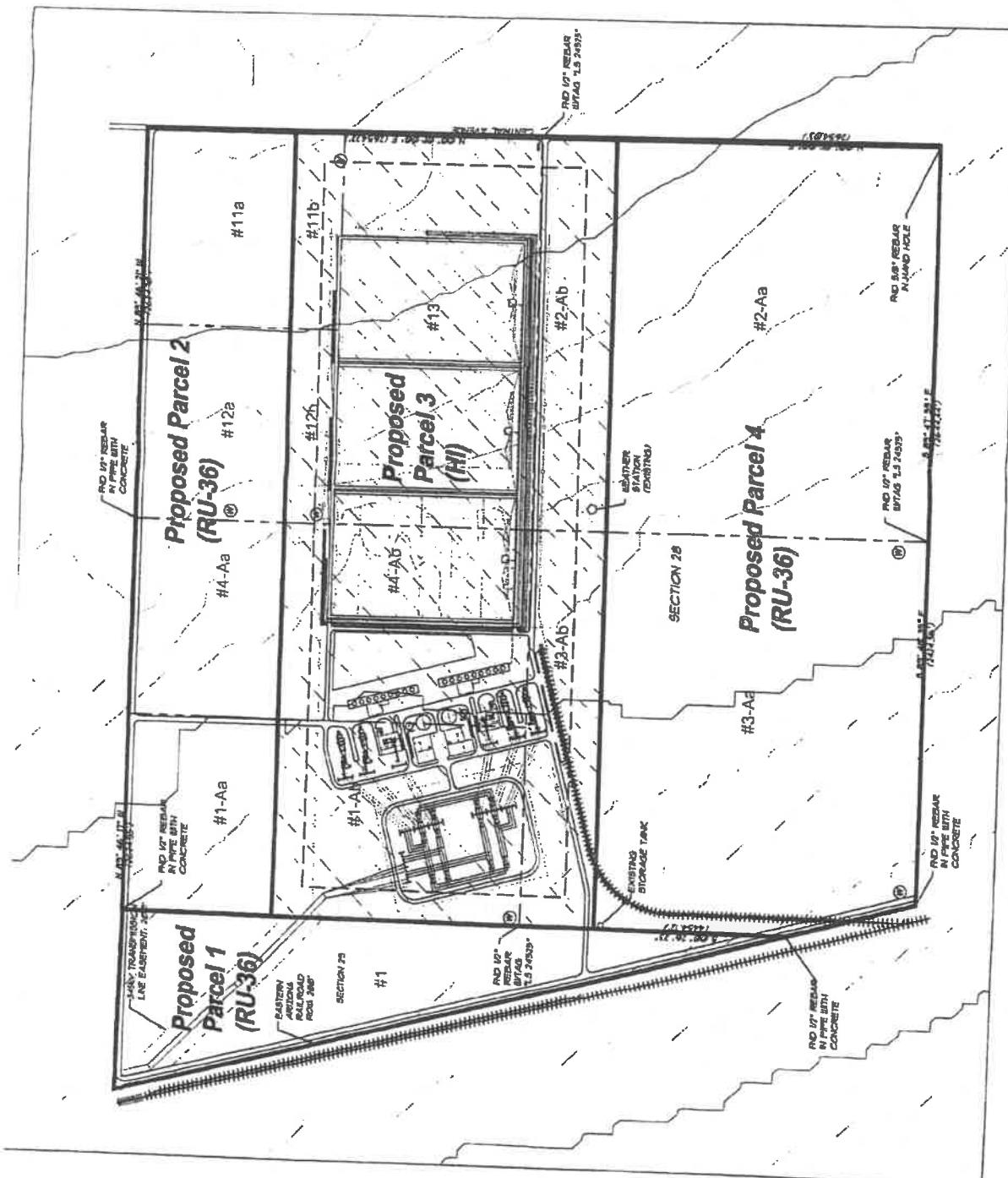
Proposed Parcel 1 (RU-36)	Acres
Parcels #1	83.2
Total	83.4

Proposed Parcel 2 (RU-36)	Acres
Parcels #1-Aa, #12a, #11a, #11b, #12b	30.2
Total	30.2

Proposed Parcel 3 (HI)	Acres
Parcels #13	10.1
Total	10.1

Proposed Parcel 4 (RU-36)	Acres
Parcels #2-Aa, #2-Ab, #3-Aa, #3-Ab	280.4
Total	280.4

Total Rezoning	Acres
HI	290.4
RU-36	482.7
Total	773.1



**Legend**

- 2007 Building Setback
- Proposed HI Zoning
- Existing Parcel Boundary
- Proposed Parcel Boundary

Prepared for:  
Rowie Power Station, LLC.

Date:  
June 14, 2002



Scale 1" = 100'-0"





## COCHISE COUNTY PLANNING DEPARTMENT

1415 W. Melody Lane, Bisbee, Arizona 85603

(520) 432-9450  
Fax 432-9429

*James E. Vlahovich, Director*

September 13, 2002

Bowie Power Station, LLC  
Attention: Tom C. Wray  
4350 East Camelback Road  
Suite B-150  
Phoenix, AZ 85018

RE: Docket SU-02-08, Tax Parcels (301-04-028, 032, 033A, 033C, 034)

Applicants: Bowie Power Station LLC

Dear Mr. Wray:

As you are aware, at their regular meeting on September 11, 2002 the Cochise County Planning and Zoning Commission voted (7-0, Guy abstaining) to approve your special use request, with modifications, for a 1000-megawatt power plant as detailed in the application and site plan submitted with the application. The approval was subject to the following conditions:

1. The applicant complies with all requirements of the Health Department.
2. The applicant complies with all requirements of the Highway and Floodplain Department to include but not limited to:
  - A. Prior to operation of the plant, dedicate right-of-way to the County along the eastern portion of the subject property that abuts Central Avenue at a width to be determined by the Highway and Floodplain Department as necessary for the improvements noted below;
  - B. Prior to operation of the plant, perfect right-of-way for the one-mile portion of Central Avenue that runs along the east section line of Section 33, Township 12 and Range 28 at a width to be determined by the Highway and Floodplain Department as necessary for the improvements noted below. The applicant will bear the cost of acquisition of land to perfect said right-of-way with administrative assistance from the County; and
  - C. Prior to operation of the plant, improve Central Avenue with a 28-foot wide, asphalt concrete surface (4" of asphalt over 6" of ABC or 3" of asphalt over 10 inches of ABC) from Business Interstate 10 to the north property boundary of the site of the power plant.
3. The applicant complies with all requirements of the State Fire Marshal.
4. During construction of the plant, the applicant repairs and restores to ADOT's standards any pavement damage to Business Interstate 10 due to associated heavy construction traffic.
5. Prior to permit issuance, the applicant submits a detailed site plan meeting the standards set forth in § 1705 of the Zoning Regulations for any structure or group of structures on the site.
6. Prior to construction, the applicant submits construction plans for the plant prepared and stamped by an Arizona Registrant.



7. Prior to permit issuance, the applicant completes Section 2 of the Hazardous Materials Information Sheet, provides MSDS sheets for materials that are to be stored or used on the site, and provides information as to the amount of ammonia that may be stored on the site.
8. Prior to permit issuance, the applicant addresses detention/retention requirements when they develop and clear the subject property.
9. It is the applicant's responsibility to obtain any additional permits, or meet additional conditions, if any, that may be applicable to the proposed activity pursuant to other federal, state, or local laws or regulations.
10. Any changes to the approved special use shall be subject to review by the Planning Department and may require a modification and approval by the Planning and Zoning Commission.
11. Approval of this Special Use Permit is contingent upon approval of the proposed rezoning to HI by the Board of Supervisors on September 24, 2002 (Z-02-13).
12. The applicants notify NOAA of the proposed project.

Modifications approved by the Commission.

1. 100-foot modification limiting the height of all structures on the site to 150 feet.
2. A waiver of § 1403.07 permitting noise to be discernable on neighboring residential sites with the condition that the levels of noise conform to the guidelines established by HUD and the EPA.

Per Section 1716.03E of the Cochise County Zoning Regulations, the conditions of the Special Use Permit must be formally accepted by the applicant within thirty (30) days of the Commission's decision or the permit will be void. Please sign and return the enclosed Acceptance of Conditions form as soon as possible. Permits cannot be issued without a signed Acceptance of Conditions form.

After the permit is issued, there must be substantial progress in construction, alteration, improvement or use within 12 months of the date of issuance of your permit. The Planning Department may request that the Commission revoke the permit if there is not substantial progress towards completing the project in a timely fashion.

If you or anyone disagrees with the Commission's action, Section 1716.04 of the Zoning Regulations allows for an appeal to the Board of Supervisors. This appeal must be filed within fifteen (15) calendar days of the Commission's action.

Sincerely,



Daniel Coxworth, Planner

Attachments: Special Use Conditions Acceptance Form

Xc: Les Thompson, District 3, Supervisor  
Commercial Permit Coordinator  
Docket File  
Parcel File



**COCHISE COUNTY PLANNING DEPARTMENT**

1415 W. Melody Lane, Bisbee, Arizona 85603

(520) 432-9450

Fax 432-9429

*James E. Vlahovich, Director*

**Acceptance of Conditions  
Of Special Use Permit Approval Docket SU-02-08**

I, *Tom Wray*, hereby acknowledge that I accept the conditions imposed by the Board of Supervisors on September 11, 2002 for my request for a Special Use Permit for the Bowie Power Station,

*Tom Wray*  
Applicant's Signature

*9-18-02*  
Date



**Cochise County**  
**Community Development**  
Planning, Zoning and Building Safety Division

Public Programs...Personal Service  
www.cochise.az.gov

June 23, 2015

RCVD JUN 30 '15

Ms. Lori Schleier  
Mr. Martin Bailey  
3610 North 44<sup>th</sup> Street  
Phoenix AZ 85018

**RE: Docket Z-02-13B (Bowie Power Station), Parcels 301-04-033G and 301-04-033H, located approximately two miles north of the unincorporated community of Bowie, AZ.**

Dear Ms. Schleier and Mr. Bailey,

As you are aware, on Tuesday, June 23, 2015, the Cochise County Board of Supervisors unanimously voted (3 – 0) to **conditionally approve** your request for a modification of the rezoning stipulation to extend the rezoning deadline an additional five years, to December 31, 2020, for the HI (Heavy Industrial) and R-36 (one dwelling per 36,000 square feet) zoned properties at the proposed Bowie Power Station site north of Bowie, Arizona.

The conditions of the Special Use authorization, Docket SU-02-08, shall remain the same.

Please do not hesitate to call me at 520-432-9300 or email me at [jdrake@cochise.az.gov](mailto:jdrake@cochise.az.gov) with any questions.

Sincerely,

Jesse Drake, Planner II

cc: Mary Gomez, Interim Community Development Director  
Dora Flores, Zoning Administrator  
Z-02-13B Docket file  
New World  
Parcel File

**Planning, Zoning and Building Safety**  
1415 Melody Lane, Building E  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9278 fax  
1-877-777-7958  
planningandzoning@cochise.az.gov

**Highway and Floodplain**  
1415 Melody Lane, Building F  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9337 fax  
1-800-752-3745  
highway@cochise.az.gov  
floodplain@cochise.az.gov

**RESOLUTION 15-11**

**EXTENDING THE DEADLINE FOR SUBSTANTIAL CONSTRUCTION  
PROGRESS ON THE BOWIE POWER STATION GAS-FIRED  
ELECTRIC GENERATING STATION FROM DECEMBER 31, 2015 TO  
DECEMBER 31, 2020**

**WHEREAS**, at its regular meeting on September 11, 2002, the Planning and Zoning Commission approved Docket SU-02-08, a Special Use request to legally establish an electric power generating station located north of Bowie, Arizona; and

**WHEREAS**, at its regular meeting on September 24, 2002, the Cochise County Board of Supervisors approved Docket Z-02-13 rezoning approximately 260 acres from RU-4 to H1, and approximately 443 acres from RU-4 to RU-36, for Parcels 301-04-028, 032, 033A, 033C, and 034 located north of Bowie, Arizona for the purposes of legally establishing an electric power generating station; and

**WHEREAS**, at its regular meeting on September 18, 2007, the Cochise County Board of Supervisors approved a revision of the condition attached to Docket Z-02-13 that required substantial progress on the construction of the electric power generating station by September 24, 2007, and extended the deadline for substantial construction progress to December 31, 2010; and

**WHEREAS**, at its regular meeting on November 10, 2009, the Cochise County Board of Supervisors approved a revision of the condition attached to Docket Z-02-13 that required substantial progress on the construction of the electric power generating station by December 31, 2010, and extended the deadline for substantial construction progress to December 31, 2015; and

**WHEREAS**, on January 6, 2010 the Cochise County Assessor's office combined Parcels 301-04-028, 032, 033A, 033C, and 034 into Parcels 301-04-033G and 033H; and

**WHEREAS**, Cochise County is in receipt of a written request for further extension of the deadline for substantial progress on the construction of the electric power generating station; and

RESOLUTION 15-101

Re: Extending The Deadline For Substantial Construction Progress On The Bowie Power Station Gas-Fired Electric Generating Station From December 31, 2015 To December 31, 2020

| 2

WHEREAS, at its regular meeting on June 23, 2015, the Cochise County Board of Supervisors approved a revision of the condition attached to Docket Z-02-13 that required substantial progress on the construction of the electric power generating station by December 31, 2015, and extended the deadline for substantial construction progress to December 31, 2020,


NOW, THEREFORE, BE IT RESOLVED that Docket Z-02-13 which requires substantial progress on the construction of the electric power generating station by December 31, 2015, be extended to December 31, 2020, with all previous conditions remaining in force.

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this 23<sup>rd</sup> day of June, 2015.

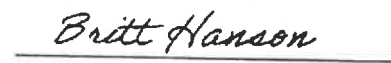


PATRICK CALL, Chairman

ATTEST:

  
Arlethe G. Rios  
Clerk of the Board

APPROVED AS TO FORM:

  
Britt W. Hanson, Chief Civil  
Deputy County Attorney