

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF SOUTHWESTERN )  
PUBLIC SERVICE COMPANY'S )  
APPLICATION REQUESTING: (1) )  
ISSUANCE OF A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY )  
AUTHORIZING CONSTRUCTION AND )  
OPERATION OF THE EDDY COUNTY TO )  
KIOWA 345-KV TRANSMISSION LINE AND )  
ASSOCIATED FACILITIES; (2) APPROVAL ) CASE NO. 19-00157-UT  
OF THE LOCATION OF THE 345-KV )  
TRANSMISSION LINE AND ASSOCIATED )  
FACILITIES; (3) DETERMINATION OF )  
RIGHT-OF-WAY WIDTH FOR THE )  
TRANSMISSION LINE; AND (4) )  
AUTHORIZATION TO ACCRUE AN )  
ALLOWANCE FOR FUNDS USED DURING )  
CONSTRUCTION FOR THE TRANSMISSION )  
LINE AND ASSOCIATED FACILITIES, )  
)  
SOUTHWESTERN PUBLIC SERVICE )  
COMPANY, )  
)  
APPLICANT. )**

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**DIRECT TESTIMONY**

*of*

**DAVID J. BROWN**

*on behalf of*

**SOUTHWESTERN PUBLIC SERVICE COMPANY**

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## **GLOSSARY AND LIST OF ACRYONYMS**

| <b><u>Acroynm/Defined Term</u></b> | <b><u>Meaning</u></b>  |
|------------------------------------|--|
| 2019 EAs                           | EAs prepared for amendments to Eddy County Substation and Kiowa Substation ROW grants  |
| ASR                                | Antenna Structure Registration   |
| BA                                 | Biological Assessment  |
| BLM                                | United States Bureau of Land Management  |
| BLM Team                           | BLM's Interdisciplinary Team   |
| CFO                                | BLM's Carlsbad Field Office  |
| Commission or NMPRC                | New Mexico Public Regulation Commission  |
| EA                                 | Environmental Assessment   |
| EIS                                | Environmental Impact Statement   |
| EMF                                | electromagnetic fields   |
| EMNRD                              | New Mexico Energy, Minerals, and Natural Resources Department  |
| ESA                                | Endangered Species Act   |
| FLPMA                              | Federal Land Policy and Management Act   |
| FONSI                              | Finding of no significant impact   |
| Hobbs to China Draw Project        | Hobbs to China Draw 345-kV transmission line route and associated Kiowa Substation located in Eddy and Lea Counties, New Mexico approved in Case No. 16-00126-UT |

| <b><u>Acroynm/Defined Term</u></b> | <b><u>Meaning</u></b>  |
|------------------------------------|--|
| KOP                                | Key Observation Point  |
| kV                                 | Kilovolt   |
| NEPA                               | National Environmental Policy Act  |
| NMSLO                              | New Mexico State Land Office   |
| NPAH                               | National Historic Preservation Act   |
| POD                                | NEPA Plan of Development for the Hobbs to China Draw Project   |
| Proposed Project or Project        | Eddy County to Kiowa 345-kV transmission line and expansion of Eddy County Substation and Kiowa Substation |
| PUA                                | NMSA 1978, Sections 62-3-1 et seq.   |
| RMP                                | Resource Management Plan   |
| ROW                                | Right-of-way   |
| Rule 592                           | 17.9.592 NMAC  |
| SHPO                               | State Historic Preservation Officer  |
| SPS                                | Southwestern Public Service Company, a New Mexico corporation  |
| SWCA                               | SWCA, Inc. d.b.a. SWCA Environmental Consultants, Inc.   |
| TCP                                | Traditional Cultural Properties  |
| USFWS                              | U.S. Fish and Wildlife Service   |
| USGS                               | U.S. Geological Survey   |



**Acroynm/Defined Term**

**Meaning**

VRM

Visual Resource Management

## LIST OF ATTACHMENTS

| <b><u>Attachment</u></b> | <b><u>Description</u></b>   |
|--------------------------|---|
| DJB-1(CD)                | <p>Environmental Assessments for Proposed Project<br/>(<i>provided on CD</i>)</p> <ol style="list-style-type: none"> <li>1. Environmental Assessment DOI-BLM-NM-PO20-2016-0089-EA: Hobbs to China Draw 345-kV Transmission Line Project, Lea and Eddy Counties, New Mexico, dated January 6, 2016;</li> <li>2. Environmental Assessment DOI-BLM-NM-P020-2019-0734-EA: Eddy County Substation Expansion Project Eddy County, New Mexico, dated March 2019; and</li> <li>3. Environmental Assessment DOI-BLM-NM-P020-2019-0654-EA: Kiowa Substation Expansion Project, Eddy County, New Mexico, dated March 2019</li> </ol> |
| DJB-2                    | <p>Overview Map showing location of the route of the Proposed Project across federal, state and private lands</p>   |
| DJB-3(CD)                | <p>Plan of Development and Technical Studies<br/>(<i>provided on CD</i>)</p> <ol style="list-style-type: none"> <li>1. NEPA Plan of Development for Hobbs to China Draw 345 kV Transmission Line Project, dated December 2015;</li> <li>2. Biological Assessment for SPS's Hobbs to China Draw 345-kV Transmission Line Project in Eddy and Lea Counties, New Mexico, dated September 2015;</li> <li>3. Wetland Delineation Report for SPS's Hobbs to China Draw 345-kV Transmission Line Project in Eddy and Lea Counties, New Mexico, October 2015; and</li> </ol>  |

| <b><u>Attachment</u></b> | <b><u>Description</u></b>   |
|--------------------------|---|
|                          | 4. SWCA Technical Memorandum - Hobbs to China Draw 345-kV Transmission Line Noise Impact Assessment |
| DJB-4                    | Aerial Maps showing constraints due to location of existing oil and gas wells                       |
| DJB-5                    | FONSI and Decision Record for Proposed Project (2016)   |
| DJB-6                    | FONSI and Decision Record for amendment to Eddy County Substation (2019)                            |
| DJB-7                    | FONSI and Decision Record for amendment to Kiowa Substation (2019)                                  |
| DJB-8                    | Bibliography of Cited Materials   |

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Direct Testimony  
of  
David J. Brown

1           **I.     WITNESS IDENTIFICATION AND QUALIFICATIONS**

2       **Q.     Please state your name and business address.**

3       A.     My name is David J. Brown. My business address is 257 East 200 South, Suite  
4             200, Salt Lake City, Utah 84111.

5       **Q.     On whose behalf are you testifying in this proceeding?**

6       A.     I am filing testimony on behalf of Southwestern Public Service Company, a New  
7             Mexico corporation (“SPS”) and wholly-owned electric utility subsidiary of Xcel  
8             Energy Inc.

9       **Q.     By whom are you employed and in what position?**

10      A.     I am employed by SWCA, Inc. d.b.a. SWCA Environmental Consultants, Inc.  
11             (“SWCA”) and serve as the Vice President of our Great Basin and Northwest  
12             operations. I am also one of the company’s senior transmission line specialists  
13             and previously served as SWCA’s Corporate Electric Transmission Business  
14             Lead. For this project, I served as the Project Manager and led SWCA’s team of  
15             more than 20 planners and scientists who supported SPS in the project’s federal  
16             permitting process.

17      **Q.     Please briefly describe SWCA.**

18      A.     SWCA is an interdisciplinary environmental consulting firm with more than 950  
19             employees across the United States. We have had an established presence in New

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1 Mexico for nearly 30 years. Our Albuquerque office currently has a staff of over  
2 50 full-time planning, natural resource, and cultural resource professionals.

3 SWCA has been involved in numerous electric transmission line  
4 permitting projects throughout the United States, including the Southline  
5 Transmission Project, a high-voltage transmission line spanning more than 360  
6 miles and sponsored by Hunt Power. The line originates at the Afton Substation  
7 near Las Cruces, New Mexico, and terminates at the Saguaro Substation  
8 northwest of Tucson, Arizona. SWCA has also been preparing an Environmental  
9 Impact Statement (“EIS”) for the United States Bureau of Land Management  
10 (“BLM”) Taos Field Office for a high-voltage transmission line in northern New  
11 Mexico. I am currently serving as the project manager supporting Rocky  
12 Mountain Power’s pre-construction and implementation phase of the Aeolus to  
13 Jim Bridger 500 kilovolt (“kV”) project in Wyoming.

14 **Q. Please describe your educational background.**

15 A. I have a Bachelor of Arts in Architecture from the University of California at  
16 Berkeley and a Master of Landscape Architecture from Utah State University’s  
17 Department of Landscape Architecture and Environmental Planning. As part of  
18 my graduate work, I acquired a broad understanding of natural systems, including

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1 riparian ecology, wetland science, geomorphology, botany, soils, and wildlife  
2 ecology. In addition, I have completed professional training on the National  
3 Environmental Policy Act (“NEPA”), Section 106 of the National Historic  
4 Preservation Act (“NPAH”), environmental compliance, and project management.

5 **Q. Please describe your professional experience.**

6 A. My primary planning experience as a professional has been related to the  
7 development, permitting, and construction of extra-high voltage transmission  
8 lines with a particular emphasis on projects undergoing the NEPA permitting  
9 process, which typically requires the development of interdisciplinary  
10 Environmental Assessments (“EA”) and/or EISs. Over my 16-year career, I have  
11 been involved in approximately 65 different projects undergoing the NEPA  
12 process, the majority of which were led by the BLM as the lead federal agency.  
13 In addition to my work on more than 20 electric transmission line projects going  
14 through the NEPA process, I have also worked on EAs and EISs for oil and gas  
15 field developments, pipelines, land use plan updates and revisions, mining  
16 projects, and renewable generation projects. My participation has included  
17 discrete tasks such as initial public and agency scoping, drafting detailed project  
18 descriptions, alternatives development, resource analyses, mitigation design and

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1 implementation, and preparation of associated technical project documents such  
2 as plans of development, which are intended to describe how the construction of a  
3 given project will comply with environmental protection measures and  
4 regulations. I have also been closely involved with other federal and state  
5 regulatory compliance processes, such as Section 404 of the Clean Water Act,  
6 Section 106 of the NHPA, and Section 7 of the Endangered Species Act (“ESA”)  
7 and state-level permits, such as Certificates of Public Convenience and Necessity.

8 **Q. Have you testified before the New Mexico Public Regulation Commission**  
9 **(“Commission” or “NMPRC”) or any other regulatory authorities?**

10 A. I testified before the Commission in Case No. 16-00126-UT<sup>1</sup> regarding SPS’s  
11 application for location approval of the Hobbs to China Draw 345-kV  
12 transmission line route and associated Kiowa Substation located in Eddy and Lea  
13 Counties, New Mexico (“Hobbs to China Draw Project”). I have also testified  
14 before the Public Utility Commission of Texas in Docket No. 43878 on behalf of  
15 Sandbrock Investments, Inc. regarding SWCA’s review of the Environmental

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<sup>1</sup> *In the Matter of Southwestern Public Service Company’s Application Requesting: (1) Issuance of a Certificate of Public Convenience and Necessity Authorizing Construction and Operation of a 345 kV Transmission Line and Associated Facilities in Eddy and Lea Counties, New Mexico; (2) Approval of the Location of the 345 kV Transmission Line; (3) Determination of Right of Way Width and (4) Authorization to Accrue an Allowance for Funds Used During Construction for the Transmission Line and Associated Facilities*, Case No. 16-00126-UT, Final Order Adopting Recommended Decision (Nov. 30, 2016).

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1        Report and Alternative Route Analysis prepared for a proposed 138-kV  
2        transmission line in Collin and Denton Counties, Texas. Additionally, I have  
3        been involved in the preparation and evaluation of more than 20 EAs or EISs  
4        submitted to the BLM and state agencies in support of high-voltage transmission  
5        facility projects.



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1                   **II.    ASSIGNMENT AND SUMMARY OF TESTIMONY**

2   **Q.    What is the purpose of your testimony in this case?**

3   A.   My testimony discusses SWCA’s assessment of the potential environmental  
4       impacts associated with SPS’s proposed location of the 345-kV transmission line  
5       route and substation facilities that will connect SPS’s Eddy County Substation to  
6       its Kiowa Substation (“Proposed Project” or “Project”). SWCA prepared an  
7       initial EA in 2016 inclusive of the Proposed Project as required by the BLM in  
8       accordance with NEPA guidelines in relation to SPS’s applications for BLM  
9       right-of-way (“ROW”) grants across federal lands. Subsequently, SPS needed to  
10      expand the footprints of the Eddy County and Kiowa Substations on federally-  
11      managed lands which required the preparation of two additional EAs focused only  
12      on these expansion areas (“2019 EAs”).<sup>2</sup> In so doing, the initial EA and 2019  
13      EAs provide an appropriate analytical process for the environmental evaluation  
14      required in Section 62-9-3 of the New Mexico Public Utility Act (NMSA 1978,  
15      Sections 62-3-1 et seq. – “PUA”) and comply with 17.9.592(C) and (H) NMAC  
16      (“Rule 592”). I acted as Project Manager for SWCA’s preparation of the initial

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<sup>2</sup> I will refer to the initial EA and the 2019 EAs collectively as the “EAs” throughout my testimony.

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1 EA and technical advisor for the 2019 EAs that were used to support the BLM's  
2 issuance of the initial and amended ROW grants on federally-managed lands and  
3 established the location of the Proposed Project facilities on all federal, state, and  
4 private lands. Copies of the EAs, in electronic format, are attached to my  
5 testimony as Attachment DJB-1(CD).

6 **Q. Please briefly outline your responsibilities as Project Manager for the initial**  
7 **EA prepared by SWCA.**

8 A. As Project Manager, I was responsible for all aspects of SWCA's performance  
9 and the completion of the initial EA, prepared on behalf of the BLM in relation to  
10 SPS's applications for ROW grants across federal lands that involved the  
11 construction, operation, and maintenance of (1) four 345-kV transmission line  
12 segments: (a) segments J-20, J-21, and J-22 which interconnect the Hobbs  
13 Generating Station, the Kiowa Substation, the North Loving Substation, and the  
14 China Draw Substation, respectively (also referred to as the "Hobbs to China  
15 Draw 345-kV transmission line"); and (b) the proposed transmission line segment  
16 connecting the Eddy County Substation to the Kiowa Substation (also referred to

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1 as the “Eddy County to Kiowa 345-kV transmission line”); (2) the new Kiowa  
2 Substation; and (3) an expansion of SPS’s Eddy County Substation.<sup>3</sup>

3 In the EA evaluation process, I oversaw the collection of all resource data,  
4 preparation of technical reports, and preparation of the initial EA to comply with  
5 the BLM’s obligations under NEPA, Section 404 of the Clean Water Act, and  
6 Section 7 of the ESA, and SPS’s obligations under Section 62-9-3 of the PUA and  
7 Rule 592. I also assisted in the routing and siting of the transmission projects as  
8 they pertain to environmental constraints and preparation of the NEPA Plan of  
9 Development for the Hobbs to China Draw Project (“POD”), among other tasks.  
10 Finally, I was responsible for managing the project budget, schedule, and SWCA  
11 staff who were designated to lead specific aspects of the EA.

12 **Q. Please summarize your testimony.**

13 A. Based on my involvement in the EAs and technical reports prepared to evaluate  
14 site-specific resources and potential environmental impacts of the Proposed  
15 Project, I have concluded that the location of the Project will not unduly impair  
16 any important environmental values in accordance with the requirements of

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<sup>3</sup> In Case No. 16-00126-UT, the Commission considered the EA in its assessment of the potential environmental impacts associated with segments J-20, J-21, and J-22 and the Kiowa Substation in granting location approval for these facilities. SPS’s application in Case No. 16-00126-UT did not request any approvals for the proposed Eddy County to Kiowa 345-kV transmission line segment or the expansion of the Eddy County Substation addressed in the initial EA.

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1 Sections 62-9-3(F) and 62-9-3(M) of the PUA and Rule 592.10(H). In providing  
2 this analysis and reaching this conclusion, my testimony describes and explains:

- 3 (1) the basis for establishing the initial location of the proposed  
4 345-kV Eddy County to Kiowa transmission line route;
- 5 (2) the process SPS and BLM conducted to finalize the location of the  
6 Proposed Project;
- 7 (3) the EAs that SWCA prepared for SPS's applications to the BLM  
8 requesting ROW grants and ROW grant amendments for the  
9 Proposed Project, which includes a discussion of:
  - 10 (i) the resources evaluated by the EAs in relation to the  
11 location of the Proposed Project;
  - 12 (ii) the EAs' determination of the potential environmental  
13 impacts associated with each resource; and
  - 14 (iii) the process to modify the location of the proposed  
15 transmission line route and substations to resolve or  
16 minimize environmental impacts identified in the EAs;
- 17 (4) based on the environmental assessment in the EAs, the BLM found  
18 the Proposed Project will have no significant impact on the quality  
19 of the human environment, and as a result of the BLM's  
20 determinations regarding environmental impacts:
  - 21 (i) the BLM issued ROW grants on federal lands for the  
22 Project and amendments to the ROW grants for each  
23 substation; and
  - 24 (ii) the New Mexico State Land Office ("NMSLO") issued a  
25 ROW permit on state lands for the Project and the  
26 requested amendment for a limited portion of the Proposed  
27 Project's route on state lands is pending approval; and

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1                   (5)     my evaluation of the EAs and supporting technical documents  
2                             prepared for the BLM regarding potential impacts to the important  
3                             environmental values identified in Section 62-9-3(M) and Rule  
4                             592.10(H).

5     **Q.     Please describe the requirements for Commission location approval under**  
6             **the PUA and Rule 592.**

7     A.     Section 62-9-3 of the PUA governs location approval for transmission lines and  
8             associated substation facilities that are 230-kV and greater. Section 62-9-3(F)  
9             provides that the Commission shall approve an application for the location of  
10            transmission lines and associated facilities unless it finds that the location will  
11            unduly impair important environmental values. In determining whether a  
12            proposed project will unduly impair important environmental values, the  
13            Commission may consider various factors that are identified in Section  
14            62-9-3(M).

15            Rule 592.10 implements Section 62-9-3 and establishes application and  
16            other requirements for utilities requesting location approval of a proposed  
17            transmission line with voltages at or above 230-kV. In material part, subsections  
18            (C), (D), (E), and (H) of Rule 592.10 provide as follows: (1) if required under  
19            NEPA, preparation and submission of an EA or EIS assessing the environmental  
20            impacts of the proposed transmission line, but if an EA or EIS is not required

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1 under NEPA, then preparation and submission of a report, comparable to an EIS,  
2 in the format prescribed in 40 C.F.R. Section 1502.10 (*see* Rule 592.10(C)-(E));  
3 and (2) the testimony prepared to demonstrate that the proposed transmission line  
4 route will not unduly impair important environmental values (*see* Rule  
5 592.10(H)).

6 **Q. Were Attachments DJB-1(CD), DJB-2, DJB-3(CD), and DJB-8 prepared by**  
7 **you or under your supervision?**

8 A. Yes.

9 **Q. Are Attachments DJB-4 through DJB-7 true and correct copies of the**  
10 **documents that they purport to be?**

11 A. Yes.

12 **Q. Have you included a bibliography of the reference materials and literature**  
13 **cited in your direct testimony?**

14 A. Yes. Please refer to Attachment DJB-8 for a list of materials cited in my direct  
15 testimony.

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1     **III.     DESCRIPTION OF THE LOCATION OF THE PROPOSED PROJECT**  
2                                   **AND BLM ROW GRANT PROCESS**

3     **A.     Proposed Project and its Location**

4     **Q.     Please describe the Proposed Project's location and project facilities.**

5     A.     SPS proposes to locate, construct, operate, and maintain an approximately  
6             34-mile long 345-kV transmission line and associated substation facilities in Eddy  
7             County, New Mexico. The Project will connect SPS's Eddy County Substation,  
8             located approximately 9.5 miles east of Artesia, New Mexico, to the Kiowa  
9             Substation, located approximately 19 miles northeast of Carlsbad, New Mexico.  
10            The transmission line route will have a 150-foot wide ROW and will cross federal  
11            lands managed by the BLM (approximately 19 miles), state lands overseen by the  
12            NMSLO (approximately 9 miles), and privately-owned lands (approximately 6  
13            miles).

14            The location of the Proposed Project's facilities is based on: (1) the  
15            BLM's ROW grants for the 345-kV transmission line route on federal lands, as  
16            well as the grants for the Kiowa and Eddy County Substations also on federal  
17            lands; (2) the NMSLO ROW permit for portions of the Proposed Project's  
18            345-kV transmission line route on state lands, and (3) easements obtained for  
19            privately-owned lands that will be crossed by the 345-kV transmission line route.

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1           The legal descriptions of the location of the proposed transmission line  
2           route and associated substation facilities on federal, state, and private lands are  
3           listed in Chapter 1 of each EA (Attachment DJB-1(CD)), and are also provided in  
4           the ROW grants issued by the BLM, the ROW permit issued by the NMSLO, and  
5           the two private easements obtained for the Proposed Project.<sup>4</sup>

6   **Q.   Have maps been prepared that depict the location of the proposed Eddy**  
7           **County to Kiowa Transmission line route and substation facilities?**

8   A.   Yes. A map showing the general location of the Proposed Project's transmission  
9           line route and substation facilities is provided as Attachment DJB-2.  
10          Additionally, the POD, which has been approved by the BLM, includes a series of  
11          maps that specifically depict the Proposed Project's transmission line route from  
12          the Eddy County Substation to the Kiowa Substation (*see* Attachment DJB-3(CD)  
13          (POD) Appendix A).<sup>5</sup>

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<sup>4</sup> Copies of the BLM ROW grants, NMSLO ROW Permit, and private easements obtained by SPS are provided in Attachments NPF-4 through NPF-9, Attachment NPF-5A, and Attachment NPF-6A to the Direct Testimony of Nisha P. Fleischman.

<sup>5</sup> The POD maps identify the Public Lands Survey System (Township and Range) sections and the ownership of the lands crossed by the transmission line route and the substations. The POD governs construction and related activities for the transmission line segments and associated substations for both the Hobbs to China Draw Project and the Eddy County to Kiowa Project. The POD is also provided as Attachment NPF-3 to Ms. Fleischman's testimony, and for convenience, she provides the maps separately as Attachment NPF-10.



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1 Ms. Fleischman's testimony thoroughly describes the location of the Eddy  
2 County to Kiowa transmission line route and associated substation facilities, as  
3 well as includes additional maps showing the location of the Proposed Project in  
4 relation to other transmission lines located in Eddy and Lea Counties.<sup>6</sup>

5 **B. Process for Establishing the Location of the Proposed Project**

6 **Q. Please explain the process for establishing the location of the proposed Eddy**  
7 **County to Kiowa transmission line route and associated substation facilities.**

8 A. As Ms. Fleischman's testimony explains, SPS first determined the end-points for  
9 the proposed transmission line route and conducted a desktop analysis to identify  
10 sensitive areas to avoid and developed corridors within the project vicinity that  
11 could be used to route the project. SPS further identified land uses to determine  
12 where the route should be located in relation to existing structures – primarily to  
13 address locations of oil well pads, pumps, and other production facilities. SPS  
14 also proposed routing the transmission line segments parallel to existing  
15 compatible ROW and property lines where reasonable and practical.<sup>7</sup>

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<sup>6</sup> See Ms. Fleischman testimony at 19-21 and Attachment NPF-2.

<sup>7</sup> *Id.* at 7-8.

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1           In this initial review process, SPS also identified the ownership of the  
2           lands crossed by the Proposed Project (*i.e.*, federal, state, and private lands).<sup>8</sup>  
3           Because the Project's 345-kV transmission line route and substations were to be  
4           located on federal and state lands, SPS filed applications with the BLM and  
5           NMSLO requesting ROW grants/permits that would authorize SPS to locate,  
6           construct, operate and maintain the proposed 345-kV transmission line and  
7           associated substation facilities. The determination of the final location of the  
8           Proposed Project facilities was established through a collaborative process  
9           involving SPS, BLM and the NMSLO, and other public and private stakeholders,  
10          which is memorialized in the ROW grants and permits issued by the BLM and the  
11          NMSLO, and also the private easements granted for these facilities.

12   **Q.   What were SPS's and the BLM's respective roles in establishing the**  
13   **transmission line route evaluated in the EA?**

14   A.   In the early stages for determining the location of the Proposed Project, SPS and  
15          BLM representatives met several times to identify resource issues and potential  
16          routing options for the Eddy County to Kiowa transmission line. In particular,  
17          SPS sited the initial route to meet the BLM's existing and future land use

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<sup>8</sup> See Ms. Fleischman's testimony starting at 7.

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1 planning considerations. This included avoiding existing facilities, namely  
2 numerous oil and gas well pads in the northern portion of the route (*see*  
3 Attachment DJB-4) and siting the transmission line route to parallel existing  
4 linear features (i.e., roads and existing ROWs) as much as reasonably possible.  
5 As part of this collaborative process, SPS consulted with the BLM to avoid  
6 sensitive resources to the maximum extent practicable, such as documented karst  
7 formations in the southern half of the alignment on BLM-managed lands.<sup>9</sup>

8 **Q. What was the next step in the BLM ROW grant process?**

9 A. SPS consulted with the NMSLO, other public entities, and private parties that  
10 owned or had an interest in lands located near the proposed transmission line  
11 route. After these consultations, further discussions were held among SPS, the  
12 BLM Carlsbad Field Office (“CFO”) management team, select SWCA resource  
13 specialists, and me to consider proposed modifications to the route to minimize  
14 potential land use conflicts with other BLM lessees.

15 In early March 2015, a description of the Proposed Project and its location  
16 was posted on the BLM’s website and published in the *Carlsbad Current-Argus*

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<sup>9</sup> See Attachment DJB-1(CD)(Initial EA) at 50 of 140.

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1 and the *Hobbs News-Sun* local newspapers. This action initiated a 30-day public  
2 scoping period, which resulted in no comments being received from the public.

3 **Q. What is the basis for the BLM's evaluation for issuance of the ROW grants**  
4 **for the Proposed Project?**

5 A. Under the BLM's NEPA Handbook H-1790-1 (BLM2008b), the BLM's decision  
6 whether or not to issue a ROW grant(s) to SPS is a federal decision and therefore  
7 requires the preparation of a NEPA analysis to evaluate the environmental  
8 impacts of that decision on federal lands. For SPS's ROW applications, the BLM  
9 determined that an EA would be the appropriate level of NEPA analysis to base  
10 its decisions. In this regard, the EAs provide the necessary environmental impacts  
11 associated with the location, construction, operation, and maintenance of the  
12 Proposed Project. The scope of the EAs, as well as the EA study process are  
13 discussed in Section IV below.

14 **Q. Has the location of the Proposed Project changed since the BLM issued**  
15 **ROW grants in 2016?**

16 A. Yes. As explained in Ms. Fleischman's testimony, minor changes to the  
17 transmission line route are required because of a new well pad being constructed

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1 within the previously approved NMSLO easement.<sup>10</sup> In addition, SPS determined  
2 that amendments to the BLM's ROW grants for the Eddy County and Kiowa  
3 Substations were necessary to address substation drainage issues and to better  
4 accommodate the ingress/egress of the 345-kV transmission line.<sup>11</sup> SPS  
5 submitted applications to the BLM for an additional 7.2 acres of permanent ROW  
6 at the Eddy County Substation and an additional 6.3 acres of permanent ROW at  
7 the Kiowa Substation to accommodate these changes, all of which would occur  
8 exclusively on BLM-managed lands. In response to these applications, the BLM  
9 determined that each ROW amendment would require preparation of an EA. As a  
10 result, SPS arranged for SWCA to prepare the 2019 EAs which were submitted to  
11 the BLM in March 2019 and were the basis of the BLM's approval of the Eddy  
12 County and Kiowa Substation ROW grant amendments on May 29, 2019. The  
13 2019 EAs are provided in Attachment DJB-1(CD).

14 **Q. Can you please describe the requested ROW grant amendments?**

15 A. SPS applied to the BLM for amendments to the ROW grants for the Eddy County  
16 and Kiowa Substations to add additional acreage at each site to address  
17 construction and substation design issues that have arisen since the issuance of the

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<sup>10</sup> See Ms. Fleischman testimony at 11-12, and 18.

<sup>11</sup> See Ms. Fleischman testimony at 10-11, and 17-18.

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1 BLM substation ROW grants. The requested amendments do not impact the  
2 BLM's ROW grant for the 150-foot wide ROW for the Eddy County to Kiowa  
3 345-kV transmission line route on federal lands.

4 SPS also requested an amendment to NMSLO ROW Permit to move a  
5 small portion of the transmission line route located on state land to accommodate  
6 an oil and gas lessee that had built an oil well pad in the 150-foot wide ROW  
7 permit area. This amendment is presently being processed by the NMSLO.

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1       **IV.   ENVIRONMENTAL ASSESSMENTS OF THE PROPOSED PROJECT**

2       **A.   Scope and Purpose of the EAs**

3       **Q.    Please explain the scope of the environmental evaluation prepared by SWCA**  
4       **for the BLM’s ROW grant process.**

5       A.    SPS’s applications to the BLM for ROW grants on federal lands included requests  
6           for 150-foot wide ROWs for the 345-kV Eddy County to Kiowa transmission line  
7           segment and three other 345-kV transmission line segments (J-20, J-21, and J-22)  
8           for the Hobbs to China Draw Project, and separate ROWs for the associated  
9           substation facilities.<sup>12</sup> Under NEPA regulations, the transmission line segments  
10          and substation facilities are considered “connected actions,” and therefore, the  
11          BLM determined that the environmental impacts associated with all of the ROW  
12          grant applications should be evaluated under one NEPA document (i.e., the initial  
13          EA).

14               SWCA prepared the EAs under the direction of the BLM CFO, the  
15               primary land manager for the federal lands traversed by the transmission line  
16               segments and upon which the substations are situated. The EAs analyzed the  
17               potential site-specific impacts associated with the Proposed Project and the other

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<sup>12</sup> Location approval of the Hobbs to China Draw Project (345-kV transmission line segments J-20, J-21, and J-22 and Kiowa Substation) was granted by the Commission in Case No. 16-00127-UT and were constructed and became operational in May 2018.

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1 three transmission line segments and substations, identified mitigation measures  
2 to potentially reduce or eliminate those impacts, and provided detailed  
3 environmental analyses that informed the BLM's eventual decision to issue ROW  
4 grants to SPS.

5 The EAs allowed the BLM to evaluate and act on SPS's applications for  
6 the ROW grants authorizing the use of and access across, BLM-managed lands  
7 for the 345-kV transmission lines and the associated substation facilities. The  
8 need for the BLM's action is established by the Federal Land Policy and  
9 Management Act ("FLPMA") and is to respond to SPS's ROW applications by  
10 evaluating the intended use of federal lands for the construction and operation of  
11 the transmission line projects.<sup>13</sup> The BLM's mandate for multiple uses of public  
12 lands under FLPMA includes development of energy transmission in a manner  
13 that conserves the multitude of other resources found on public lands.

14 **Q. Do the EAs serve any other purpose in relation to the BLM's review of SPS's**  
15 **ROW grant applications?**

16 A. Yes. Another purpose of the EAs is to confirm that the Proposed Project meets  
17 the BLM's land use plan for the CFO. The 1988 Carlsbad Resource Management  
18 Plan ("RMP") (BLM 1988) recognizes that utility corridors are an appropriate use

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<sup>13</sup> See Attachment DJB-1(CD)(Initial EA) at 21 of 140 (Section 1.2).



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1 of federal lands and encourages applicants to locate new facilities within  
2 designated ROW corridors. The BLM's 2008 RMP, as amended, reads:

3 New projects of the type described above [utility corridors for  
4 major projects such as interstate electric transmission lines;  
5 pipelines; and communications lines for interstate use] that propose  
6 to cross the Planning Area would be evaluated based on the  
7 impacts to lesser prairie-chicken and sand dune lizard habitats and  
8 other resources to meet the overall objectives of this plan. These  
9 projects would not be located in ROW avoidance areas if other  
10 routes can meet the purposes of the project. (BLM 2008a:2-13)

11 As noted in the EAs, the Proposed Project is not located in a ROW avoidance area  
12 and complies with the recommended mitigation measures described in  
13 amendments to the Carlsbad RMP. Therefore, the EAs confirm that the Proposed  
14 Project is in conformance with the Carlsbad RMP, as amended.<sup>14</sup>

15 **B. EA Study Process**

16 **Q. Please briefly describe the BLM's EA study process.**

17 A. During the early stage of the EA study process in November 2014, the BLM's  
18 interdisciplinary team of resource specialists ("BLM Team") conducted internal  
19 scoping of the Proposed Project, and identified several resource issues to carry  
20 forward for detailed analysis in the EA. While all resources were considered  
21 during the scoping process, it was determined by the BLM Team that some

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<sup>14</sup> See Attachment DJB-1(CD)(Initial EA) at 23 of 140 (Section 1.4).

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1 resources would not be analyzed in the EA because they were either not present in  
2 the project area or were not likely to be affected by the Proposed Project to a  
3 degree that warranted detailed analysis. For each resource carried forward for  
4 review, SWCA prepared cause-and-effect worksheets for their counterparts at the  
5 BLM. These worksheets are used to better understand the BLM Team's concerns  
6 and to identify impact indicators, data needs, and the appropriate analytical  
7 approach to assess impacts according to the BLM's NEPA Handbook (BLM  
8 2008b).

9 **Q. How was the Project's transmission line route evaluated?**

10 A. The initial EA evaluated the potential effects of the Project on the environment in  
11 accordance with the Council on Environmental Quality's guidance and BLM  
12 NEPA Handbook H-1790-1 (BLM 2008b). In accordance with these guidelines,  
13 the BLM's Team first went through an internal agency review of, and public  
14 scoping process for, the Project to determine and identify resources and resource  
15 uses that could be affected by the Proposed Project. The BLM Team solicited  
16 public comment to ensure that no significant resources or issues were overlooked.

17 The initial EA's analysis was limited to those resources that could be  
18 affected to a degree that would warrant detailed analysis (40 CFR 1502.15) (BLM  
19 2008b:96), as determined by the BLM Team. Table 1.7 in the initial EA lists each

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1 resource and the issue(s) that was addressed in the resource analyses.<sup>15</sup> Each  
2 resource section of the EA included analyses of the affected environment, which  
3 is described as the existing condition and trend of issue-related elements of the  
4 human environment that would be affected by implementing the Project. Each  
5 resource section then analyzed the direct, indirect, and cumulative impacts of the  
6 Project, as well as any mitigation measures and/or residual impacts that would  
7 result from the construction and operation of the Project.<sup>16</sup>

8 **Q. Please describe the field investigations that were part of the EA process.**

9 A. SWCA performed cultural, biological, and wetland resource desktop assessments  
10 and field surveys for each transmission line segment, as well as the location of the  
11 substation facilities, laydown yards, pull pickets, and access roads, in accordance  
12 with all applicable federal and state protocols.<sup>17</sup>

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<sup>15</sup> See Attachment DJB-1(CD)(Initial EA) at 25 of 140 (Section 1.6).

<sup>16</sup> See Attachment DJB-1(CD)(Initial EA) beginning at 52 of 140 (Section 3).

<sup>17</sup> Prior to initiating the field surveys, U.S. Geological Survey (“USGS”) topographic maps were reviewed to determine the location, elevation, soil types, and potential habitat types within the proposed project area. Wetland and drainage data were also evaluated using National Hydrography Datasets (USGS 2013) and National Wetland Inventory maps (U.S. Fish and Wildlife Service [USFWS] 2015a), as well as geographic information system data. SWCA biologists reviewed the USFWS (2015b) Information for Planning and Conservation system, the New Mexico Department of Game and Fish Biota Information System of New Mexico (Bison-M 2015), the New Mexico Rare Plants website (New Mexico Rare Plant Technical Counsel 1999), and the New Mexico Energy, Minerals, and Natural Resources Department (“EMNRD”) state endangered plant species list (EMNRD 2015) prior to the biological survey. The BLM CFO list of sensitive species was also consulted.

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1           In this regard, SWCA conducted a thorough Biological Assessment  
2           (“BA”) of the proposed disturbance areas over several sessions from October  
3           2014 to August 2015 to evaluate, among other things, the potential for special  
4           status species to occur and to identify habitat communities regulated by the  
5           USFWS under Section 7 of the ESA, jurisdictional drainages or sensitive aquatic  
6           habitats regulated by the U.S. Army Corps of Engineers under the Clean Water  
7           Act of 1972, and active and inactive migratory bird nests protected by the  
8           Migratory Bird Treaty Act of 1918.

9           The BA included a pedestrian survey within a 500-foot wide corridor  
10          following the centerline of the proposed transmission line segment, substation  
11          locations, laydown yards, pull pockets, and access roads to assess general  
12          vegetation and habitat suitability for USFWS, BLM, and State of New Mexico  
13          protected native plants and special status species. Presence of active and inactive  
14          bird nests and burrows were also recorded. The survey included an assessment of  
15          wetlands, surface waters, and other potential waters. Biological and other  
16          sensitive resources that were identified include isolated occurrences of special  
17          status species and associated habitat, playas, migratory bird nesting areas, cave  
18          and karst features, and potentially jurisdictional water features. The survey

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1 results for the initial EA were included in the BA (SWCA 2015a) and wetland  
2 report (SWCA 2015b).<sup>18</sup> These technical studies are attached as part of  
3 Attachment DJB-3(CD).

4 For the 2019 EAs, SWCA conducted desktop assessments and field  
5 surveys following the methods described above. A biological assessment was not  
6 required by the BLM for the 2019 EAs because of the absence of any sensitive or  
7 special status species or habitat provided sufficient rationale for the BLM to  
8 determine its decision would not affect listed or proposed species.

9 SWCA also conducted an intensive Class III cultural resources inventory  
10 review in accordance with the *Procedures for Performing Cultural Resources*  
11 *Fieldwork on Public Lands in the Area of New Mexico BLM Responsibilities*  
12 (BLM 2005) and *Standards for Survey Site Evaluation and Reporting for the CFO*  
13 (BLM 2012). Site file searches and a 100-percent pedestrian survey for the  
14 substations and a 500-foot-wide corridor for each transmission line route were  
15 conducted by qualified archaeologists.<sup>19</sup> These findings were documented in a  
16 series of cultural resources inventory reports (Sisneros et al. 2015a, 2015b, 2015c,

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<sup>18</sup> See generally Attachment DJB-1(CD)(Initial EA) at 50 of 140, and 84-92 of 140 (Section 3.6.3) and Attachment DJB-3(CD).

<sup>19</sup> See Attachment DJB-1(CD)(Initial EA) at 92-93 of 140 (Section 3.7.1).

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1 2015d) to aid the BLM in complying with Section 106 of the NHPA. Except for a  
2 small area in the Kiowa Substation amendment area, these surveys also covered  
3 the substation ROW amendment areas. A field survey was conducted in 2019 for  
4 the small portion of area not covered by the previous effort and no new cultural  
5 sites were discovered.

6 **Q. Please describe the modifications to the Project's transmission line route that**  
7 **the BLM required as a result of the EA study process.**

8 A. In the "route refinement" process for the Project, the BLM required adjustments  
9 to the proposed transmission line route to avoid eligible cultural resources, where  
10 feasible.<sup>20</sup> The route was also modified to minimize potential impacts to karst  
11 features identified during field surveys although these features were located  
12 outside the proposed route's ROW. The BLM required a route that paralleled the  
13 Burton Flats Road for the southern portion of the alignment to minimize potential  
14 impacts to karst resources. Several other minor adjustments to the initial route  
15 and/or design were also made to minimize conflicts with oil and gas developers  
16 and private landowners. With the exception of cultural resources, the initial route

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<sup>20</sup> See Attachment DJB-1(CD)(Initial EA) at 51 of 140 (Section 2.3)(i.e., the BLM may require modifications to the location of the project or impose other design features to avoid or minimize environmental impacts identified in the EA study process).

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1 for the Proposed Project did not present many resource conflicts as reflected in  
2 the EAs, biological assessment, or wetland report and as such required few  
3 modifications.

4 **C. BLM Findings Based on the EAs and Issuance of ROW Grants**

5 **Q. Did the BLM issue any findings or decision regarding the potential impacts**  
6 **of the Proposed Project based on the EAs?**

7 A. Yes. On January 27, 2016, the BLM published its finding of no significant  
8 impact (“FONSI”) and Decision Record approving both the Proposed Project and  
9 the Hobbs to China Draw Project.<sup>21</sup> Copies of the FONSI and Decision Record  
10 are provided in Attachment DJB-5.

11 On May 24, 2019 and May 17, 2019, the BLM published its FONSI and  
12 Decision Records approving the ROW grant amendments for the Eddy County  
13 and Kiowa Substations, respectively. Copies of the FONSI and Decision

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<sup>21</sup> The FONSI and Decision Record address all four ROW grant applications submitted by SPS in August 2014 requesting approval of: (1) the Eddy County to Kiowa 345-kV transmission line segment; (2) the three segments that comprise the Hobbs to China Draw 345-kV transmission line (J-20, J-21, and J-22); (3) the Kiowa Substation; and (4) the expansion of the Eddy County Substation. In Case No. 16-00126-UT, the Commission approved SPS’s request for location approval of the Hobbs to China Draw 345-kV transmission line (segments J-20, J-21, and J-22 and the Kiowa Substation and found that the transmission facilities would not unduly impair any important environmental values. Construction on the Hobbs to China Draw Project was completed in 2018.

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1 Records for the amendments to the Eddy County Substation and the Kiowa  
2 Substation are provided as Attachments DJB-6 and DJB-7, respectively.

3 **Q. Please summarize the BLM's findings regarding the Project's potential**  
4 **impacts on the human environment.**

5 A. In accordance with the requirements of NEPA and the NHPA, the BLM  
6 determined that the Proposed Project will not significantly impact the human  
7 environment based on the environmental analyses in the EAs. The modified route  
8 for the Project minimizes land use conflicts with other entities operating or  
9 developing projects in the area. While some resources will be affected by the  
10 Proposed Project, mitigation measures have been implemented. For example,  
11 there will be some unavoidable impacts to cultural resource sites that are eligible  
12 for the National Register of Historic Places, and these impacts will be mitigated  
13 by site testing and monitoring prior to and during construction.

14 Further, the BLM found that the transmission line and substation areas  
15 will not have any significant impacts, individually or cumulatively, on the quality  
16 of the human environment.<sup>22</sup> In making its determination, the BLM considered  
17 both the beneficial and adverse impacts of the Project, as well as efforts taken by

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<sup>22</sup> See Attachments DJB-5, DJB-6, and DJB-7 at 1.



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1 SPS to avoid or minimize environmental harm.<sup>23</sup> The BLM also found that the  
2 routing of the transmission line achieves a balance of resource protection and  
3 beneficial uses of the human environment envisioned by NEPA.<sup>24</sup>

4 In the Decision Records, the BLM concluded that the proposed ROWs for  
5 the transmission line and substation areas sufficiently meet the purpose and need  
6 for the action and conform to the Carlsbad RMP, as amended.<sup>25</sup> The Decision  
7 Records acknowledge that alternatives were considered to accomplish the purpose  
8 and the need for the transmission line project, and determined that the proposed  
9 transmission line route and substation areas would meet BLM's purpose and need  
10 while minimizing environmental impacts and resource conflicts, as well as  
11 meeting other objectives of the Carlsbad RMP, as amended.<sup>26</sup>

12 **Q. When did the BLM issue the ROW grants for the Proposed Project facilities?**

13 A. Following the expiration of the 30-day appeal period for the FONSI and Decision  
14 Record in relation to the initial EA, where no comments were received by the  
15 public or any federal or state agency, on March 2, 2016, the BLM issued: (1) a

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<sup>23</sup> *See Id.*

<sup>24</sup> *See* Attachment DJB-5 at 1.

<sup>25</sup> *See* Attachment DJB-5 at 2 (Section I), and Attachments DJB-6 and DJB-7 at 1 (Section I).

<sup>26</sup> *See* Attachment DJB-5 at 2 (Section III)(Alternatives were not applicable for the 2019 substation amendments).

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1 150-foot-wide ROW grant across federal lands for the 345-kV Eddy County to  
2 Kiowa transmission line route; (2) a ROW grant to construct the Kiowa  
3 Substation; and (3) a ROW grant amendment for expansion of SPS's Eddy  
4 County Substation.<sup>27</sup> In addition, on May 29, 2019, the BLM issued to SPS the  
5 ROW grant amendments for the Eddy County and Kiowa Substations.<sup>28</sup>

6 **Q. Will further environmental studies be needed in view of the BLM's issuance**  
7 **of the ROW grants for the Proposed Project?**

8 A. No further environmental studies for the proposed transmission line route will be  
9 needed except if the results of cultural resources site testing, as required by the  
10 Archaeological Treatment Plan (Whitehead), indicate that some eligible cultural  
11 resources would be adversely affected by the Proposed Project. This however  
12 would not affect the BLM's approval of the Project's transmission line route. An  
13 extensive data recovery, testing, and treatment plan is in place, which has been  
14 agreed to by the BLM, State Historic Preservation Officer ("SHPO"), New  
15 Mexico Cultural Properties Review Committee, and NMSLO. Fieldwork for this

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<sup>27</sup> Copies of the BLM ROW grants for the Proposed Project are provided as Attachments NPF-4, NPF-5, and NPF-6 to the Ms. Fleischman's testimony.

<sup>28</sup> Copies of the 2019 ROW grant amendments are provided as Attachments NPF-5A and NPF-6A to Ms. Fleischman's testimony.

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1 mitigation effort will be completed prior to the BLM issuing SPS a notice-to-  
2 proceed with construction.<sup>29</sup>

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<sup>29</sup> See Attachment DJB-1(CD)(Initial EA) at 96-97 of 140 (Section 3.7.3).

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1           **V.   EVALUATION OF POTENTIAL IMPACTS OF THE**  
2                       **PROPOSED PROJECT ON IMPORTANT**  
3                       **ENVIRONMENTAL VALUES IN ACCORDANCE**  
4                       **WITH LOCATION APPROVAL REQUIREMENTS**  
5                       **OF SECTION 62-9-3 OF THE PUA AND RULE 592**

6   **Q.   Please describe your evaluation of the Proposed Project’s potential impacts**  
7           **on important environmental values in accordance with location approval**  
8           **requirements of Sections 62-9-3(F) and (M) and Rule 592.10(H).**

9   **A.   For SPS’s NMPRC location approval filing, I evaluated the potential impacts of**  
10           the Project’s transmission line route and associated substation facilities on  
11           important environmental values based on the environmental assessment in the  
12           EAs that are described in Section IV. As explained above, the initial EA  
13           evaluated the potential environmental impacts of the Eddy County to Kiowa  
14           transmission line and associated substations, laydown yards, pull pockets, and  
15           access roads, and the 2019 EAs evaluated the impacts for the additional acreage  
16           needed for further expansion at the Eddy County and Kiowa Substations.  
17           Collectively, these EAs provided the basis for the BLM’s ROW grants that  
18           establish the location of the Project facilities.

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1   **Q.    Did the EAs prepared for the Proposed Project consider the factors for**  
2       **important environmental values included in Section 62-9-3(M) of the PUA**  
3       **and Rule 592.10(H)?**

4    A.    Yes. The resources examined in the EAs correspond to the factors identified for  
5       important environmental values in the statute and Rule 592. For purposes of the  
6       Commission's review of SPS's request for location approval of the Project  
7       facilities under Section 62-9-3(F) and (M) and Rule 592.10(H), the EAs evaluated  
8       a range of specific resources and existing environmental conditions in the Project  
9       area that include: air resources, cave and karst resources, soil resources, water  
10      resources, upland vegetation (including noxious weeds), wildlife and special  
11      status species, cultural resources, visual resources, special designations and  
12      recreation areas, livestock grazing, and public health and safety.<sup>30</sup>

13           As discussed in Section IV, while the EA study process considered all  
14      environmental impacts of the Project, there were some resources that were not  
15      analyzed because they were determined by the BLM Team as either not present in  
16      the Project area or not likely to be affected by the Project to a degree that

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<sup>30</sup> See *e.g.*, Attachment DJB-1(CD), Sections 3.1 through 3.11 and Table 1.7 in the Initial EA and Tables 1.3 in the 2019 EAs that list each resource and the issue(s) that was addressed in the EAs' resource analyses.

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1 warranted detailed analysis under NEPA. For the remaining resources described  
2 above, the EAs included: (1) a description of the affected environment; (2) a  
3 discussion of the direct, indirect, and cumulative impacts associated with the  
4 construction and operation of the Proposed Project; and (3) a determination  
5 whether the identified impacts are significant, and thus require any remedial  
6 measures to minimize or eliminate the impact.

7 **Q. Are there any factors identified in Section 62-9-3(M) and Rule 592.10(H) that**  
8 **were not analyzed in the initial EA? If so, please explain why they were not**  
9 **considered.**

10 A. Yes. During the initial EA scoping process, the BLM Team identified resource  
11 issues that were considered but were not analyzed because the team determined  
12 the Project would not have any potential environmental impacts on those  
13 resources. Section 1.61 of the initial EA identifies the four resource issues that  
14 were eliminated from the EA assessment – Paleontological Resources, Minerals,  
15 Native American Religious Concerns, and Socioeconomic and Environmental  
16 Justice.<sup>31</sup>

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<sup>31</sup> See Attachment DJB-1(CD)(Initial EA) at 25-26 of 140 (Section 1.6.1).

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1           Following a review of literature, geologic maps, and aerial photographs,  
2           the BLM Team determined that the Project would not impact paleontological  
3           resources because there were few geological units present with the potential to  
4           contain fossils in the vicinity of the location of the Proposed Project.<sup>32</sup>

5           The BLM Team also determined that a detailed analysis of the Proposed  
6           Project on minerals was not necessary because the proposed transmission line was  
7           routed to avoid oil and gas production facilities and potash mine tailings and salt  
8           tailings. The Proposed Project was also reviewed for proximity to active caliche  
9           pits, and no caliche pits were located within 1,000 feet of the Proposed Project  
10          route.<sup>33</sup>

11          Additionally, the BLM Team determined that the Proposed Project would  
12          not impact any Native American religious sites or traditional cultural properties  
13          (“TCP”), prevent access to sacred sites, prevent the possession of sacred objects,  
14          or interfere with or hinder the performance of traditional ceremonies or rituals.  
15          Identification efforts for Native American religious concerns included a review of  
16          existing published and unpublished literature, the site-specific Class III survey  
17          reports prepared for the Proposed Action (Sisneros et al. 2015a, 2015b, 2015c),

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<sup>32</sup> See Attachment DJB-1(CD)(Initial EA) at 25-26 of 140 (Section 1.6.1).

<sup>33</sup> *Id.* at 26 of 140.

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1 and the BLM's cultural resources program regarding the presence of TCPs  
2 identified through ongoing BLM tribal consultation efforts. Based on this review,  
3 the BLM determined that the Proposed Project would not impact any known  
4 TCPs, prevent access to sacred sites, prevent the possession of sacred objects, or  
5 interfere with or hinder the performance of traditional ceremonies and rituals  
6 pursuant to the American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996)  
7 or EO 13007 and consequently no further study of Native American Religious  
8 Concerns was needed.<sup>34</sup>

9 Finally, regarding potential impacts to socioeconomic and environmental  
10 justice resources, the BLM Team determined that the Proposed Project is  
11 expected to have positive short-term employment and demographic impacts.<sup>35</sup>  
12 The work would be temporary in nature and no permanent jobs would be created.  
13 The number of jobs created and the temporary status of those jobs, compared to  
14 the high overall employment rate in the BLM CFO planning area, did not warrant  
15 detailed analysis of socioeconomics in the EA, as only marginal and minimal,  
16 short-term, impacts to employment and demographics would be expected. The

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<sup>34</sup> Attachment DJB-1(CD)(Initial EA) at 26 of 140.

<sup>35</sup> SPS estimated that approximately 180 workers total would be employed during construction. These workers would primarily be employed by SPS contractors.



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1 BLM also determined that the Project would not disproportionately impact  
2 environmental justice populations as no majority environmental justice population  
3 (as defined by EO 12898) was identified in the region. Therefore, no further  
4 analysis was required for socioeconomic and environmental justice resources.<sup>36</sup>

5 In the following portions of my testimony, I will explain the EAs'  
6 determinations regarding potential environmental impacts and any required  
7 remedial measures for the remaining factors that are described in the location  
8 approval process under Section 62-9-3(M) and Rule 592.10(H).

9 **Q. Please describe the EAs' evaluations and determinations of potential impacts**  
10 **of the Proposed Project on Air Resources (*see* Rule 592.10(H) (i.e., air**  
11 **quality)).**

12 A. The EAs' establish that the potential environmental impacts on air resources  
13 (including air quality and climate) associated with the construction, operation, and  
14 maintenance of the Proposed Project will be insignificant.<sup>37</sup> Air resource impacts  
15 associated with the Proposed Project were evaluated within a designated analysis  
16 area, extending one mile in each direction beyond the transmission line route and

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<sup>36</sup> See Attachment DJB-1(CD)(Initial EA) at 25-26 of 140 (Section 1.6.1).

<sup>37</sup> See Attachment DJB-1(CD)(Initial EA) at 57-63 of 140 (Section 3.1) and (2019 EAs) at 19-22 of 64 (Eddy County EA) 18-22 of 64 (Kiowa EA)(Sections 3.1).

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1       substation facilities.<sup>38</sup> The initial EA determined that emissions of air pollutants  
2       would occur during construction of the transmission lines and substations  
3       (temporary emissions) and, to a lesser extent, during the operation of the  
4       transmission lines. Construction-related emissions considered include exhaust  
5       from construction vehicles, material movements, and equipment; exhaust from  
6       construction worker commuting; and fugitive dust from general construction  
7       activity. Operational-related emissions considered include emissions from  
8       inspection and maintenance activities (which include exhaust from inspection  
9       vehicles and aerial inspections, fugitive dust from unpaved roads, and line  
10      maintenance equipment) and fugitive emissions due to leaked emissions from  
11      substation transformer equipment.<sup>39</sup>

12             The initial EA compared the estimated level of emissions of various  
13      pollutants resulting from construction and operation activities to the 2011  
14      National Emissions Inventory for Eddy County. In regard to increased  
15      construction emissions, each pollutant is equal to or less than 0.18% of Eddy and

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<sup>38</sup> See Attachment DJB-1(CD)(Initial EA) at Figure A-4 (for map showing the designated analysis area).

<sup>39</sup> See Attachment DJB-1(CD)(Initial EA) at 60 of 140.

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1       Lea County's emission inventory, and less than 0.01% of Eddy and Lea County's  
2       inventory for operation emissions.<sup>40</sup> Consequently, the EA concluded that  
3       impacts to air resources are likely to be insignificant in relation to the construction  
4       and operation of the Proposed Project.

5               Similarly, the 2019 EAs concluded that there would not be significant  
6       impact to air quality for the construction and operation of the expanded Eddy  
7       County and Kiowa Substations because construction emissions would be short-  
8       term, lasting only the duration of construction, and would not result in a  
9       substantial increase in emissions.<sup>41</sup> As such, these temporary emissions will be  
10      negligible and would not cause or contribute to exceedances of the National  
11      Ambient Air Quality Standards. Similarly, operational-related emissions are  
12      expected to be minimal and would also not cause exceedances of these same  
13      standards; therefore, impacts to air resources would be insignificant from the  
14      construction and operation of the Eddy County and Kiowa substation expansions.

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<sup>40</sup> See Attachment DJB-1(CD)(Initial EA) at 61 of 140 (Tables 3.7 and 3.8).

<sup>41</sup> See Attachment DJB-1(CD)(2019 EAs) at 19-23 of 64 (Eddy County EA) and 22-24 of 64 (Kiowa EA) (Sections 3.1).

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1   **Q.   Please describe the EAs' evaluations and determinations of the potential**  
2       **impacts of the Proposed Project on Cave and Karst Formations (*see Rule***  
3       **592.10(H) (i.e., geologic and geographic resources)).**

4   A.   The initial EA addresses the Proposed Project's potential environmental impacts  
5       on cave and karst resources.<sup>42</sup> The location of the proposed Eddy County to  
6       Kiowa transmission line route will cross areas of high, medium, and low cave and  
7       karst potential with most of the high potential areas located along the southern  
8       portion of the transmission line route.<sup>43</sup> Ground-disturbing activities, including  
9       heavy vibrations and alternation of surface drainages, associated with the  
10      construction, operation, and maintenance of the Proposed Project could impact  
11      cave and karst resources. No other geologic or geographic resources of concern  
12      were found to be present in the Project area.

13           To address these concerns about high potential karst areas, the final  
14      transmission line route was sited to parallel the Burton Flats Road for the southern  
15      portion of the alignment. In addition, several protection measures were included

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<sup>42</sup> See Attachment DJB-1(CD)(Initial EA) at 63-65 of 140 (Section 3.2).

<sup>43</sup> See Attachment DJB-1(CD)(Initial EA) at Figures A.5 (Cave Potential) and A.6 (Karst Potential).

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1 in the POD to protect cave and karst resources.<sup>44</sup> These include collecting soil  
2 bores up to 50 feet deep at all proposed foundation structures (foundations would  
3 only be used at locations where the line angle is greater than two degrees) along  
4 the centerline prior to construction to ensure the contractor does not drill into  
5 voids or karst features to install structures, adjusting pole locations to avoid cave  
6 and karst features. The ROW grants require SPS to notify and coordinate with the  
7 BLM's Cave/Karst Resource Specialist before performing any blading in high  
8 karst potential areas on both BLM and NMSLO lands, and stop construction  
9 immediately if any underground voids, subsurface drainage channels, or cave  
10 passages are encountered, and route any roads around sinkholes or other karst  
11 features to avoid or lessen the possibility of encountering near surface voids and  
12 to minimize changes to runoff or potential leaks and spills from entering karst  
13 systems. Based on these protective measures, the BLM expert's familiarity with  
14 the area, and the routing adjacent to the Burton Flats Road, the initial EA  
15 concluded that the Proposed Project is not expected to have significant impacts to  
16 cave and karst resources.

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<sup>44</sup> See Attachment DJB-3(CD) at 36 of 82 (Section 3.6.7).

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1           Section 3.6 of the 2019 EAs address potential environmental impacts to  
2           cave and karst features as a result of the expansions of the Eddy County and  
3           Kiowa Substations.<sup>45</sup> No karst features are located within the Eddy County  
4           Substation expansion area so no impacts would be expected associated with that  
5           substation expansion. The Kiowa Substation is located in an area with medium  
6           karst potential, which is defined as areas in known soluble rock types that exist at  
7           surface level or within 300 feet of the surface but may have a shallow insoluble  
8           overburden or soils that mask surface features.<sup>46</sup> These areas may contain  
9           isolated karst features such as caves and sinkholes. However, no impacts to karst  
10          resources are expected to result from the construction of the Kiowa Substation  
11          expansion because SPS is required to abide by the standard BLM measures to  
12          minimize impacts to karst resources as a condition of its ROW grant.<sup>47</sup>

13   **Q.    Please describe the EAs' evaluation and determinations of the potential**  
14   **impacts of the Proposed Project on Soil Resources (*see* Rule 592.10(H)).**

15   A.    Both the initial EA and 2019 EAs address the potential environmental impacts on  
16   soil resources located along the proposed transmission line route and the

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<sup>45</sup> See Attachment DJB-1(CD)(2019 EAs) at 30-31 of 64 (Kiowa EA) (Sections 3.6).

<sup>46</sup> See Attachment DJB-1(CD)(2019 EAs) at 30 of 64 (Kiowa EA).

<sup>47</sup> See Attachment DJB-3(CD) at 36 of 82 (Section 3.6.7).

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1       substation facilities.<sup>48</sup> The initial EA notes that some soil types in the Hobbs to  
2       China Draw Project area are highly susceptible to erosion when vegetation is  
3       removed, primarily those developed from eolian (windblown) and alluvium parent  
4       material which are concentrated along the J-20, J-21, and J-22 transmission line  
5       segments. However, none of the soils in the area where the Project will be  
6       located are considered prime farmland. Direct impacts to soil resources include  
7       the loss of soil productivity due to the removal of soils for construction access  
8       roads, laydown yards, transmission line structures, and substations. Clearing of  
9       vegetation and topsoil, as well as grading, would be required and these activities  
10      would result in newly exposed, disturbed soils that would be subject to  
11      accelerated wind and water erosion.

12               Similarly, the 2019 EAs determined that the construction and subsequent  
13      expansion of the Kiowa Substation and expansion of the Eddy County Substation,  
14      will permanently remove soils from productivity. Direct impacts to soils  
15      associated with the substations include increased erosion from the removal of  
16      vegetative cover, contamination from accidental spills or leaks, and soil  
17      compaction from heavy equipment resulting in the loss of soil structure and

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<sup>48</sup> See Attachment DJB-1(CD)(Initial EA) at 65-68 of 140 (Section 3.3) and (2019 EAs) at 24-25 of 64 (Sections 3.3).

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1 porosity. These impacts can lead to increased rainfall runoff and susceptibility to  
2 high wind events and consequently increased erosion.

3 By using established reclamation practices and reestablishing vegetation  
4 cover, SPS will minimize impacts to soils and stabilize soils in areas of temporary  
5 ground disturbance. These measures are described in the POD and include the  
6 use of erosion control devices to minimize erosion during and after construction,  
7 stockpiling topsoil following vegetation removal, recontouring temporarily  
8 disturbed areas, preparing soil and seedbeds, topsoil replacement, re-seeding with  
9 appropriate seed mixes, and installing erosion control devices, silt traps, silt  
10 fences, straw rolls and other best management practices, conducting weed control,  
11 and continuous monitoring until reclamation has achieved standard BLM success  
12 criteria.<sup>49</sup> The BLM expects the seeded vegetation to be re-established within the  
13 Project area two years after construction. Based on the BLM's required measures  
14 to minimize the impacts to soils during and after the construction phase, the  
15 Proposed Project will not significantly impact soil resources.

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<sup>49</sup> See Attachment DJB-3(CD)(POD) at 32-33 of 82 (Section 3.6.3).



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- 1   **Q.   Please describe the EAs' evaluations and determinations of the potential**  
2       **impacts of the Proposed Project on Water Resources (including Watersheds**  
3       **and Drainage) (see Rule 502.10(H) (i.e., water quality and water resources).**
- 4   A.   The initial EA's analysis of potential impacts to water resources examined  
5       drainages and sensitive aquatic habitats regulated by the U.S. Army Corps of  
6       Engineers under the Clean Water Act of 1972. The surface waters in southeast  
7       Eddy County are transitory and limited to quantities of runoff impounded in short  
8       drainage ways, shallow lakes, and small depressions, including various playas and  
9       lagunas. SWCA conducted pedestrian surveys of these areas and found one  
10      relatively small playa within the area of the Proposed Project and found no  
11      wetlands, perennial, or ephemeral streams within the Project area. The EA also  
12      found that no New Mexico Outstanding National Resource Waters are located in  
13      the watersheds traversed by the Proposed Project. These findings are documented  
14      in a wetland delineation report included in Attachment DJB-3(CD). No impacts  
15      to the playa are expected because it will be spanned between transmission  
16      structures and during construction SPS will implement standard stormwater best  
17      management practices described in the POD.<sup>50</sup>

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<sup>50</sup> See generally Attachment DJB-3(CD)(POD) at 31-37 of 82 (Section 3.6).

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1 Desktop analysis and field surveys conducted as part of the 2019 EAs  
2 confirmed that there were no water features, playas, or other special aquatic sites  
3 within either Project area and therefore no impacts to water resources are  
4 expected in association with the Eddy County and Kiowa Substation expansions.

5 **Q. Please describe the EAs' evaluation and determinations of the potential**  
6 **impacts of the Proposed Project on Biological Resources including**  
7 **Vegetation, Wildlife, and Special Species (*see* Section 62-9-3(M)(2) (i.e., fish,**  
8 **wildlife and plant life) and Rule 592.10(H) (i.e., flora and fauna)).**

9 A. The EAs establish that the Proposed Project is not expected to have any  
10 significant impacts on biological resources. This conclusion is based on SWCA's  
11 BA, which is included in Attachment DJB-3(CD) to support the initial EA's  
12 analysis. SWCA first conducted a desktop analysis<sup>51</sup> followed by intensive  
13 pedestrian field surveys within a 500-foot-wide corridor along the center of the  
14 transmission line alignment as well as at each new substation, substation  
15 expansion areas, staging areas, pull pockets, and access roads. These surveys  
16 assessed general vegetation and habitat suitability for USFWS-, BLM-, and State

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<sup>51</sup> Please refer to footnote 17 above.

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1 of New Mexico—protected native plants and special status species. Presence of  
2 active and inactive bird nests and burrows were also recorded.

3 Specific to vegetation, SWCA’s field surveys found that vegetation along  
4 the Project area is primarily comprised of mesquite, burrograss, narrowleaf yucca,  
5 silver bluestem, blue and black grama grasses, tobosagrass, spectaclepod  
6 (*Dimorphocarpa sp.*), and shinnery oak. One state endangered and BLM  
7 sensitive plant species, Scheer’s beehive cactus (*Coryphantha robustispina var.*  
8 *scheeri*) was found in two locations. The BLM, with assistance from the local  
9 native plant society, transplanted the Scheer’s cactus to an area outside the ROW.  
10 No other special status plant species were observed. Plant species recorded  
11 during the biological survey are listed in Table 4.2 of the BA.<sup>52</sup>

12 In the 2019 EAs, SWCA found that the vegetation communities within  
13 and/or surrounding the Project’s substation areas had previous disturbance from  
14 existing oil and gas infrastructure, agriculture, livestock grazing, and the existing  
15 substations and transmission lines. No State of New Mexico listed or federally  
16 listed noxious weed species were identified.<sup>53</sup> Based on the environmental  
17 protection measures prescribed in the POD’s reclamation plan, the BLM’s

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<sup>52</sup> See Attachment DJB-3(CD)(BA) at 15-16.

<sup>53</sup> See Attachment DBJ-1(CD)(2019 EAs) at 19-21.

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1 conditions of approval for each of the ROW grants, and SPS's commitment to  
2 engage biological monitors during construction, the Proposed Project impacts to  
3 vegetation communities will be minimized and will not result in any significant  
4 impacts.

5 Specific to wildlife and special status species, the EAs found that the  
6 Proposed Project would not result in significant impacts. After conducting a  
7 desktop review and pedestrian field surveys for the initial EA, SWCA biologists  
8 identified over 40 different bird species, including two special status species  
9 (burrowing owl and Sprague's pipit), four reptile species, and under 10 mammal  
10 species. Wildlife species recorded during the biological survey are listed in Table  
11 4.3 of the BA.<sup>54</sup>

12 The 2019 EAs also conducted a desktop analysis followed by field  
13 surveys. No special status species were observed. At the Eddy County Substation  
14 expansion area, one bird species was observed or heard, and one inactive  
15 passerine nest was identified in the survey area. At the Kiowa Substation  
16 expansion area, three bird species were observed or heard, and one inactive  
17 passerine nest was identified within the proposed project area.

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<sup>54</sup> See Attachment DJB-3(CD)(BA) at 20-21.

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1           Although Sprague's pipit was observed in the Project area, the grassland  
2           habitat observed during surveys was at best marginally suitable due to grazing and  
3           other disturbance related to oil and gas development. To hasten post-construction  
4           reclamation of disturbed soils and mitigate for localized Sprague's pipit habitat  
5           loss, the BLM requires SPS to double the pounds per acre of seed mix within 1-  
6           mile of the pipit detection location. For burrowing owls, localized loss of burrows  
7           may occur as a result of vegetation removal and ground-disturbing activities. To  
8           minimize impacts to burrowing owls, a suite of avoidance and minimization  
9           methods would be used. For example, if construction during the migratory bird  
10          season (March–August) needs to occur, SPS would be required to conduct nest  
11          surveys to identify the possibility of burrowing owls nesting in or adjacent to the  
12          project area. If any nests are discovered, a 200-meter (656-foot) avoidance buffer  
13          would be established around any active nest burrow until the young have fledged.  
14          Any occupied nest burrows detected prior to construction would also be spot  
15          checked for nesting activity if construction occurs during the migratory bird  
16          season. In accordance with the POD, SPS will also have a biological monitor  
17          during construction near occupied burrows. Because of these measures, no long-  
18          term impacts to the species or its habitat are anticipated from the Project nor

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1 would the proposed project be likely to contribute to a trend towards federal  
2 listing or cause a loss of viability to the population or species.<sup>55</sup>

3 Other measures to protect wildlife species are described in Section 3.6.5 of  
4 the POD and in Section 3.5 of the 2019 EAs.<sup>56</sup> After construction, the Project  
5 area would be reclaimed with a BLM-prescribed seed mix. Reclamation of the  
6 disturbed ROW is expected to return those affected areas to herbaceous  
7 production within 2 years after construction. While impacts to wildlife, primarily  
8 avian species, would result from actions that alter wildlife habitats, no significant  
9 long-term impacts to migratory birds or any other wildlife species are anticipated.

10 **Q. Please describe the EAs' evaluation and determinations of the potential**  
11 **impacts of the Proposed Project on Cultural Resources (see Section**  
12 **62-9-3(M)(5) and Rule 592.10(H) (i.e., cultural, historic, religious).**

13 A. Sections 3.7 of the initial EA and 2019 EAs address the potential environmental  
14 impacts on cultural resources and concluded that the Project is not expected to  
15 have significant impacts to cultural resources.<sup>57</sup> The initial EA identified eight

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<sup>55</sup> See Attachment DJB-3(CD)(POD) at 34-35 of 82 (Section 3.6.5).

<sup>56</sup> See Attachment DJB-3(CD)(POD) at 33-34 of 82 and Attachment DJB-1(CD)(2019 EAs) at 30 of 64 (Eddy County EA) and 29-30 of 64 (Kiowa EA).

<sup>57</sup> See Attachment DJB-1(CD)(Initial EA) at 92-97 of 140 (Section 3.7) and (2019 EAs) at 31-32 of 64 (Sections 3.7).

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1 cultural resources within the Proposed Project ROW that were determined eligible  
2 for the National Register of Historic Places or that are of undetermined eligibility.  
3 Of these, SPS was able to avoid five sites by modifying its project design and the  
4 remaining three eligible sites will be tested prior to construction, the details of  
5 which are described in a detailed treatment plan SWCA prepared for the BLM  
6 (Whitehead et al. 2015), which was also reviewed and approved by the New  
7 Mexico SHPO and other interested parties. This plan includes the methods,  
8 protocols, and requirements for data recovery, construction monitoring, and  
9 testing to avoid, minimize, or mitigate impacts to cultural resources. As to the  
10 2019 EAs, no cultural sites were identified within the substation expansion areas.

11 **Q. Please describe the EAs' evaluation and determinations of the potential**  
12 **impacts of the Proposed Project on Visual Resources (see Section**  
13 **62-9-3(M)(5) and Rule 592.19(H)).**

14 A. Because the BLM is responsible for managing public lands for multiple uses  
15 while ensuring that the scenic values of public lands are considered before  
16 authorizing actions on public lands, it has developed a visual resource  
17 management ("VRM") system specific to the BLM. The VRM system classifies  
18 land based on visual appeal, public concern for scenic quality, and visibility from

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1 travel routes or other key observation points (“KOP”). The system is based on the  
2 premise that public lands have a variety of visual values, and these values  
3 mandate different levels of management.<sup>58</sup>

4 The initial EA addressed the potential environmental impacts on visual  
5 resources, which include the natural and human modified landscape.<sup>59</sup> The  
6 existing visual quality in the vicinity of the Proposed Project area is influenced by  
7 the presence of roads, oil and gas development, existing power lines, and highway  
8 corridors. The only KOP (KOP 6) identified in the Project area is located off of  
9 New Mexico Highway 82 approximately 10 miles east of Artesia.<sup>60</sup> The  
10 landscape surrounding this KOP is relatively flat and irregular and angular built  
11 structures dominate the landscape (e.g., transmission lines, tanks, towers,  
12 substation, buildings, roadways, fences).<sup>61</sup> Because of the visual clutter of  
13 existing structures at this KOP (i.e., high visual absorption capacity), the Project  
14 will not have a significant impact on the visual resources in the area.

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<sup>58</sup> See Attachment DJB-1(CD)(Initial EA) at 97 of 140.

<sup>59</sup> See Attachment DJB-1(CD)(Initial EA) at 97-107 of 140 (Section 3.8).

<sup>60</sup> See Attachment DJB-1(CD)(Initial EA) at 99 of 140 and Figure A.7 (map showing location of KOP 6).

<sup>61</sup> See Attachment DBJ-1(CD)(Initial EA) at Figures 3.14 and 3.15.



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1           The 2019 EAs did not analyze visual resources because both substation  
2           expansion areas are located within VRM Class IV areas, which allows for major  
3           modifications to the landscape. The visual impacts from the expansions would be  
4           consistent with management objectives outlined within VRM Class IV and with  
5           the previously developed nature of the landscape (BLM 2014).<sup>62</sup>

6   **Q.   Please describe the EAs' evaluation and determinations of the potential**  
7           **impacts of the Proposed Project on Special Districts and Recreation areas**  
8           **(see Section 62-9-3(M)(4) and (5)).**

9   A.   Section 3.9 of the initial EA addressed the potential environmental impacts on  
10       special districts and recreation areas.<sup>63</sup> While it identified two special  
11       management areas and one recreational area in its analysis of the environmental  
12       impacts, none of these areas are located in the vicinity of the Eddy County to  
13       Kiowa transmission line route, and therefore no impacts associated with the  
14       construction, operation, and maintenance of the Proposed Project are expected.<sup>64</sup>

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<sup>62</sup> See Attachment DJB-1(CD)(2019 EAs) at 12 of 64 (Table 1.3).

<sup>63</sup> See Attachment DJB-1(CD)(Initial EA) at 107-109 of 140 (Section 3.9).

<sup>64</sup> The special management and recreational areas identified in the EA were located in the vicinity of the Hobbs to China Draw 345-kV transmission line near the Pecos River. As to the substation expansion areas, the 2019 EAs found that no special management or recreation areas exist in proximity to the facilities. See Attachment DJB-1(CD)(2019 EAs) at 12 of 64 (Table 1.3).

Case No. 19-\_\_\_\_\_-UT  
Direct Testimony  
of  
David J. Brown

1   **Q.   Please describe the EAs' evaluation and determinations of the potential**  
2       **impacts of the Proposed Project on Public Health and Safety (see Section**  
3       **62-9-3(M)(3), (4) and (6)).**

4   A.   The EAs used a 2-mile-wide buffer around the centerline of the Proposed Project  
5       as an analysis area for potential impacts to public health and safety.<sup>65</sup> Natural and  
6       manmade hazards that could be directly impacted by construction, operations, and  
7       maintenance of the Proposed Project were identified. Short-term impacts to  
8       occupational safety and impacts from severe weather hazards and potential  
9       fire-causing activities would be considered negligible.

10           The initial EA also studied possible impacts from electromagnetic fields  
11       ("EMF").<sup>66</sup> The EMF from the proposed transmission line would occur mainly  
12       within the 150-foot ROW and for a short distance beyond (approximately 50 feet  
13       beyond the ROW). The EMF analysis was calculated +/- 1,000 feet to either side  
14       of the transmission line center. Calculated values representing the EMF at 3.28  
15       feet (1 meter) above ground. Using guidelines established by the International  
16       Committee on Electromagnetic Safety, none of the scenarios analyzed would  
17       exceed the electric field exposure limit. At the edges of the transmission line

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<sup>65</sup> See Attachment DJB-1(CD)(Initial EA) at 113-118 of 140 (Section 3.11).

<sup>66</sup> See Attachment DJB-1(CD)(Initial EA) at 114-118 of 140.

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1 ROW, the electric field falls well below the recommended exposure limits.<sup>67</sup>  
2 Therefore, the initial EA concluded that impacts from the EMF would be  
3 considered negligible.

4 The 2019 EAs eliminated the EMF issue from detailed analysis because  
5 no residential or community infrastructure is present near the vicinity of either  
6 substation expansion area.<sup>68</sup>

7 In addition, SWCA conducted a separate noise analysis which concluded  
8 that no long-term significant impacts would occur as a result of the Proposed  
9 Project. A copy of the Noise Impact Technical Analysis is provided in  
10 Attachment DJB-3(CD).

11 As to the Project's potential interference with communication signals, no  
12 commercial AM radio towers were identified within 2,000 feet of the route  
13 centerline. One FM station transmitter and three Antenna Structure Registration  
14 ("ASR") facilities are located within 2,000 feet of the centerline. One of the ASR  
15 facilities is owned and operated by Xcel Energy Services Inc. Based on prior  
16 experience on other SPS projects where similar conditions existed, SPS has  
17 received no complaints about disruptions to these type of facilities; therefore, no

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<sup>67</sup> Attachment DJB-1(CD)(Initial EA) at 118 of 140.

<sup>68</sup> See Attachment DJB-1(CD)(2019 EAs) at 12 of 64 (Table 1.3).

Case No. 19-\_\_\_\_\_-UT  
Direct Testimony  
of  
David J. Brown

1 interference with communication signals is expected as a result of the location of  
2 the Project.

3 **Q. Please summarize your conclusions regarding the Proposed Project's**  
4 **potential impacts on important environmental values under Section 62-9-3(F)**  
5 **as defined by Sections 62-9-3(M) and Rule 592.10(H).**

6 A. As discussed earlier in this section, the EAs analyze and evaluate the potential  
7 impacts of the Project on the important environmental values and underlying  
8 factors identified in Section 62-9-3(M) and Rule 592.10(H). Based on the  
9 resource evaluations in the EAs and the supporting technical reports prepared for  
10 the Project, as well as the environmental protection measures enforced as  
11 conditions of approval for the BLM ROW grants and my own personal  
12 knowledge of the Project area, I have concluded that the Proposed Project will not  
13 unduly impair any important environmental values in accordance with Section  
14 62-9-3(F). Accordingly, it is my opinion that the Proposed Project satisfies the  
15 requirements for location approval under Section 62-9-3 and Rule 592.10.

16 **Q. Does this conclude your pre-filed direct testimony?**

17 A. Yes.

## VERIFICATION

STATE OF UTAH

)


) ss.

**COUNTY OF SALT LAKE**

)

David J. Brown, first being sworn on his oath, states:

I am the witness identified in the preceding testimony. I have read the testimony and the accompanying attachments and am familiar with their contents. Based upon my personal knowledge, the facts stated in the direct testimony are true. In addition, in my judgment and based upon my professional experience, the opinions and conclusions stated in the testimony are true, valid, and accurate.



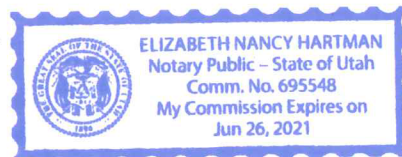
David J. Brown

SUBSCRIBED AND SWORN TO before me this 28 day of May 2019.

Elizabeth Nancy Hartman

Notary Public, State of Utah

My Commission Expires: 6/26/21

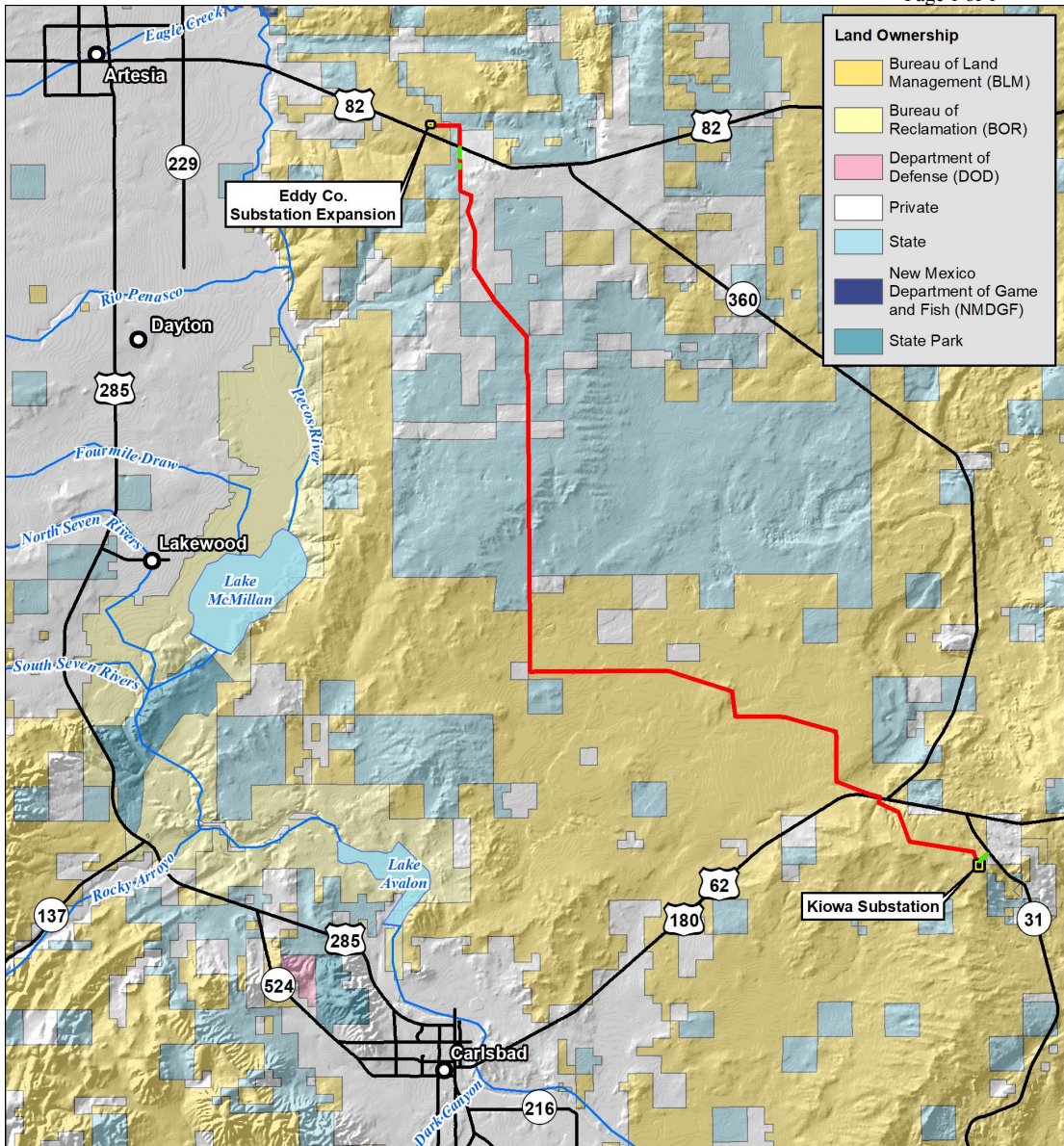


**CASE NO. 19-00 -UT**

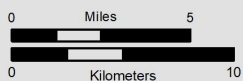
**IN THE MATTER OF SOUTHWESTERN PUBLIC SERVICE  
COMPANY'S APPLICATION REQUESTING: (1) ISSUANCE OF A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING  
CONSTRUCTION AND OPERATION OF THE EDDY COUNTY TO KIOWA 345-KV  
TRANSMISSION LINE AND ASSOCIATED FACILITIES; (2) APPROVAL OF THE  
LOCATION OF THE 345-KV TRANSMISSION LINE AND ASSOCIATED  
FACILITIES; (3) DETERMINATION OF RIGHT-OF-WAY WIDTH FOR THE  
TRANSMISSION LINE; AND (4) AUTHORIZATION TO ACCRUE AN  
ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION FOR THE  
TRANSMISSION LINE AND ASSOCIATED FACILITIES**

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**Attachment DJB-1(CD)  
Attachment DJB-3(CD)**



## Eddy to Kiowa 345-kV Transmission Line Project

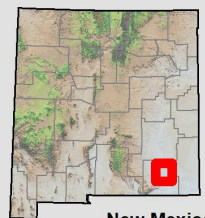


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Project No. 53583  
File: EK\_Overview\_Map\_20190124  
Map Created: 1/18/2019  
Map Updated: 1/24/2019

**SWCA**  
ENVIRONMENTAL CONSULTANTS

- City/Town
- Major Roadway
- Drainage
- Water Body
- Proposed Line
- Proposed Access Road
- Substation



**CASE NO. 19-00 -UT**

**IN THE MATTER OF SOUTHWESTERN PUBLIC SERVICE  
COMPANY'S APPLICATION REQUESTING: (1) ISSUANCE OF A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING  
CONSTRUCTION AND OPERATION OF THE EDDY COUNTY TO KIOWA 345-KV  
TRANSMISSION LINE AND ASSOCIATED FACILITIES; (2) APPROVAL OF THE  
LOCATION OF THE 345-KV TRANSMISSION LINE AND ASSOCIATED  
FACILITIES; (3) DETERMINATION OF RIGHT-OF-WAY WIDTH FOR THE  
TRANSMISSION LINE; AND (4) AUTHORIZATION TO ACCRUE AN  
ALLOWANCE FOR FUNDS USED DURING CONSTRUCTION FOR THE  
TRANSMISSION LINE AND ASSOCIATED FACILITIES**

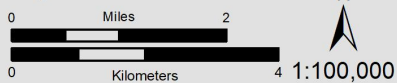
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**Attachment DJB-1(CD)  
Attachment DJB-3(CD)**






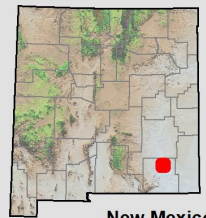
**Eddy to Kiowa 345-kV  
Transmission Line Project  
Map 1 of 3**



Project No. 53583  
File: EK\_Detail\_20190211\_aerial\_1of3  
Map Created: 2/11/2019  
Map Updated: 2/11/2019



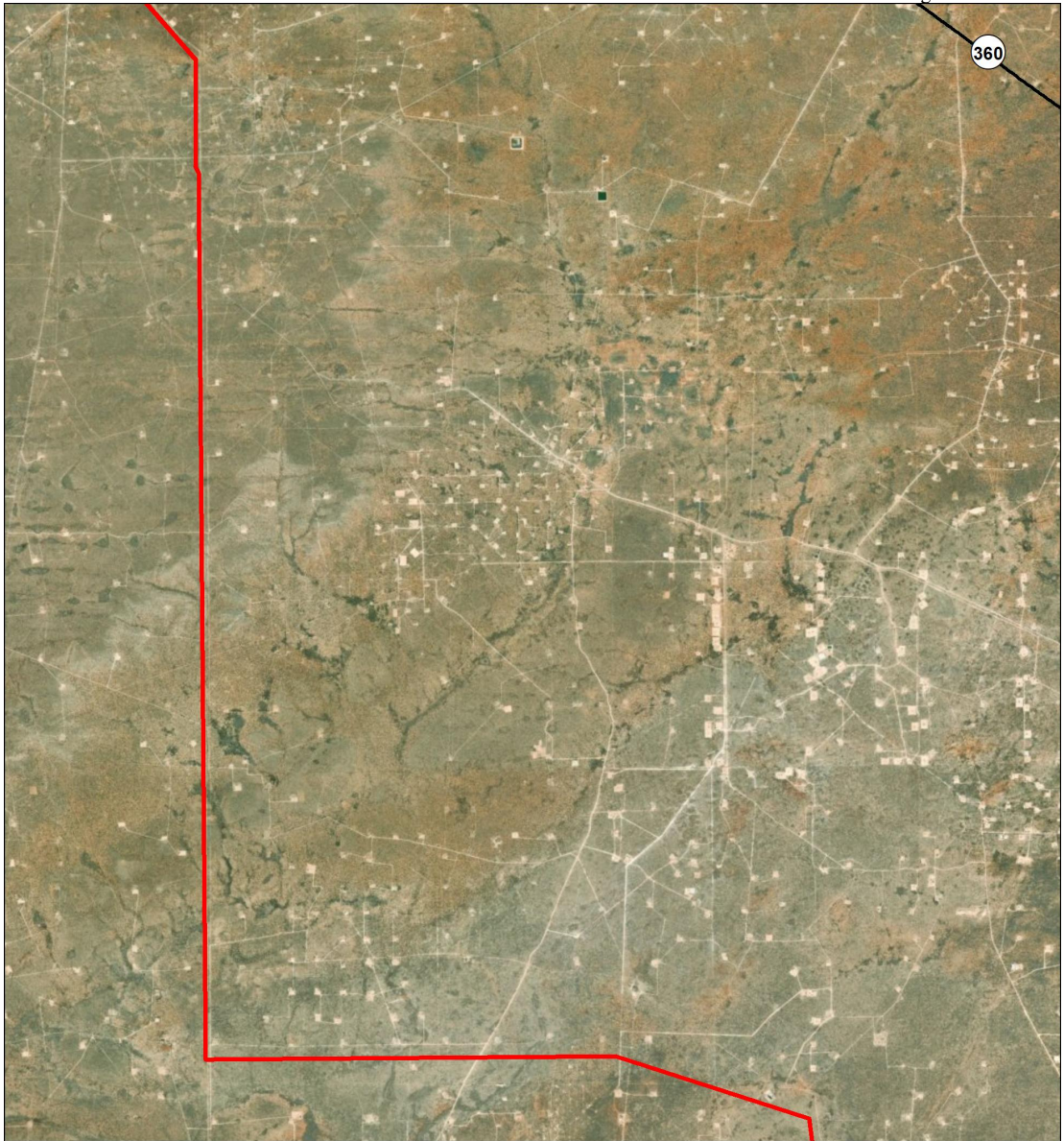
- Major Roadway
- Drainage
- Proposed Line
- Proposed Access Road
-  Substation



New Mexico



360



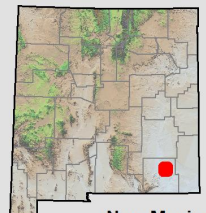
**Eddy to Kiowa 345-kV  
Transmission Line Project  
Map 2 of 3**

0 Miles 2  
0 Kilometers 4



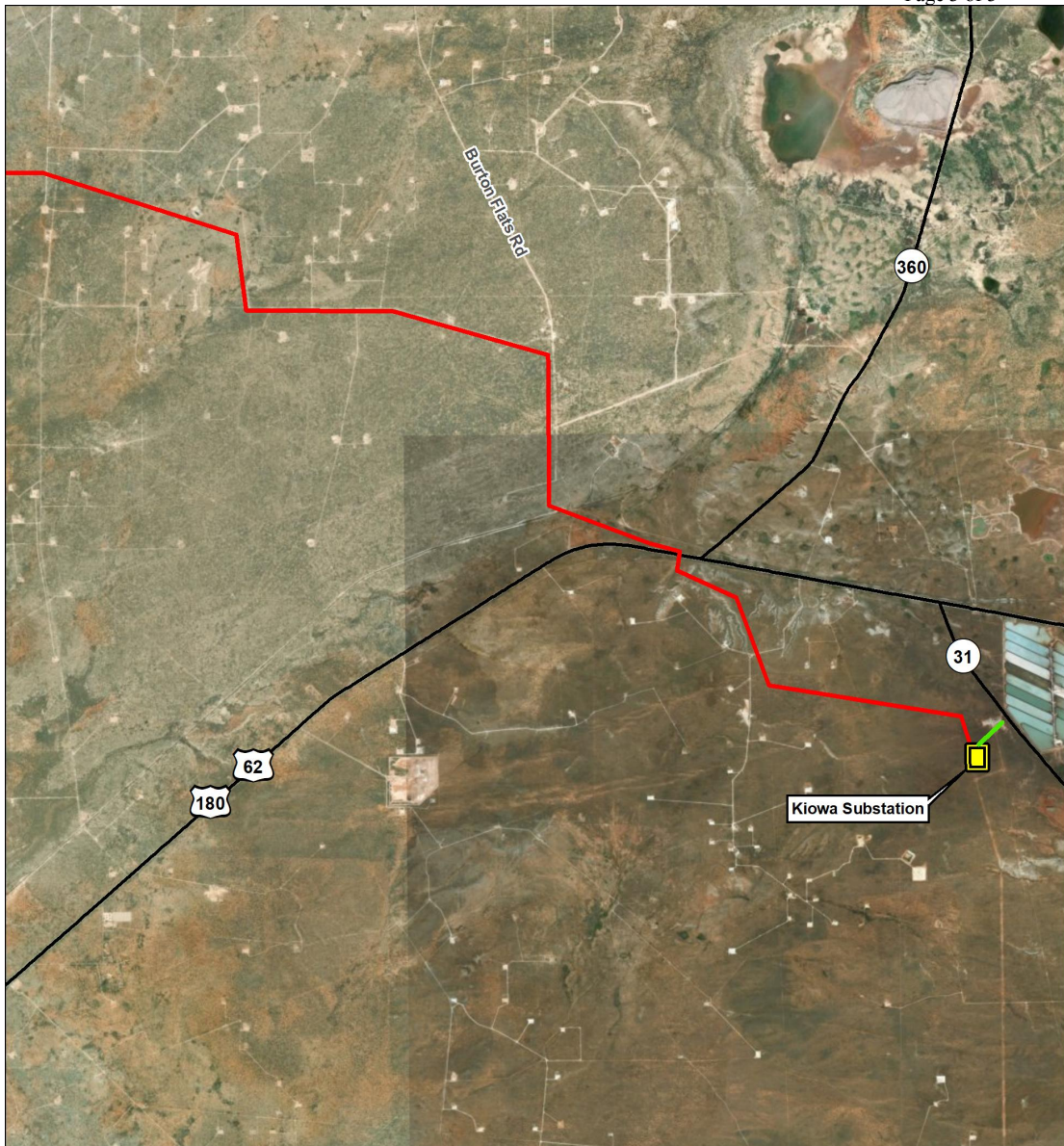
Project No. 53583  
File: EK\_Detail\_20190211\_aerial\_2of3  
Map Created: 2/11/2019  
Map Updated: 2/11/2019

— Major Roadway  
— Proposed Line



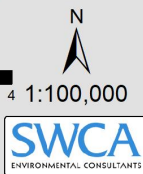
New Mexico



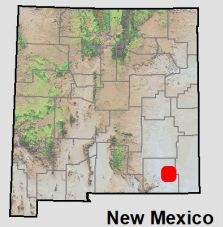


# **Eddy to Kiowa 345-kV Transmission Line Project Map 3 of 3**

0 Miles 2  
0 Kilometers 4  
Project No. 53583  
File: EK\_Detail\_20190211\_aerial\_3of3  
Map Created: 2/11/2019  
Map Updated: 2/11/2019



- Major Roadway
- Proposed Line
- Proposed Access Road
- Substation



**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

Pecos District  
Carlsbad Field Office  
620 E Greene Street  
Carlsbad, NM 88220

**Finding of No Significant Impact (FONSI)**

**Southwestern Public Service Company (SPS)  
Hobbs to China Draw 345kV Transmission Line Project Environmental  
Assessment  
NEPA No. DOI-BLM-NM-P020-2016-0089-EA**

**FINDING OF NO SIGNIFICANT IMPACT**

Based upon a review of the EA and the supporting documents, I have determined that the Proposed Action, as described in the EA would not have any significant impact, individually or cumulatively, on the quality of the human environment. Because there would not be any significant impact, an Environmental Impact Statement is not required.

In making this determination, I considered the following factors:

1. The activities described in the Proposed Action do not include any significant beneficial or adverse impacts (40 CFR 1508.27(b) (1)). The EA includes a description of the expected environmental consequences of the Proposed Action and all practical means to avoid or minimize environmental harm have been adopted. The beneficial effects of the Hobbs to China Draw 345kV Project are needed to satisfy increase in electrical demand in southeast New Mexico where development of oil and gas fields has grown tremendously. This additional capacity will allow SPS to reliably accommodate the future electrical load within its system. Adverse effects include impacts to soils, vegetation, wildlife, and visual resources that would occur temporarily during construction of the Proposed Action. Long-term effects include impacts to vegetation, wildlife, and visual resources.
2. The activities included in the Proposed Action would not significantly affect public health or safety (40 CFR 1508.27(b) (2)). The BLM and SPS have selected the Proposed Action, comprising the 122-mile ROW and associated substations, as the environmentally preferred alternative. The Proposed Action achieves the balance of resource protection and beneficial uses of the human environment envisioned by the National Environmental Policy Act.
3. The proposed activities would not significantly affect any unique characteristics (40 CFR 1508.27(b) (3)) of the geographic area such as prime and unique farmlands,



caves, wild and scenic rivers, designated wilderness areas, wilderness study areas, or areas of critical concern. There are no wild and scenic rivers in the project area. As described in the EA, impacts to cultural resources were identified for the preferred alternative. Monitoring and environmental commitments included in the Proposed Action would be implemented during project construction to minimize the potential for adverse impacts to heritage resources.

4. The activities described in the Proposed Action do not involve effects on the human environment that are likely to be highly controversial (40 CFR 1508.27(b)(4)). The effects on the quality of the human environment are not likely to be highly controversial because there is no known scientific controversy over the impacts of the project.

5. The activities described in the Proposed Action do not involve effects that are highly uncertain or involve unique or unknown risks (40 CFR 1508.27(b)(5)). The BLM has considerable experience with the types of activities to be implemented. The effects analysis (EA, Chapter 3) shows the effects are not uncertain and do not involve unique or unknown risk. No highly uncertain or unknown risks to the human environment were identified during analysis of the preferred alternative.

6. My decision to implement these activities does not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration (40 CFR 1508.27(b)(6)) because it conforms to all existing BLM plans and is applicable to the project area.

7. The effects of the construction of the transmission lines and substations would not be significant, individually or cumulatively, when considered with the effects of other actions (40 CFR 1508.27(b)(7)). No individually or cumulatively significant impacts were identified for the preferred alternative. Any adverse impacts identified for the preferred alternative, in conjunction with any adverse impacts of other past, present, or reasonably foreseeable future actions would result in negligible to moderate impacts to natural and cultural resources.

8. Additional Mitigation Measure:

The proposed activities may effect, but are not likely to adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 (40 CFR 1508.27(b)(9)). Environmental commitments integral to the preferred alternative would also lessen adverse effects to wildlife and special status species designated by the U.S. Fish and Wildlife Service and the BLM. In order to minimize the potential for adverse effect on the aplomado falcon, If construction and maintenance activities, including mechanical or herbicide treatments of woody vegetation, cannot be avoided in the primary nesting season for migratory birds (March–August), migratory bird and nest surveys would be performed up to two weeks prior to commencing with those activities, and an avoidance buffer around each active nest would be implemented until the young have fledged.

In order to minimize the potential for adverse effect on the lesser prairie chicken, timing and noise restrictions would be applied to prevent disruption of mating and nesting activities, construction activities would be prohibited from 3:00 a.m. to 9:00 a.m. during March 1 to June 15. Non-construction activities such as tailgate meetings and activities where machinery is not needed would be allowable outside the timing limitations. In order to minimize the potential for adverse effect on the dunes sagebrush lizard, a BLM-approved monitor would be required for every up to 3-mile segment that contains open holes in DSL habitat.

9. The proposed activities would not threaten any violation of federal, state, or local law or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10)). Applicable laws and regulations were considered in the EA (see EA Chapter 1.4). This action is consistent with the Carlsbad RMP, as amended (1997 RMPA pp. AP2-8–AP2-9) and (2008 RMPA pp. 2-13). The preferred alternative violates no federal, state, or local environmental protection laws.

**Approved:**

for   
\_\_\_\_\_  
George MacDonell  
Field Manager  
Carlsbad Field Office

  
\_\_\_\_\_  
Date



**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

Pecos District  
Carlsbad Field Office  
620 E Greene Street  
Carlsbad, NM 88220

**DECISION RECORD**

for the

**DOI-BLM-NM-P020-2016-0089-EA**

Southwestern Public Service Company (SPS)

Serial Nos. NM-133171; NM-134370; NM-134336; NM-077768

SPS' Hobbs to China Draw 345kV Transmission Line Project

**SUMMARY OF THE DEVELOPMENT PROPOSAL**

Southwestern Public Service Company (SPS), a wholly owned subsidiary of Xcel Energy Inc., has submitted four Applications for Transportation and Utility Systems and Facilities on Federal Lands (Standard Form 299) to the Bureau of Land Management (BLM) Carlsbad Field Office (CFO) for right-of-way (ROW) grants needed to construct, operate, and maintain two 345-kilovolt (kV) transmission lines, a new substation (Kiowa Substation), and two substation expansions (Hobbs Generation and Eddy County Substation) in southeast New Mexico, herein referred to as the "project" or "Proposed Action." Xcel Energy is a registered holding company that owns several electric and natural gas utility operating companies. The project crosses BLM CFO-managed surface lands, New Mexico State Land Office (SLO) lands, and private lands. The BLM is serving as the lead federal agency for the undertaking.

The four applications include distinct project components but are considered to be connected actions as defined in the BLM's National Environmental Policy Act (NEPA) handbook (Section 6.5.2.1) and regulations of the Council of Environmental Quality (CEQ) (40 Code of Federal Regulations [CFR] 1508.25). As such, impacts from construction and operation of the proposed project are analyzed and disclosed together within the Project's Environmental Assessment (EA). This Decision Record includes the BLM's decision for all four subject applications as described in the EA.

The 345-kV transmission lines interconnect with other existing and proposed electrical system facilities owned and operated by SPS, as parts of the larger electrical system grid. SPS is requesting a 150-foot-wide permanent ROW for the transmission lines. One new substation, and four substation expansions are proposed. Additional temporary workspace is also proposed for staging areas or other construction-related needs. Disturbance associated with the Proposed Action (2,661 acres) would be primarily short term, as the majority of the ROW would be reclaimed following construction.

Prior to siting the preliminary routes for the ROW, a desktop analysis was conducted by the BLM to identify sensitive areas to avoid. Once the preliminary route was identified



and cultural resource and biological resource surveys were conducted, the route was then adjusted or realigned in several segments in order to avoid impacts to cultural or biological resources where possible.

## **I. Decision**

I have decided to select the Proposed Action for implementation as described in Chapter 2 of the attached Environmental Assessment (EA) (DOI-BLM-NM-P020-2016-0089-EA) dated January 6, 2016. Based on my review of the EA and project record, I have concluded that the Proposed Action was analyzed in sufficient detail to allow me to make an informed decision. I have selected the Proposed Action because this action sufficiently meets the purpose and need for the action in a manner that conforms to the 1988 Carlsbad Resource Management Plan (RMP), as amended by the 1997 Carlsbad Approved RMP Amendment (Appendix 2; pp. AP2-8–AP2-9), and 2008 Approved RMP Amendment (pp. 2-13).

## **II. Finding of No Significant Impact**

I have reviewed the direct, indirect, and cumulative effects of the proposed activities documented in the EA for the Proposed Action (DOI-BLM-NM-P020-2014-1434-EA). I have also reviewed the project record for this analysis. The effects of the Proposed Action and alternatives are disclosed in the Alternatives and Environmental Consequences sections of the EA. I have determined that the project is not a major federal action and would not significantly affect the quality of the human environment, individually, or cumulatively with other actions in the general area. I have determined that the preparation of an Environmental Impact Statement is not necessary.

## **III. Other Alternatives Considered**

Alternatives to the Proposed Action were developed to explore different ways to accomplish the purpose and need while minimizing environmental impacts and resource conflicts and meeting other objectives of the RMP. Consistent with BLM National Environmental Policy Act (NEPA) Handbook H-1790-1, the agency “need only analyze alternatives that would have a lesser effect than the Proposed Action.” Those with greater adverse resource impacts or those that are not feasible because of existing physical constraints or infrastructure were not brought forward for detailed analysis in the EA. The proposed transmission line route and design would meet the BLM’s purpose and need while minimizing environmental impacts to the greatest extent possible. The route was ultimately planned to minimize impacts to habitat for both the lesser prairie-chicken (*Tympanuchus pallidicinctus*) and the dunes sagebrush lizard (*Sceloporus arenicolus*) (see EA section 3.6.3). Cultural and historic sites were also avoided where applicable (see EA Section 3.7.3 for details regarding avoidance of cultural sites). Any other proposed ROW routing would likely result in greater surface impacts and environmental impacts. Public scoping did not identify any additional unforeseen alternatives.

## **IV. Public Involvement**

The project description and location was posted to the BLM’s website, as well as the Carlsbad and Hobbs newspapers, beginning on March 2, 2015, for a 30-day public



scoping comment period. In addition, the BLM CFO published a NEPA log for public inspection. This log contained a list of proposed and approved actions in the CFO planning area. The log is located on the BLM New Mexico website ([http://www.blm.gov/nm/st/en/prog/planning/nepa\\_logs.html](http://www.blm.gov/nm/st/en/prog/planning/nepa_logs.html)). No public comments were received.

## **COMPLIANCE AND MONITORING**

SPS and BLM will provide qualified representatives on the ground during and following construction to validate construction, reclamation, other approved design and compliance commensurate with the provisions of this Decision Record. SPS will be required to conduct monitoring of the project in cooperation with the BLM. SPS will monitor reclamation to ensure that mitigation measures are enforced, the project is constructed per the plans of development, and revegetation meets accepted standards.

## **V. Appeals**

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 Code of Federal Regulations (CFR) 4. Any appeal must be filed within 30 days of this decision. Any notice of appeal must be filed with the Authorized Officer at Carlsbad Field Office, 620 E. Greene St., Carlsbad, New Mexico 88220. The appellant shall serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs on each adverse party named in the decision, not later than 15 days after filing such document (see 43 CFR 4.413(a)). Failure to serve within the time required will subject the appeal to summary dismissal (see 43 CFR 4.413(b)). If a statement of reasons for the appeal is not included with the notice, it must be filed with the IBLA, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, Virginia 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

Notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal under 43 CFR 4 does not automatically suspend the effect of the decision. This decision shall take effect when the BLM Authorized Officer issues a "Grant Issued" decision letter and shall remain in effect while any appeal is pending unless the IBLA issues a stay (43 CFR 2801.10). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal.

A petition for a stay is required to show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted;
- and
- (4) Whether the public interest favors granting the stay.

In the event a request for stay or an appeal is filed, the person/party requesting the stay or filing the appeal must serve a copy of the appeal on the Office of the Field Solicitor, U.S. Department of the Interior, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502-0115.

for Cody R. Myer  
George MacDonell, Field Manager  
Carlsbad Field Office, BLM

1/27/16  
Date

Attachment(s)

1. Southwestern Public Service Company's Hobbs to China Draw 345kV Transmission Line Project, Lea and Eddy Counties, New Mexico. Environmental Assessment (DOI-BLM-NM-P020-2016-0089-EA) dated 01/06/16.



**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

Pecos District  
Carlsbad Field Office  
620 E Greene Street  
Carlsbad, NM 88220

**Finding of No Significant Impact  
Serial No. NM-124559-01 Amendment & NM-139982  
Southwestern Public Service Company**

**FINDING OF NO SIGNIFICANT IMPACT:**

I have determined that the proposed action, as described in the EA (DOI-BLM-NM-P020-2019-0734-EA) will not have any significant impact, individually or cumulatively, on the quality of the human environment. Because there would not be any significant impact, an environmental impact statement is not required.

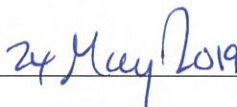
In making this determination, I considered the following factors:

1. The activities described in the proposed action do not include any significant beneficial or adverse impacts (40 CFR 1508.27(b) (1)). The EA includes a description of the expected environmental consequences of the proposed action and all practical means to avoid or minimize environmental harm have been adopted.
2. The activities included in the proposed action would not significantly affect public health or safety (40 CFR 1508.27(b) (2)).
3. The proposed activities would not significantly affect any unique characteristics (40 CFR 1508.27(b) (3)) of the geographic area such as prime and unique farmlands, caves, wild and scenic rivers, designated wilderness areas, wilderness study areas, or areas of critical concern. No such areas exist in the project area to be affected.
4. The activities described in the proposed action do not involve effects on the human environment that are likely to be highly controversial (40 CFR 1508.27(b) (4)). The effects on the quality of the human environment are not likely to be highly controversial because there is no known scientific controversy over the impacts of the project.
5. The activities described in the proposed action do not involve effects that are highly uncertain or involve unique or unknown risks (40 CFR 1508.27(b) (5)). The BLM has considerable experience with the types of activities to be implemented. The effects analysis (EA, Chap 3) shows the effects are not uncertain, and do not involve unique or unknown risk.

6. My decision to implement these activities does not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration (40 CFR 1508.27(b)(6) because it conforms to all existing BLM plans and is applicable to the project area.
7. The effects of the construction of the station would not be significant, individually or cumulatively, when considered with the effects of other actions (40 CFR 1508.27(b)(7)). The EA discloses that there are no other connected or cumulative actions that would cause significant cumulative impacts. The cumulative impacts are not significant.
8. I have determined that the activities described in the proposed action will not adversely affect or cause loss or destruction of scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places (40 CFR 1508.27(b)(8)).
9. The proposed activities are not likely to adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act (40 CFR 1508.27(b)(9)). The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973.
10. The proposed activities will not threaten any violation of Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10)). Applicable laws and regulations were considered in the EA (See EA Chap 1.4). This action is consistent with the Resource Management Plan, pages AP2-8.

**APPROVED:**

  
\_\_\_\_\_  
Field Manager  
Carlsbad Field Office

  
\_\_\_\_\_  
Date



**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

Pecos District  
Carlsbad Field Office  
620 E Greene Street  
Carlsbad, NM 88220

**DECISION RECORD for  
DOI-BLM-NM-P0-2019-0734-EA  
Eddy County Substation Expansion  
Serial No. NM-124559-01 & NM-139982  
Southwestern Public Service Company**

**I. Decision**

I have decided to select the proposed action for implementation as described in Chapter 2 and mitigation as described in Chapter 4 of the attached Environmental Assessment (EA) (DOI-BLM-NM-P020-2019-0734-EA). Based on my review of the (EA) and project record, I have concluded that the proposed action was analyzed in sufficient detail to allow me to make an informed decision. I have selected the proposed action because this action sufficiently meets the purpose and need for the action in a manner which conforms to the 1988 Carlsbad RMP and the Proposed Action is in conformance with the 1988 Carlsbad Resource Management Plan, as amended by the 1997 Carlsbad Approved Resource Management Plan Amendment (page AP2-8, Overhead Distribution power lines).

**II. Finding of No Significant Impact**

I have reviewed the direct, indirect and cumulative effects of the proposed activities documented in the EA for the (DOI-BLM-NM-P020-2019-0734-EA). I have also reviewed the project record for this analysis. The effects of the proposed action and alternatives are disclosed in the Alternatives and Environmental Consequences sections of the EA. I have determined that the project is not a major federal action and will not significantly affect the quality of human environment, individually or cumulatively with other actions in the general area. I have determined that the preparation of an Environmental Impact Statement is not necessary.

**III. Other Alternatives Considered**

Not applicable

**IV. Public Involvement**

The Carlsbad Field Office (CFO) publishes a NEPA log for public inspection. This log contains a list of proposed and approved actions in the field office. The log is located in the lobby of the CFO as well as on the BLM New Mexico website ([http://www.blm.gov/nm/st/en/prog/planning/nepa\\_logs.html](http://www.blm.gov/nm/st/en/prog/planning/nepa_logs.html)). The CFO uses Geographic Information Systems (GIS) in order to identify resources that may be affected by proposed action. A map of the project area is prepared to display the resources in the area and to identify potential issues. The proposed action was circulated among CFO resource specialists in order to identify any issues associated with the project. No issues were raised by resource specialists.

## V. Appeals

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Any appeal must be filed within 30 days of this decision. Any notice of appeal must be filed with the authorized officer at Carlsbad Field Office, 620 E. Greene St, Carlsbad, New Mexico 88220. The appellant shall serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs on each adverse party named in the decision, not later than 15 days after filing such document (see 43 CFR 4.413(a)). Failure to serve within the time required will subject the appeal to summary dismissal (see 43 CFR 4.413(b)). If a statement of reasons for the appeal is not included with the notice, it must be filed with the IBLA, Office of Hearings and Appeals, U. S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

Notwithstanding the provisions of 43 CFR 4.21(a) (1), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision. This decision shall take effect when the BLM authorized officer issues a "Grant Issued" decision letter and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals (IBLA) issues a stay (43 CFR 2801.10). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal.

A petition for a stay is required to show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

In the event a request for stay or an appeal is filed, the person/party requesting the stay or filing the appeal must serve a copy of the appeal on the Office of the Field Solicitor, U.S. Department of the Interior, Bureau of Land Management, P.O. Box 27115 Santa Fe, NM 87502-0115

  
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Field Manager  
Carlsbad Field Office, BLM

24 May 2019  
Date



**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

Pecos District  
Carlsbad Field Office  
620 E Greene Street  
Carlsbad, NM 88220

**Finding of No Significant Impact  
Serial No. NM-134336 Amendment  
Southwestern Public Service Company, Inc.**

**FINDING OF NO SIGNIFICANT IMPACT:**

I have determined that the proposed action, as described in the EA (DOI-BLM-NM-P020-2019-0654-EA) will not have any significant impact, individually or cumulatively, on the quality of the human environment. Because there would not be any significant impact, an environmental impact statement is not required.

In making this determination, I considered the following factors:

1. The activities described in the proposed action do not include any significant beneficial or adverse impacts (40 CFR 1508.27(b) (1)). The EA includes a description of the expected environmental consequences of the proposed action and all practical means to avoid or minimize environmental harm have been adopted.
2. The activities included in the proposed action would not significantly affect public health or safety (40 CFR 1508.27(b) (2)).
3. The proposed activities would not significantly affect any unique characteristics (40 CFR 1508.27(b) (3)) of the geographic area such as prime and unique farmlands, caves, wild and scenic rivers, designated wilderness areas, wilderness study areas, or areas of critical concern. No such areas exist in the project area to be affected.
4. The activities described in the proposed action do not involve effects on the human environment that are likely to be highly controversial (40 CFR 1508.27(b) (4)). The effects on the quality of the human environment are not likely to be highly controversial because there is no known scientific controversy over the impacts of the project.
5. The activities described in the proposed action do not involve effects that are highly uncertain or involve unique or unknown risks (40 CFR 1508.27(b) (5)). The BLM has considerable experience with the types of activities to be implemented. The effects analysis (EA, Chap 3) shows the effects are not uncertain, and do not involve unique or unknown risk.

6. My decision to implement these activities does not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration (40 CFR 1508.27(b)(6) because it conforms to all existing BLM plans and is applicable to the project area.

7. The effects of the construction of the pipeline would not be significant, individually or cumulatively, when considered with the effects of other actions (40 CFR 1508.27(b)(7)). The EA discloses that there are no other connected or cumulative actions that would cause significant cumulative impacts. The cumulative impacts are not significant.

8. I have determined that the activities described in the proposed action will not adversely affect or cause loss or destruction of scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places (40 CFR 1508.27(b)(8)).

9. The proposed activities are not likely to adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act (40 CFR 1508.27(b)(9)). The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973.

10. The proposed activities will not threaten any violation of Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR 1508.27(b)(10)). Applicable laws and regulations were considered in the EA (See EA Chap 1.4). This action is consistent with the Resource Management Plan, pages AP2-8.

**APPROVED:**

  
\_\_\_\_\_  
Field Manager  
Carlsbad Field Office

  
\_\_\_\_\_  
Date



**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

Pecos District  
Carlsbad Field Office  
620 E Greene Street  
Carlsbad, NM 88220

**DECISION RECORD for  
DOI-BLM-NM-2019-0654-EA  
Kiowa Substation Expansion  
Serial No. NM-134336 Amendment  
Southwestern Public Service Company, Inc.**

### **I. Decision**

I have decided to select the proposed action for implementation as described in Chapter 2 and mitigation as described in Chapter 4 of the attached Environmental Assessment (EA) (DOI-BLM-NM-P020-2019-0654-EA). Based on my review of the (EA) and project record, I have concluded that the proposed action was analyzed in sufficient detail to allow me to make an informed decision. I have selected the proposed action because this action sufficiently meets the purpose and need for the action in a manner which conforms to the 1988 Carlsbad RMP and the Proposed Action is in conformance with the 1988 Carlsbad Resource Management Plan, as amended by the 1997 Carlsbad Approved Resource Management Plan Amendment.

### **II. Finding of No Significant Impact**

I have reviewed the direct, indirect and cumulative effects of the proposed activities documented in the EA for the (DOI-BLM-NM-P020-2019-0654-EA). I have also reviewed the project record for this analysis. The effects of the proposed action and alternatives are disclosed in the Alternatives and Environmental Consequences sections of the EA. I have determined that the project is not a major federal action and will not significantly affect the quality of human environment, individually or cumulatively with other actions in the general area. I have determined that the preparation of an Environmental Impact Statement is not necessary.

### **III. Other Alternatives Considered**

Not applicable

### **IV. Public Involvement**

The Carlsbad Field Office (CFO) publishes a NEPA log for public inspection. This log contains a list of proposed and approved actions in the field office. The log is located in the lobby of the CFO as well as on the BLM New Mexico website ([http://www.blm.gov/nm/st/en/prog/planning/nepa\\_logs.html](http://www.blm.gov/nm/st/en/prog/planning/nepa_logs.html)). The CFO uses Geographic Information Systems (GIS) in order to identify resources that may be affected by proposed action. A map of the project area is prepared to display the resources in the area and to identify potential issues. The proposed action was circulated among CFO resource specialists in order to identify any issues associated with the project. No issues were raised by resource specialists.

## V. Appeals

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Any appeal must be filed within 30 days of this decision. Any notice of appeal must be filed with the authorized officer at Carlsbad Field Office, 620 E. Greene St, Carlsbad, New Mexico 88220. The appellant shall serve a copy of the notice of appeal and any statement of reasons, written arguments, or briefs on each adverse party named in the decision, not later than 15 days after filing such document (see 43 CFR 4.413(a)). Failure to serve within the time required will subject the appeal to summary dismissal (see 43 CFR 4.413(b)). If a statement of reasons for the appeal is not included with the notice, it must be filed with the IBLA, Office of Hearings and Appeals, U. S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

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- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

In the event a request for stay or an appeal is filed, the person/party requesting the stay or filing the appeal must serve a copy of the appeal on the Office of the Field Solicitor, U.S. Department of the Interior, Bureau of Land Management, P.O. Box 27115 Santa Fe, NM 87502-0115

  
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Field Manager  
Carlsbad Field Office, BLM

  
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Date

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