

Hualapai Tribal Utility Authority (HTUA) Meeting Minutes

January 19, 2016, 9:25 AM to 12:15 PM, Grand Canyon Resort Corporation Office at Power House Visitor Center, Kingman, Arizona.

Board members:

Charles Vaughn, Chairman - present

Rory Majenty, Vice-Chairman – present

Joe Montana, Secretary – present

Steve Malin, Treasurer – present

Jamie Navenma – present (at 9:45 AM)

Support personnel:

Kevin Davidson, Planning Director

Patrick Black, Fennemore-Craig, P.C. (via telephone)

1) Call to Order

2) Roll Call

3) Review and Approval of Minutes

Mr. Montana made a motion to approve the November 30, 2015, and December 16, 2015 meeting minutes with minor corrections. Motion seconded by Mr. Malin. Motion carried 3-0 with Mr. Majenty not voting and Mr. Navenma absent.

4) Project Updates

a. Follow-up on Amendment to Hualapai Constitution

- i. Public presentation held on December 16, 2015, at ITCA** Mr. Davidson has compiled a list of questions posed at the public meeting in December. Since that time, Mr. Black and Mr. Schmitt have provided additional and clarifying responses for the HTUA which may be published in an expanded FAQ sheet. Questions and answers are as follows:

Question No. 1 - What happens if the project “goes bust”? And, related Question No. 2 - Can the bank/lending agency seize the land on which the improvements are placed?

Mr. Black said the short answer is “no.” The lending agency will be the Rural Utility Service, which is a division of the US Department of Agriculture (USDA) administering the rural development loan program. The loan will be secured by the infrastructure improvements – not the land on which it sits – and pursuant to a loan contract (hence the need to have a limited waiver of sovereign immunity). A vast majority of the new power line will be located within a Mohave County right-of-way along Diamond Bar Road or on BLM holdings, with the remaining portion located on tribal land. The USDA has no jurisdiction over Tribal entities.

Question No. 4 - Are the HTUA and the Tribe qualified to run this type of operation?

Mr. Black stated that the HTUA Board of Directors was selected based on their knowledge and experience with business, and the electric industry. The HTUA will need to hire qualified personnel – as does any other tribal utility authority – not only to help maintain and operate the electric infrastructure (eventually including water and sewer utility services), but also to ensure the economic stability that will allow the HTUA to repay the RUS loan, as well as maintain reasonable electric rates for all of the tribe’s members. Mr. Davidson, who is the acting general manager, added that the qualifications for a general manager have been researched and discussed by the HTUA; however, the tribe must approve the job description.

Question No. 5 – How will the HTUA guard against corruption in the contracting process and in operations?

Mr. Black said that as the tribe becomes more sophisticated in its business enterprises, the need to hire outside contractors will only increase. The tribe and the HTUA must continue to guard against corruption and self-dealing as the tribe already has – by having proper processes and procedures in place to ensure that contracts of any kind are awarded in an open and transparent manner.

Question No. 6 - What does a limited waiver of sovereign immunity mean to the Tribe?

For purposes of entering into contracts with other sophisticated parties, Mr. Black said it allows disputes to be settled in federal court rather than just Hualapai Tribal Court. Understandably, counter-parties with millions of dollars at stake via contracts with the HTUA and/or Tribe prefer an “impartial” judge in the event a dispute rises to the level of litigation. Some counter-parties will simply refuse to bargain and enter into contracts where their only legal recourse is tribal court. Mr. Vaughn added the first step in the justice system is to have the case heard by Hualapai Tribal Court. Remedies in tribal court should be exhausted prior to moving to federal court.

Question No. 7 – Will the amendment open up Pandora’s Box?

Mr. Majenty said it may be easier to package the power line loan with the loan to build the resort hotel at Grand Canyon West. Today’s environment is not conducive to a positive vote on the Constitutional amendment. Mr. Vaughn said many tribal members see enough development occurring at Grand Canyon West. However, the amendment will allow for a new power line which can continue the development at Grand Canyon West and also allow the HTUA to construct other infrastructure projects (electric, water and sewer) on the rest of the reservation. Mr. Majenty noted that having more vendors at Grand Canyon West will benefit GCRC and the tribe in general. This fact should be made apparent to the people. In addition, Mr. Vaughn said that increased economic activity at Grand Canyon West will create spin-off jobs both on and off of the reservation.¹ Some may not be aware of this impact or may not want this type of job growth.

Mr. Vaughn asked Mr. Black in what other ways would the amendment help the tribe? Mr. Black said the limited waiver of sovereign immunity proposed in the amendment would help attract more businesses and bank lenders to help construct new facilities and buildings on the reservation. Mr. Davidson said that “entities” mentioned in the amendment, created by the

¹ Spinoff can be defined as the creation of an independent company through the sale or distribution of new shares of an existing business or division of a parent company. For job creation, spinoff can describe the new jobs required to serve the expanded job base and new-found income of those working at Grand Canyon West which may include equipment suppliers, construction trades, transportation, real estate, and service sector occupations.

Tribal Council, such as the HTUA, could use this new language to construct other buildings and projects that lay outside of the HTUA's mission of providing utility infrastructure. Mr. Vaughn replied that tribal members could take these new "entities" to task as they have GCRC in the past.

Question No. 13 - Can a private landowner located along the route of the new power line tap into it and take all of Grand Canyon West's power?

Mr. Black said "no." Because the power will be flowing one way (to Grand Canyon West), the line is a distribution line and not a transmission line. A transmission line is subject to the Federal Energy Regulatory Commission's (FERC) open access requirements which would allow all landowners along the power line to request access to the electricity. The HTUA may choose to allow a private landowner to receive power from their utility provider, which in turn would use the distribution line pursuant to a wheeling agreement (paying for the cost to send the power) which in this case would be UniSource Electric ("UNSE").

Mr. Vaughn asked how a private property along the route of the power line would go about requesting permission to tap into the power line. Mr. Black replied that the private property would apply to UNSE for an extension of electric service.. UNSE would either have to build a line, or use the existing HTUA line per a wheeling agreement between the two utilities. Mr. Vaughn asked if the private land owner would have any recourse against the HTUA for imposing the wheeling charge or not allowing the power tap in the first place. Mr. Black said "no", and that the Arizona Corporation Commission (ACC) does not have jurisdiction on electric lines having less than 115 KV of capacity. The siting and construction of new power lines carrying less than 115 KV of electricity are not subject to the ACC's Power Plant and Line Siting Committee's review and approval process. Mr. Vaughn asked if other entities could take issue with the construction of the power line and any future electric service interties. Mr. Black said FERC could challenge the HTUA's designation of the power line as an electrical distribution line vs. an electrical transmission line if an entity filed a formal complaint. However, a 69 KV power line is generally considered "sub transmission" by FERC.

Mr. Malin noted that building the power line around the private land owner's property would likely add \$250,000 to the cost of the project. Mr. Davidson noted that when that portion of Diamond Bar Road that passes through the private property is turned over to Mohave County, the power line would be able to be placed within the new public right-of-way without the need to reroute the power line around the private land.

To continue the discussion on serving the needs of future electrical customers along Diamond Bar Road, Mr. Black said it is the responsibility of UniSource, not the HTUA, to provide power to them. Mr. Vaughn advised that the contract language stated in the agreement between the HTUA and UniSource will prescribe how private land owners can connect to the new power line and the level compensation that should be paid to the HTUA for such service.

Mr. Majenty asked if limiting the new customer base to only Grand Canyon West, versus supplying others in the area, mostly off-reservation, would limit the HTUA's leverage with UniSource to obtain the best deal on construction costs. Mr. Black answered no. The HTUA will have additional contracts with UniSource from which they will benefit such as the wholesale purchase of power and the new Boulder Canyon Project hydro-power allocations (381 KW from Western Area Power Administration and possibly the 100 KWs from Arizona Power Authority).

Mr. Vaughn asked if the limit on electrical service connections on the new power line is set at a fixed number, how the HTUA can benefit from third-parties requesting electric service. Mr. Black replied that a third-party developer at Grand Canyon West, such as a developer of a new hotel, may request a service connection from the HTUA. The terms and conditions of the electric service contract with the third-party are subject to review and approval by the HTUA Board.

Question No. 14 - Should there be a dollar amount cap on the proposed limited waiver in Section 3? What should be the cap be set at?

Mr. Black said this is a decision for the Hualapai Tribe and its members. Based on a review of similar waivers employed by other Arizona tribes, cap limits range from between \$3M to \$25M, or to the full value of the entity's assets. Mr. Vaughn reviewed the language in Article XVI,

Section 2 of the Constitution and said the \$250,000 limit on liabilities is not sufficient to allow the HTUA to carry out its mission to build infrastructure or to allow the tribe to do business in general. Mr. Black said the only pledge by the tribe would be the physical assets of the HTUA, namely the new power line to be built along Diamond Bar Road. Mr. Black noted there are other ways to generate electricity at Grand Canyon West such as a solar power plant or biogas plant (capturing methane from the wastewater treatment facilities on-site and using it as fuel for a generator in place of propane).

Question No. 15 - How does the Council know when to invoke Section 2 vs. Section 3 of Article XVI?

Mr. Black said in most instances, express waivers of sovereign immunity approved by the voters pursuant to Section 2 of Article XVI will involve contracts with the tribe itself, whereas limited waivers granted pursuant to Section 3 will involve a tribal entity, such as the HTUA, prior to Council consideration. Also, it will be upon the entity requesting approval of the limited waiver to properly identify under which Section of Article XVI the request is being made. This is a two-step process which requires two public meetings and two separate votes, one by the tribal entity (HTUA Board) and the other by the Tribal Council.

Question No. 26 - Is it a good idea to be "married to" or rely upon a single utility company to provide power to Grand Canyon West? Can this electric service be bid out and not sole-sourced?

Mr. Black explained that the nature of the electric industry in general is one about monopolies – one single designated service provider. However, the HTUA will be providing its own distribution and transmission facilities, and intends to purchase wholesale electricity from one or more sources. In addition, the HTUA is considering the development of its own generation resource, most notably renewable solar energy. Mr. Vaughn asked about the price structure of wheeling costs. Mr. Black said that the further away the power plant is from the customer's load, the higher the wheeling costs. Mr. Majenty asked about the level of taxes imposed by UniSource on the HTUA. Mr. Black said he will investigate these costs.²

² Arizona's Transaction Privilege Tax (sales tax) is not assessed on tribal members or tribal businesses who purchase electricity for use on their own reservation (Arizona Dept of Revenue Form 5000).

Moving to those questions answered by Mr. Schmitt, Mr Davidson reviewed them on Mr. Schmitt's behalf as follows:

Question 8 - Should we develop more housing at Grand Canyon West?

This is a policy question. On the question of whether there is sufficient power to expand the current inventory of housing at Grand Canyon West. Yes, there is more than sufficient power to expand the housing inventory. Current load meters on the new Caterpillar Diesel Generating sets show 30% to 60% utilization on the two new operating Generating sets with the third new Generator being used as a rotating spare.

Question No. 11 - Are there other sources of power available to GCRC for GCW?

Besides the new Diesel Generating Plant and the proposed power line to tie to the regional grid operated by Unisource, the only other practical alternative power source is a Solar Power Field. Preliminary wind field engineering evaluations have not proven to be economically feasible. The apparent availability of power because of the heavy APS transmission lines that cross the reservation are not operationally feasible due to the huge capital cost of transforming 500 KVA down to 20.8KVA distribution voltage used at Grand Canyon West.³ Mr. Davidson noted that the draft Environmental Report (ER) he is preparing for the USDA, as part of the RUS' High Energy Cost grant compliance, also discusses the potential of MEC extending their 24.9 KV line from the FAA's VORTAC site at Plain Tank some 40 miles to Grand Canyon West.

Question No. 12 - Can the owner of the Diamond Bar Ranch block the power line along Diamond Bar Road which passes through this private land?

Mr. Davidson referred to the above discussion (p. 4) on how the power line would be placed within the public right-of-way so its construction could not be blocked by the private land

³ A substation capable of making this voltage conversion would cost at least \$15 million (APS estimate). The substation would most likely be located at Plain Tank along Buck and Doe Road some 40 miles from Grand Canyon West with a new 69 KV power line being constructed along Buck and Doe Road to reach Grand Canyon West at an estimated cost of \$500,000 per mile.

owner. In regard to the power requirements of the Diamond Bar Ranch, these are unknown but assuming that they near the 100 KW – 150 KW mark, the Ranch requirements could be easily handled by a line drop from the new power line. The ultimate capacity of the new power line should be 7mW. At 150 KW demand, this would mean that the Diamond Bar Ranch would require 2.14% of the new power line's capacity.

Question No. 17 - How much power will Grand Canyon West use per month/year (2015)?

The estimated average monthly usage equals 704,288 KWhrs and the estimated average yearly usage is 8,451,465 KWhrs. Mr. Schmitt's report has noted that the electric meters were installed and operational on June 25, 2015, therefore usage is estimated.⁴

Question No. 21. Is there a backup power source planned beside the grid?

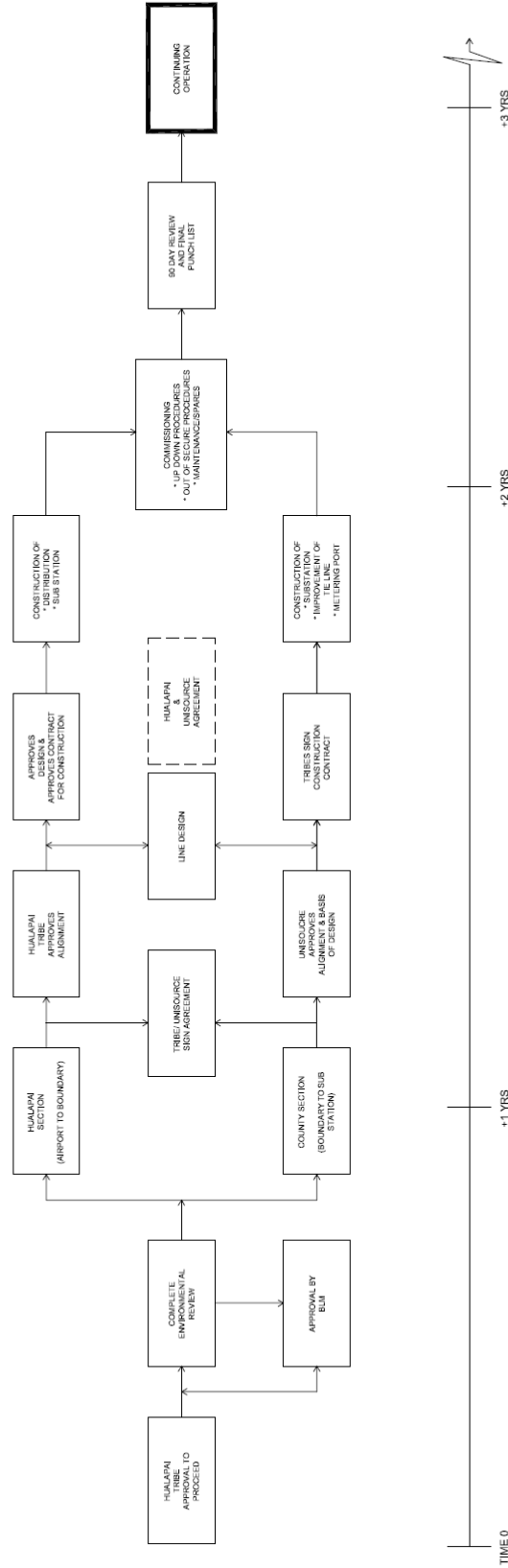
The new Diesel EPA-compliant Generating Station located at the GCW airport will revert from being a prime power generator to a back-up power source. This backup source is required by the Federal Aviation Authority (FAA) due to Grand Canyon West Airport being designated as an air carrier airport.

Question No. 23 – What is the time line to build the power line?

Mr. Davidson referred to the time line prepared by Mr. Schmitt which shows approximately 36 months to complete the project beginning with tribal approval, which would coincide with the approval of the constitutional amendment, through to the final punch list and final inspection of the power line and substation (see diagram on next page).

⁴ To put this electric usage in perspective, MEC supplied the Hualapai Reservation with 7,407,301 KWhrs in 2014. This area includes Peach Springs, developments along Buck & Doe Road and Route 18, and the town of Valentine.

HUALAPAI GCRC POWER PROJECT HAULAPAI GRID TO REGIONAL UNISOURCE GRID (DESIGN, CONSTRUCTION AND COMMISSIONING)



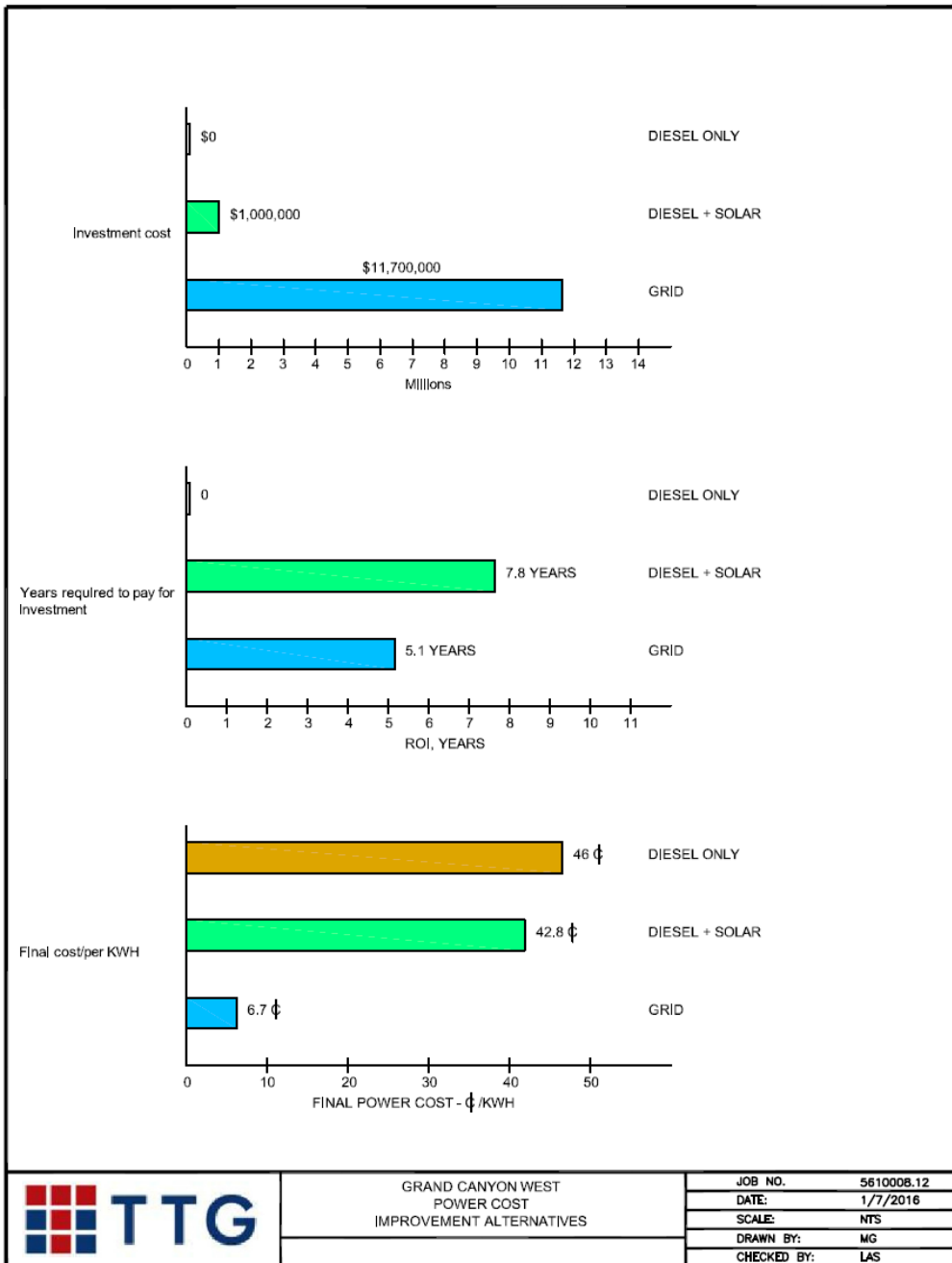
PROPOSED TIME LINE



VERIFY SCALE: _____ SHEET NUMBER: _____ PROJECT NUMBER: _____ DATE: _____		REGISTERED BY: _____ DATE: _____	
T.M.A.D. TAYLOR & GAINES 4800 E. 11th St., Suite 122 Phoenix, AZ 85042 (602) 998-1100 FAX: (602) 998-1101		DRAWN BY: JED CHECKED BY: JED APPROVED BY: JED DATE: 4/6/16 DATE: _____ DATE: _____	
PROJECT NUMBER: 2.06 SHEET NUMBER: 1 of 1 DRAWING NUMBER: V-1-0		PROJECT TITLE: PROCESS FLOW CHART	

Question No. 35 - Please provide a cost comparison of the proposed line to that of renewables such as solar and wind power.

Mr. Davidson referred to the charts provided by Mr. Schmitt which show the cost comparisons and period of payback between a hybrid solar/diesel power plant option, the existing diesel generator system, and the new power line (see chart). The lowest cost power is obtained from the new power line option.



- ii. **Council meeting on January 8th** Mr. Davidson reported that the Council had approved the amendment to correct a typographical error in Resolution No. 79-2015. The resolution requests that BIA/Department of Interior begin and hold the Secretarial Election to add new Section 3 to Article XVI of the Hualapai Constitution.

 - iii. **BIA/Department of Interior pending authorization of Secretarial Election** Mr. Davidson also reported that he has sent the revised resolution to the BIA so they can continue on with the special election process.

 - iv. **Additional public outreach in Peach Springs** Additional public outreach can begin with the launch of the HTUA's new web site and the official start of the Secretarial Election process by the BIA.

 - v. **Next public meeting in Phoenix at ITCA** Mr. Davidson said that one of the key requests by the tribal members attending the meeting at ITCA was to see the market report prepared in association with the new Master Plan for Grand Canyon West. Mr. Majenty said he would prefer to provide members with a hard copy of the study and not distribute this proprietary information on the internet. In regard to additional public outreach, Mr. Majenty asked about arranging for a charter bus from Phoenix to Grand Canyon West to allow those tribal members in Phoenix and Tucson the ability to visit Grand Canyon West during the upcoming anniversary weekend in April. Mr. Navenma agreed that such a gesture would be worthwhile since it is important for tribal members to return to their home to participate in traditional ceremonies and to catch up with old acquaintances. Mr. Vaughn said the market study, which was the basis for several additional land use proposals at Grand Canyon West, may not be broad enough in scope because it did not mention the need for separate convention space. Mr. Navenma noted the importance of such convention space given his experience with the Hopi gatherings.
- b. Proposed Power Line to Grand Canyon West along Diamond Bar Road**
- i. **Drafting Environmental Report to comply with USDA/Rural Utility Service's grant requirements** Mr. Davidson referred to the draft ER he is preparing as part of the grant compliance for the USDA/RUS/HEC grant awarded to the tribe in September of 2015. So far, the

ER consists of 41 pages which have been largely derived from the 2002 Final EIS prepared for the construction of Diamond Bar Road. Because the power line is proposed within the roadway prism (disturbed area including driving surface, shoulders and drainage-ways), much of the affected environment and many of the mitigation measures can be “tiered” off of this existing NEPA document. Both Mr. Vaughn and Mr. Navenma advised that the document be reviewed and signed off on by other tribal departments and agencies, respectively, so as to avoid any perception of a conflict of interest. Mr. Davidson replied that the USDA is looking for the tribe to consult with the State Historic Preservation Office, the US Fish and Wildlife Service and the Bureau of Land Management during the drafting of the ER.

ii. Meeting with BLM on January 19th at Kingman Field Office to discuss issues raised in Environmental Report Mr. Davidson reminded the Board that they will be meeting with the BLM at 1:30 PM today to discuss the topics raised in the ER, namely the impacts on cultural sites, the Joshua Tree Natural National Landmark, the Joshua Tree Area of Critical Environmental Concern (ACEC) and the management of visual resources along the road corridor.

c. Western Area Power Authority Post-2017 Hoover power allocation and contracting. Mr. Davidson reviewed the benefit arrangement proposal recently received from the Navajo Tribal Utility Authority (NTUA). A tribe without the ability to receive the power directly from Hoover, such as Hualapai, would receive a \$1.50 per MWhr in exchange for NTUA’s payment of all Post-2017 Hoover expenses such as repayable advances, Multi-Species Conservation Plan contributions and, of course, the purchase of the power from Western. The NTUA offer was first presented to the HTUA at the November 30, 2015, board meeting and since that time, Mr. Davidson has analyzed the value of such a benefit arrangement to the tribe for the 381 KW D1 allocation from Western (see table).⁵

NTUA Offer for Benefit Credit with Other Tribes for Post 2017 Hoover Power					
Western D1	Years 2018-19	Years 2020-21	Years 2022-23	Years 2024-25	Years 2026-27
Per Year	\$1,248	\$1,456	\$1,664	\$1,872	\$2,080

⁵ The APA’s D2 power allocation of 100 KWs to the tribe must either be taken directly or set up in a bill credit arrangement between the tribe and Mohave Electric Cooperative. A benefit credit arrangement is considered re-sale for profit by the third-party utility such as NTUA and not allowed by Arizona Revised Statutes.

The benefit arrangement may be the only way for Hualapai to proceed if the constitutional amendment is not successful and/or the power line is not built to Grand Canyon West so the Tribe can use the power directly.

The next meeting contracting meeting between Western and allocates is scheduled for January 26, 2016, with a special meeting with tribes set for January 27, 2016.

d. Arizona Power Authority Post-2017 Hoover power allocation contracting. Mr. Davidson reviewed a letter sent by the HTUA to the APA on December 31, 2016, requesting that the wording Section 27 of the draft APA contract read as follows: "Reallocation of a defaulted tribal contractor's allocation would be offered first to other tribal Contractors regardless of their Schedule designation by the APA. If other tribal Contractors do not accept this reallocation, then such reallocation should be offered first to all other Contractors within the same Schedule; second, to all Contractors with APA allocations; and third, to any other purchaser within APA's service area." This language is consistent with ongoing federal contracting negotiations and proposals. The language also gives tribes a right to other tribal allocations in default before they are offered to the other contractors.

Mr. Davidson next referred to the APA notification letter regarding transmission arrangements to receive the D2 power allocation. The HTUA has asked MEC to prepare a bill-credit analysis because the power line will most likely not be constructed to Grand Canyon West in time to take the power directly. A bill credit agreement with MEC should not require the tribe to pay APA for transmission because MEC will incorporate these transmission costs in the bill-credit agreement.

5) Review of HTUA 2016 Budget approved by Council (Planning)

Mr. Davidson reviewed the approved FY 2016 budget for the HTUA of \$104,500, an amount which is \$71,165 less than requested. The two items that were not funded include the \$20,000 set aside for the lineman apprenticeship training and the \$51,960 requested for the salary of a part-time (consultant) general manager for the HTUA. Other items including legal counsel, travel, memberships, public outreach, etc. appears to have been approved in the dollar amounts requested.

6) BIA/Tribal Energy Development Capacity Building Training (Planning)

Mr. Davidson briefly reviewed the draft energy capacity assessment report prepared by Kanim Associates and Baker Tilly. The number one recommendation is to write an RFP which solicits a creative turn-key finance and development proposal to construct the power line to Grand Canyon West. The assessment also gives the HTUA advice on outsourcing the operations and maintenance of its electric distribution systems or to develop this talent base in-house. Regardless, a general manager should be hired by the HTUA to coordinate these efforts.

7) Other Matters (Planning)

a. HTUA website development Mr. Davidson reviewed the “to-do” list provided by Anchorwave for the new web site. Mr. Davidson has provided the consultant with meeting agendas and minutes to date as well as his professional biography. Mr. Davidson asked that board members to have their bios sent to him by Friday, January 29th.

b. Request letter to Bureau of Reclamation requesting Mr. Kevin Black to a make presentation to Tribal Council on March 4, 2016, on Hualapai’s possible inclusion in the NREL II study for replacing power from the Navajo Generating Station, post-2019 Mr. Davidson referred to the letter sent to Mr. Kevin Back from the Bureau of Reclamation inviting him to present the NREL II study to Tribal Council in March. This is the follow-up to Mr. Black’s November 30, 2015, presentation to the HTUA in regard to finding a clean, affordable and reliable energy source to replace all or part of the federal portion of power that is currently generated by coal at the Navajo Generating Station and how tribes, such as Hualapai, can be considered in the NREL II study to provide that energy source.

8) Set time and location for next meeting

The next meeting will be held on February 16, 2016, at 9:00 AM at Health, Education and Wellness Center in Peach Springs.

9) Adjourned at 12:15 PM