

I, PETER LAWSON STEERE, declare as follows:

1. The facts set forth in this declaration are based on my personal knowledge and expertise, and if called as a witness, I will competently testify thereto under oath.

2. I am the Tribal Historic Preservation Officer (“THPO”) for the Tohono O’odham Nation (“Nation”). I received my Bachelor of Arts in Anthropology (1970) and Master of Arts in Anthropology (1972) from the University of Montana. Since that time, I have spent nearly fifty years working as an archaeologist, field director, and field crew chief on various local, state, and federal archaeological surveys and excavation projects across Arizona, New Mexico, Montana, Wyoming, and Washington. This included serving as Forest Archaeologist for the Helena and Deerlodge National Forests in Montana which involved extensive collaboration with the Crow Tribe, the Confederated Salish and Kootenai Tribes, and the Assiniboine-Cree. For the past twenty-five years, I have had the honor of working with Tohono O’odham knowledge keepers and elders as the Manager of the Cultural Affairs Office for the Tohono O’odham Nation. I helped establish the Nation’s Tribal Historic Preservation Office in 1999 and have served in the role of THPO for the Nation for the past fifteen years.

3. In my role as THPO, I am responsible for managing and overseeing the Nation’s cultural resources and historic properties, including identifying, documenting, and assessing the significance of archaeological sites, traditional cultural properties, and other resources important to the Nation’s history and culture. In particular, I am responsible for ensuring that the Nation’s cultural resources and historic properties are considered and protected in compliance with the National Historic Preservation Act (“NHPA”), both on the Nation’s reservation lands and on the Nation’s traditional-use lands outside of the modern reservation boundaries. I have represented the Nation in thousands of NHPA Section 106 consultations with federal agencies, including the Bureau of Land Management (“BLM”). Through my half-century of training and professional experiences, I have developed a comprehensive and nuanced understanding

of the NHPA. I am an expert in tribal cultural resource management and tribal archaeology, and have served as an expert witness in one federal criminal case involving harm to tribal cultural and natural resources on the reservation.

3. The Nation's reservation lands span more than 2.8 million acres. The Nation's traditional-use lands (also known as tribal ancestral lands) stretch far beyond reservation boundaries east to the San Pedro and San Simon Valleys and the Arizona-New Mexico border, north to Phoenix, south to Hermosillo in Mexico, and west to Yuma. Given the enormity of the Nation's reservation and traditional-use land base and our sensitive location along the US-Mexico border, the THPO fields approximately 50-75 requests for consultation on different types of projects every week. I have three staff members who work with me. Over the past decade, we have seen a large increase in consultation requests from federal, state, and local agencies, and we do our best to keep up with the limited tribal resources available to provide comprehensive tribal participation in each project.

4. I first became aware of the SunZia Transmission Project (SunZia Project) over a decade ago in 2009. But the first meeting where the Nation discussed the cultural significance of the San Pedro Valley in-depth with the BLM was the October 17, 2012 Section 106 Consulting Parties meeting in Willcox held to discuss the Programmatic Agreement (PA). At this meeting, the late Joe Joaquin (a member of the Cultural Affairs staff and respected tribal elder and cultural knowledge holder) and I shared the long, rich cultural history of the San Pedro Valley and its historical and cultural importance to the Nation and to other tribes, including the Zuni, Hopi, and Apache. Of course, we discussed potential impacts to specific Sobaipuri O'odham sites near the San Pedro River. But we insisted to the BLM that, in addition to protecting individual Sobaipuri sites in the immediate path of the proposed SunZia Project Right of Way ("ROW"), the San Pedro Valley as a whole needed to be analyzed at the landscape-level because the entire San Pedro Valley was a rich cultural landscape worthy of the utmost protection under federal law. We insisted that due to the San Pedro Valley's unique richness in tribal

cultural resources—not just for the Tohono O’odham Nation but for the Apache, Zuni, Hopi, and other O’odham tribes with lengthy documented history there—the BLM and developers needed to complete a cultural landscape study before moving forward with the selected San Pedro Valley alignment. The BLM listened to our request and told us that they would complete a cultural landscape study of the San Pedro Valley in the future.

5. A cultural landscape study is a useful tool that blends traditional archaeological research methods with ethnographic and historical research methods and community-based participatory research principles in order to identify, document, and preserve larger-scale landscapes—rather than individual, disconnected archaeological sites—that hold significant cultural, historical, and spiritual importance to tribal nations. Cultural landscape studies aim to document not just material cultural resources, but the still-living cultural practices, traditions, and knowledge associated with tribes’ millennia-long relationship within specific landscapes and environments. Performing a cultural landscape study involves multiple steps and often takes many months to complete. It involves working very closely with tribal elders and knowledge-holders to identify and document significant cultural sites within a landscape such as sacred sites, ceremonial grounds, traditional hunting or gathering areas, and ancestral villages. Tribal elders and knowledge holders are interviewed, taken to museums to see archaeological collections from sites in the landscape area, and brought directly to cultural sites in the field to provide oral history and cultural interpretation. It centers tribal communities in the assessment and interpretation of specific landscapes, ensuring that tribal communities’ perspectives, knowledge, and values are central to historic preservation efforts.

6. Other federal agencies have undertaken cultural landscape studies on the Tohono O’odham Nation’s traditional-use off-reservation lands over the past decade. The resulting reports have provided rich, detailed analysis of the Nation’s long history and cultural relationship with these areas. For example, in 2013, the Air Force completed a cultural landscape study of the Barry M. Goldwater Air Force Range west of the Tohono O’odham Nation. That study ran for eight months and involved bringing over 30 tribal

elders on multiple field visits to archaeological sites and conducting in-depth oral histories. More recently, in 2023, the National Park Service completed a cultural landscape study within Organ Pipe Cactus National Monument, west of the Tohono O'odham Nation. Many large construction projects affecting the Tohono O'odham Nation's on-reservation and off-reservation cultural resources have had what are effectively cultural landscape studies completed over the past decade. This included the Freeport McMoran North Komelik Mine on the Nation, the Sierrita Gas Pipeline east of the Nation's main reservation, and the Rosemont Copper Mine that was proposed to be built on important Tohono O'odham cultural lands in the Santa Rita Mountains.

7. After the October Section 106 Consulting Parties meeting, I became concerned the BLM was not adequately considering the issue of adverse impacts to the cultural landscape of the San Pedro Valley. On November 8, 2012, I sent a memorandum via email to Jesse Juen, State Director of the BLM in New Mexico; Jane Childress, the NHPA Section 106 Coordinator for the SunZia Project at the time; and Adrian Garcia, SunZia Project Manager for the BLM in New Mexico. The memorandum emphasized that the BLM did not have adequate information regarding the presence of hundreds of cultural resource sites located along the proposed SunZia Project ROW. I emphasized that the Class I and Class II Cultural Survey Reports did not provide adequate information for the BLM to make an informed decision on the preferred route for the SunZia Project, and that the Draft EIS's information on cultural resources was not complete enough to adequately address the possible adverse impacts on the Nation's cultural sites and the cultural and natural landscape more broadly. I emphasized that multiple tribes had special spiritual connections to the cultural landscape, and that the drafting of a Section 106 PA was, at that time, premature given the BLM's failure to identify the broad range of likely historic properties and properly document cultural sites and landscapes that might be adversely impacted by the SunZia Project. *See Exhibit 1.*

8. On November 14, 2012, members of the Cultural Preservation Committee and I joined BLM, SunZia, and representatives from other affected tribes to the San

Pedro river on a site visit. To the best of my recollection, I do not recall BLM or SunZia representatives asking us about the presence of Traditional Cultural Properties (“TCPs”) in the Valley at this meeting. The term TCP did not become regularly used in the field of tribal cultural preservation until the mid-to-late 2010s. However, as the Nation’s official representatives, we did express very clearly to the BLM and SunZia that the entire San Pedro Valley landscape was of deep cultural and historical significance to the Tohono O’odham Nation given the uniqueness of the archaeological record that has been preserved. The Valley is unique among river valleys in Arizona due to its relatively undisturbed and pristine nature. It provides unparalleled insight into nearly 12,000 years of Indigenous habitation dating back to the Paleo-Indian Period. The Tohono O’odham Nation has deep roots in the San Pedro Valley. Some of the earliest known European written documentation of visits to O’odham villages come from Father Eusebio Kino and other missionaries who recorded their travels along the San Pedro River in the 1500s and 1600s in their journals. This historical documentation provides unique insight into the culture and lifeways of Sobaipuri O’odham communities, the direct ancestors of today’s Tohono O’odham Nation tribal members who now live primarily in the San Xavier District.

9. On November 27, 2017, the BLM met with me and the Nation’s Cultural Preservation Committee. At that meeting, I again shared that the development of the PA was premature and expressed my strong opposition to constructing the line through the San Pedro Valley. I expressed that the preferred route through the San Pedro Valley could not be approved before more extensive identification of historic properties and cultural sites could occur. A few months later, when the Nation received a copy of the draft PA, I emailed the BLM’s Jane Childress on February 11, 2013 to follow up on the concerns I stated during the consultation. I expressed that the Tohono O’odham Nation strongly opposed it given that the BLM was selecting a preferred route before they had complete information on the type and number of historic properties and other cultural resources that may be present in the proposed ROW. I emphasized that, in addition to the

SunZia Project's potential to significantly impact, destroy, or alter cultural resource sites containing O'odham sacred objects and burials, it had the potential to negatively and permanently alter the entire cultural landscape. I communicated that the Nation was taking the position that, without complete information on the cultural landscape, any Record of Decision (ROD) made by the BLM based in part on that Section 106 PA would be flawed. *See Exhibit 2.*

10. Although in 2012 the BLM told me and members of the Nation's Cultural Affairs Committee that the agency would complete a cultural landscape study, such a study was never performed. When Jane Childress sent me a final draft of the PA for the SunZia Project in August 2013, I realized that the BLM was improperly conflating a viewshed study with a cultural landscape study. A viewshed study bears little similarity to a cultural landscape study. A viewshed study, also known as a visual effects assessment, uses geographic analysis techniques to identify and map the visible areas or "viewsheds" from specific vantage points within a landscape, creating digital representations to show what a proposed development project, in this case the SunZia Project, would look like to an individual viewing the landscape from those vantage points. While both cultural landscape studies and viewshed studies contribute to the Section 106 process, they sharply differ in their focus, methods, and applications. A viewshed study focuses only on analyzing the visual characteristics and visibility of specific areas within the landscape, whereas a cultural landscape study is much more comprehensive and provides an analysis of the historical and cultural significance of a landscape as a whole.

11. On August 27, 2013, I sent a reply email with comments on the final draft of the PA. The comments specified that a viewshed analysis was not sufficient in and of itself to determine the indirect effects of the project on the Nation's historic properties located on their traditional-use lands of the San Pedro Valley. I reiterated once again that a cultural landscape study needed to be completed and that it was not the same as a

viewshed analysis, and provided a reference to academic sources the BLM could consult to better understand the process of undertaking a cultural landscape study. *See Exhibit 3.*

12. On or about September 2, 2015, SunZia filed an application for a Certificate of Environmental Compatibility (CEC) for the SunZia Project with the Arizona Corporation Commission. At the time the CEC was drafted, SunZia expressly agreed to conduct a cultural landscape study in addition to the Class III cultural resource survey *prior* to commencing construction. On February 22, 2016, the Arizona Power Plant and Transmission Line Siting Committee (“LS Committee”) issued CEC 171. Condition 27 of the CEC specifies that a “Class III cultural resource survey *and cultural landscape study shall be conducted to fully evaluate the impacts of the Project on the cultural landscape prior to the commencement of construction*, pursuant to and as required by the PA.” (emphasis added). *See Exhibit 4.* The CEC makes it clear that such a study was necessary “to fully evaluate the impacts of the Project on the cultural landscape” through which SunZia’s transmission lines would be passing, echoing exactly what I had been telling the BLM since 2012. And yet, despite the express requirement of the completion of a cultural landscape study prior to construction, neither BLM nor SunZia moved forward in any meaningful way toward implementing a cultural landscape study.

13. On October 5, 2016, several months after the Arizona Corporation Commission issued the CEC which included the requirement that a cultural landscape study be completed, Jane Childress sent out an email about the next Section 106 Consulting Parties webinar. I replied to Jane thirty minutes later and noted that several years prior we had asked that SunZia be required to complete a cultural landscape study, like had been done for many other large development projects on the Nation’s traditional-lands. I noted that Jane had previously told me that a cultural landscape study would be done. I urged that it be started right away because it was an extremely important evaluative tool and could affect the determination of the final ROW. *See Exhibit 5.*

14. Despite repeated in-person, webinar, and written demands to the BLM for a cultural landscape study, the agency issued its Draft Class III Cultural Resources Inventory Report on March 31, 2017 without including any such study. On May 12, 2017, I again alerted the BLM that the SunZia Project would have significant adverse effects on the cultural landscape of the Project area because there were numerous sites of cultural significance to the Nation throughout the San Pedro Valley. *See Exhibit 6.* In this regard, it bears mention that BLM Manual 8110.21B4 specifically requires that a class III inventory report contains a “complete record of cultural properties,” and without a cultural landscape study, the BLM did not and could never have possessed a complete record of cultural properties. *See Exhibit 6.*

15. The BLM continued to disregard the Nation’s requests for a cultural landscape study. On February 8, 2018, the BLM circulated a Revised Class III Cultural Resources Inventory Report that, once again, did not include a cultural landscape study.

16. On February 23, 2018, the BLM emailed me a “draft comment resolution table” in which they responded to the 24 comments I had made on the Revised Class III Cultural Resources Inventory Report. One of the comments I submitted read,

Since the cultural resource surveys [are] completed and the report prepared it is now time to speak about ha[v]ing a cultural landscape study started. The Tohono O’odham Nation recently completed a cultural landscape study working with EPG for another project - this was a successful project . . . It is important to [have a] cultural landscape study done and integrated with the cultural resource survey report to get a full and complete pi[c]ture of the impacts of the proposed Sun Zia transmission line.

In the spreadsheet, Jane Childress responded to my comment (#PS-24) and said “We agreed to do it separate from the class III [inventory report]. Any integration will occur for the treatment phase. I was expecting to have a separate report for the cultural landscape study. We will discuss this matter soon so we are all on the same page.” *See Exhibit 7.*

17. The Nation does not know why the BLM and SunZia agreed to do a cultural landscape study separate from the Class III Inventory but never initiated (much less completed) such a study. But given the cultural landscape resources at issue here, a cultural landscape study was necessary for BLM to satisfy its obligations under NHPA and for SunZia to satisfy the conditions of its CEC from the Arizona Corporation Commission.

18. On March 1, 2018, the BLM published its Draft Visual Inventory and Assessment for the SunZia Project, but neither this analysis nor any other assessment of SunZia effects on historic properties of environmental conditions included a cultural landscape study. On March 9, 2018, I sent an email to Jane Childress entitled “Sun Zia Cultural Landscape Study.” In the email, I once again asked what the BLM’s timeline would be for starting the cultural landscape study, and shared that it was important to note it was not a simple visual impacts study. I reiterated it was common practice to complete such studies for large scale projects, and that such studies had been completed for the Sierrita Mine, the Sierrita Gas Pipeline, and the Barry M. Goldwater Range. I recommended EPG as a possible contractor to complete the cultural landscape study because they had prepared the SunZia Project Class III Inventory for the BLM and have experience preparing cultural landscape studies for other projects on the Nation’s traditional-use lands, including the Sierrita Mine. Jane Childress replied on March 13, 2018 that she was “a little unclear about what [I] [was] after,” although she agreed that “the visual impacts study is not a cultural landscape study.” I replied on March 19, 2018 and again explained what a cultural landscape study consists of and what the goals of the study would be. I again admonished that the study should have been completed years prior in conjunction with the archaeological surveys in order for the BLM and SunZia to determine the best route that would minimize impact to sensitive tribal cultural areas. *See Exhibit 8.*

19. Despite further outreach from the Nation and other stakeholders imploring the BLM to consider the effects of the SunZia undertaking on historic properties and

cultural resources other than archaeological sites, the BLM published a Final Class III Report for the SunZia Transmission Project on June 28, 2018 and then a Class III Addendum Report on September 19, 2018. Both of these reports focus exclusively on archaeological resources. Neither contain a cultural landscape study or purport to address cultural landscapes or other TCPs.

20. After reviewing the Class III Addendum Report that Jane Childress sent to me on September 19, 2018, I followed up with BLM through e-mail on September 21 to ask if the BLM had executed a contract for the completion of a cultural landscape study for the SunZia Project. Jane replied that she believed that a cultural landscape study should be done as mitigation. On September 25, I responded and told her yet again that the study should have been done years earlier as a planning tool to help determine the best route to minimize direct and indirect impacts to the cultural and natural landscape. I again reiterated she needed to commence this study soon because it would involve many tribes and would take at least a year or more to complete. I again explained that the Nation had participated in cultural landscape studies over the previous ten years on a number of large projects comparable to the SunZia Project. *See Exhibit 9.*

21. On October 11, 2018, Jane Childress sent me the SunZia New Mexico Class III final report. A few days later, on October 15, I replied and asked, once again, when the BLM would be starting the cultural landscape study. I specified that the BLM could not “be presenting and approving HPTPs for Arizona and New Mexico until you have completed the Cultural Landscape Study,” and noted that, when complete, such a study might alter the alignment of the SunZia Project. *See Exhibit 10.*

22. Disheartened by the BLM’s continuous and inexplicable refusal to conduct a cultural landscape study, on February 14, 2019 I replied to an email the BLM had sent to me with the 2018 SunZia Annual Report to confirm their intention to publish the HPTP without first completing a cultural landscape study. Later that day I received a response from Jane Childress that placed into doubt the sincerity of the BLM’s previous assurances that it “agreed to do [the cultural landscape study] separate,” and that

“integration” of the cultural landscape study and Class III Inventory Report would occur *before* the BLM published the HPTP. In their response, the BLM suddenly veered away from its previous agreement to perform a cultural landscape study—and from SunZia’s legal obligations under the terms of CEC 171—and stated, “I thought we already put to bed the idea of some long linear landscape study involving all the tribes.” *See Exhibit 11.*

23. For years, the BLM advised the Nation not to concern itself with the fact that the Class III Inventory Report did not include a cultural landscape study because, the agency said, this separate study would be completed before the HPTP. But in February 2019, when the Nation asked where that separate study was, the BLM stated for the first time that no such study would occur. Unreasonably, the BLM concluded that it was not required to follow NHPA Section 106 and complete a cultural landscape study because the Nation was the only tribe to request it and “no one has identified any ‘cultural landscapes’ anywhere along the route, with exception of the San Pedro crossing and the Pima Revolt connection.” *See Exhibit 11.*

24. On March 7, 2019, the BLM sent out the final Visual Assessment for the SunZia Project. I replied to Jane Childress the same day, noting that, as I had said in earlier comments, the visual assessment was not adequate; it did not address impacts to the cultural landscape of the San Pedro Valley; and that a cultural landscape study should have been completed many years earlier in the planning process. I questioned why the BLM never listened to my suggestions and never completed a cultural landscape study. I once again reiterated that cultural landscape studies were important evaluative tools for analyzing the impacts of large construction projects to a cultural landscape that is significant to many tribes. I requested that the SunZia Project be put on hold until the BLM and project proponents could hire a contractor to start and complete a detailed cultural landscape study. *See Exhibit 12.* Nonetheless, the BLM declared that the cultural resource inventory was complete pursuant to the PA, thereby enabling the agency to publish the HPTP without a cultural landscape study.

25. In comparison to other United States infrastructure projects impacting the Nation during my tenure as THPO that involved traditional cultural properties—including the Southline Transmission Project, Freeport McMoran North Komelik Mine, Sierrita Gas Pipeline, and the Rosemont Copper Mine—the BLM’s disregard of the BLM Manual, current professional practice for landscape-scale undertakings, and my requests for a cultural landscape study is disappointing and troubling.

26. From the time I first raised the issue of completing a cultural landscape study in 2012—nearly fourteen years ago—until now, the BLM has never reached out to the Nation or other tribes to consult about the need for and benefits from cultural landscape study of the San Pedro Valley. Nor has the BLM conducted any interviews of tribal members or ethnographic or other research to follow up on my repeated requests for a cultural landscape study due to the likelihood (if not certainty) of landscape-level TCPs in the San Pedro Valley.

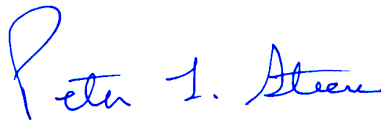
27. Even though the BLM should have conducted a cultural landscape survey much earlier in the process, the Nation continued to press the BLM to belatedly conduct this necessary consultative step during the HPTP process, prior to the authorization of construction in the San Pedro Valley. But the BLM never did so. Instead, it issued a Limited Notice to Proceed with construction in the San Pedro Valley in September 2023 (which the Nation immediately protested). Once the BLM issued a second Limited Notice to Proceed after a brief pause in construction, the Nation had no choice but to file this lawsuit to protect its longstanding interests in the culturally significant landscape of the San Pedro Valley. Because these Limited Notices to Proceed were the culmination of the BLM’s NHPA Section 106 process that authorized construction on the ostensible (and facially inaccurate) basis that this area contains no historic resources, these final decisions to commence construction provided the first opportunity for the Nation the challenge in court the BLM’s compliance with the NHPA.

28. A cultural landscape study remains an essential consultative step for BLM to take in fulfilling its Section 106 consultation mandates to identify, assess, and work to

avoid and reduce adverse effects to all historic properties in the San Pedro Valley, especially including TCPs. It is my professional opinion, based on my half-century of experience in archaeology, decades of experience in tribal cultural preservation, and countless communications with Tohono O’odham historians and cultural specialists that the results of such a study will affirm the fact that the San Pedro Valley, in its entirety, is a TCP. TCP identification, assessment, and designation in consultation with the affected tribes could result in the modification of the SunZia Project ROW to avoid the Valley entirely. This would protect the extensive historical, cultural, and spiritual resources that make the San Pedro Valley so deeply important to the Tohono O’odham Nation.

29. Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing is true and correct.

Executed this 23rd day of February in Sells, Arizona



Peter Lawson Steere

Tohono O’odham Nation Tribal Historic Preservation Officer