

Questions and Comments from the December 16, 2015, HTUA Meeting at ITCA with Hualapai Tribal Members Living in the Phoenix and Tucson Metro Areas

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?

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. 3 – What has been the experience of other tribes who have granted limited waivers of sovereign immunity to develop their large projects?

The HTUA has asked Lisa Garcia, Community Planner for the Ak-Chin Indian Community and David White, Assistant General Manager, Operations for Wild Horse Pass Development Authority for Gila River Indian Community about their experiences with limited waivers of sovereign immunity to operate their casinos and neither reported any issue with their tribe’s contracts.

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

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. 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?

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, 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 tribe and the HTUA 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. 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?

The amendment will allow for a new power line which can continue the development at Grand Canyon West and also allow the tribe and the HTUA to construct other infrastructure projects (electric, water and sewer) on the rest of the reservation. Access to additional, low cost power at Grand Canyon West will allow more vendors to set up shop at Grand Canyon West and will benefit GCRC and the tribe in general. The increased economic activity at Grand Canyon West will create spin-off jobs both on and off of the reservation.

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. The “entities” mentioned in the amendment, created by the 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.

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 9 - How long has it taken GCW to reach 1 million visitors?

2015 will be the first year that Grand Canyon West exceeded 1,000,000 visitors. People have been visiting Grand Canyon West in substantial numbers since the formation of Grand Canyon Resort Corporation in 1988 and attendance has been steadily increasing since that time.

Question 10 - Is it too risky to promote all this tourism given the international and domestic situation?

This question was asked in reaction to the recent terrorists attacks in Paris, France and San Bernardino, California. Review security measures at Skywalk.

Question No. 11 - Are there other sources of power available to the Grand Canyon Resort Corporation to supply Grand Canyon West?

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. The draft Environmental Report (ER) being prepared by the Planning Department for the USDA, as part of the RUS' High Energy Cost grant compliance, also discusses the potential of Mohave Electric Cooperative extending their 24.9 KV line from the FAA's VORTAC site at Plain Tank some 40 miles to Grand Canyon West. A Buck and Doe power line would require MEC to upgrade transmission systems and switchyards beginning at Round Valley (Interstate-40), through Nelson and onto the VORTAC site.

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?

The power line would be placed within the public right-of-way so its construction could not be blocked by the private land owner. This is contingent upon that portion of Diamond Bar Road which passes through the private land being transferred to Mohave County.

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?

The short answer is "no." Because the power will be flowing one way (to Grand Canyon West), the line is a distribution line and not a transmission line. Any private landowner must first enter into an agreement with the HTUA, and be solely responsible for the costs, before that landowner will be allowed to interconnect to the electric line owned and operated by the HTUA. All power being delivered to Grand Canyon West via the electric line will be dedicated solely to Grand Canyon West. Any other entity connected to the line will be responsible for obtaining power and scheduling the delivery, most likely from UniSource Electric.

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?

The dollar amount cap is a decision for the Hualapai Tribe and its members. This freedom will allow the tribe to make the appropriate investment decisions. The language in Article XVI, Section 2 of the Hualapai Constitution sets a \$250,000 limit on liabilities, without a referendum vote for each specific request, and 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. 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.

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

The Council will invoke Section 2 when the Tribe itself is a party to the contract, and the matter goes directly to the Council. The Council will invoke Section 3 when a limited waiver is required for a contract that involves a Tribal entity, such as the HTUA. In that instance, the Tribal entity must first approve the form of contract, and the next step is for the Council to approve or reject the contract. This two-step process requires two public meetings and two separate votes, one by the tribal entity, such as the HTUA Board, and the other by the Tribal Council.

Question No. 16 - Was the HTUA created akin to Grand Canyon Resort Corporation as an independent corporation? If so, these questions are irrelevant.

No, the HTUA was formed as a tribal entity under Resolution No. 63-2014 and is subject to direct oversight of tribal council, not unlike any other tribal department.

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.¹ To put this electric usage in perspective, MEC supplied the Hualapai Reservation with 7,407,301 KWhrs in 2014. This service area includes Peach Springs, developments along Buck & Doe Road and Route 18, and the town of Valentine.

Question No. 18 - Will tourists, coming primarily from Las Vegas, want to stay at a resort hotel at Grand Canyon West? What will they do overnight?

¹ The report prepared by TTG Engineers indicated that the electric meters were installed and operational on June 25, 2015, therefore usage is estimated.

The Market Assessment prepared by Elliott D. Pollack, Co. noted that an important element for extending the length of time tourists spend at Grand Canyon West is to improve amenities on site and create activities for visitors. The infrastructure and improvements required to accomplish this should be completed before significant overnight accommodations are completed. Some of these improvements include trail enhancements and shuttle service between sites, building a convenience store and gas station, an RV park, and dining areas at additional view-points.

Question No. 19 - Is there a market study showing that a resort hotel will be profitable at Grand Canyon West?

The Market Assessment prepared by Elliott D. Pollack, Co. focused on two elements 1) A Market Study that includes an analysis of visitation patterns to Grand Canyon West, the demographics and origin of visitors to the site, and general market trends and an evaluation of visitation trends and patterns at Grand Canyon National Park and 2) A Marketability Study evaluating potential Grand Canyon West future demand, alternative property uses and marketing strategies designed to (a) expand the market for Grand Canyon West visitation and (b) extend the stay of visitors to the Development Area.

Assuming that Grand Canyon West can expand the extent and number of activities available to visitors, as well as improve the infrastructure to accommodate hotels, the initial demand for lodging based on 800,000 tourists per year is estimated at 225 rooms. With increased visitation in the near future, hotel demand will escalate over time to 300 hotel rooms.

Question No. 20 - Is this the only power line planned to be built to serve Grand Canyon West?

This is the only power line planned to serve Grand Canyon West at this time.

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. 22 - How is the tribe progressing on obtaining its water rights to the Colorado River? Will the tribe's water rights be pushed aside by other water users (implied that others who have higher priority water rights will have those with lower priority rights curtailed first)?

The water rights are progressing. However, such information is confined to the water rights negotiation team membership and cannot be discussed in an open forum.

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

The time line prepared by TTG Engineering 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 at end of section).

Question No. 24 - Do we want to overbuild at Grand Canyon West?

This is a policy question for the tribe.

Comment No. 25 – Very few tourists spend the night at Grand Canyon West. They are coming to see an open, undeveloped view of the Grand Canyon and not a view of a resort hotel.

Refer to Grand Canyon West Master Plan and Market Assessment findings noted in Question Nos. 18 and 19.

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?

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.

Comment No. 27 - The tribe should develop its own resources and set appropriate lease/purchase rates for the use of those resources. Can we develop these resources prior to paying to build a new power line? For example, a dam and reservoir could be built on the Reservation, possibly at the Diamond Creek delta, and water sold to downstream users.

This is a worthy cause but a costly engineering project. Leasing this water would entail transporting it on the main stem of the Colorado River. All uses of Colorado River water are governed by a complex set of federal statutes chiefly the Boulder Canyon Project Act of 1928 and the 1968 statute authorizing the Central Arizona Project (CAP) as well as the 1922 Colorado River Compact among the seven basin states. The Department of Interior administers these laws and would have to approve any use of the river to transport this water. The US Congress would also have to authorize the dam project since a tribe cannot lease its water without violating the Indian Trade and Intercourse Act (six acts of Congress between

1790 and 1834). The chances of securing Congressional approval are very slim. Under the current water settlement, the tribe does get some water marketing authority, but an ambitious project like building a dam would exceed that authority.

Comment No. 28 - The tribe should provide for the needs of the Elders with any cost saving benefits from the power line project. And, related Comment No. 29 - These benefits should include land on the Reservation and homes as well.

Noted.

Question No. 30 - Will the power line benefit Peach Springs or just Grand Canyon West?

The tribe's economy is largely based on tourism. The power line will help reduce the operational costs at Grand Canyon West which in turn should benefit the tribe as a whole. The tribe has been pursuing its water rights claim to the Colorado River. If these rights are established and perfected with a take-out point near Grand Canyon West, then electricity provided by the new power line can be used to pump this water to Grand Canyon West and power a water treatment plant to remove impurities from the new water source.

Question No. 31 - What is the time line for the Secretarial Vote on the proposed Constitutional amendment?

The Secretarial Vote is set for May 23, 2016. All ballots must be received by the BIA on that date. The deadline to submit your registration to the BIA is April 29, 2016.

Question No. 32 – Can we have Grand Canyon Resort Corporation Board members and members of Council attend the next meeting at ITCA so we can hear their perspective and have them answer questions we have specifically for them?

The HTUA will request members of Council and the Grand Canyon Resort Corporation Board attend the next meeting.

Comment No. 33 - The 2014 attempt to amend the Hualapai Constitution failed.

The reason the 2014 attempt to amend the Hualapai Constitution failed was mainly due to a lack of public outreach by the tribal leadership to explain and educate the voters about the sweeping changes requested in the 2014 Constitutional amendment proposal.

Question No. 34 – Was the referendum option under Article XVI, Section 2, explored prior to crafting the language for new Section 3?

The proposal to add Section 3 was discussed with Council and then voted upon by Council at a later meeting. The main reason for pursuing the amendment is that Section 2 requires at least 30% of the Hualapai electorate for “yes” on the ballot question. Based on list of qualified voters counted on February 1, 2016, this would require 489 “yes” votes (1,630 persons at least 18 years of age x 30%). This threshold is practically impossible to achieve given that turn-out for the 2014 Secretarial Election was less than 100. Turn-out for the adoption of the 1991 Hualapai Constitution was 173.

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

The charts provided by TTG Engineering 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 at end of section). The lowest cost power is obtained from the new power line option.

Question No. 36 – How will the power line project help the community? And, related Question No. 37 – What is the benefit of the new power line to the average Hualapai person such as those living in Peach Springs?

The proposed power line could be paid for in less than eight years given the estimated savings of not having to run the diesel generators day and night. Once the power line is paid off, then these savings can be spent on other projects such as building housing or used by the tribe to support its social programs.

Question No. 38 – Can we read the new Grand Canyon West Master Plan and market study? Can it be placed on-line?

Hard copies of master plan will be made available to tribal members upon request and at upcoming public meetings. Given that the information is proprietary, the plan and market study will not be posted on-line.

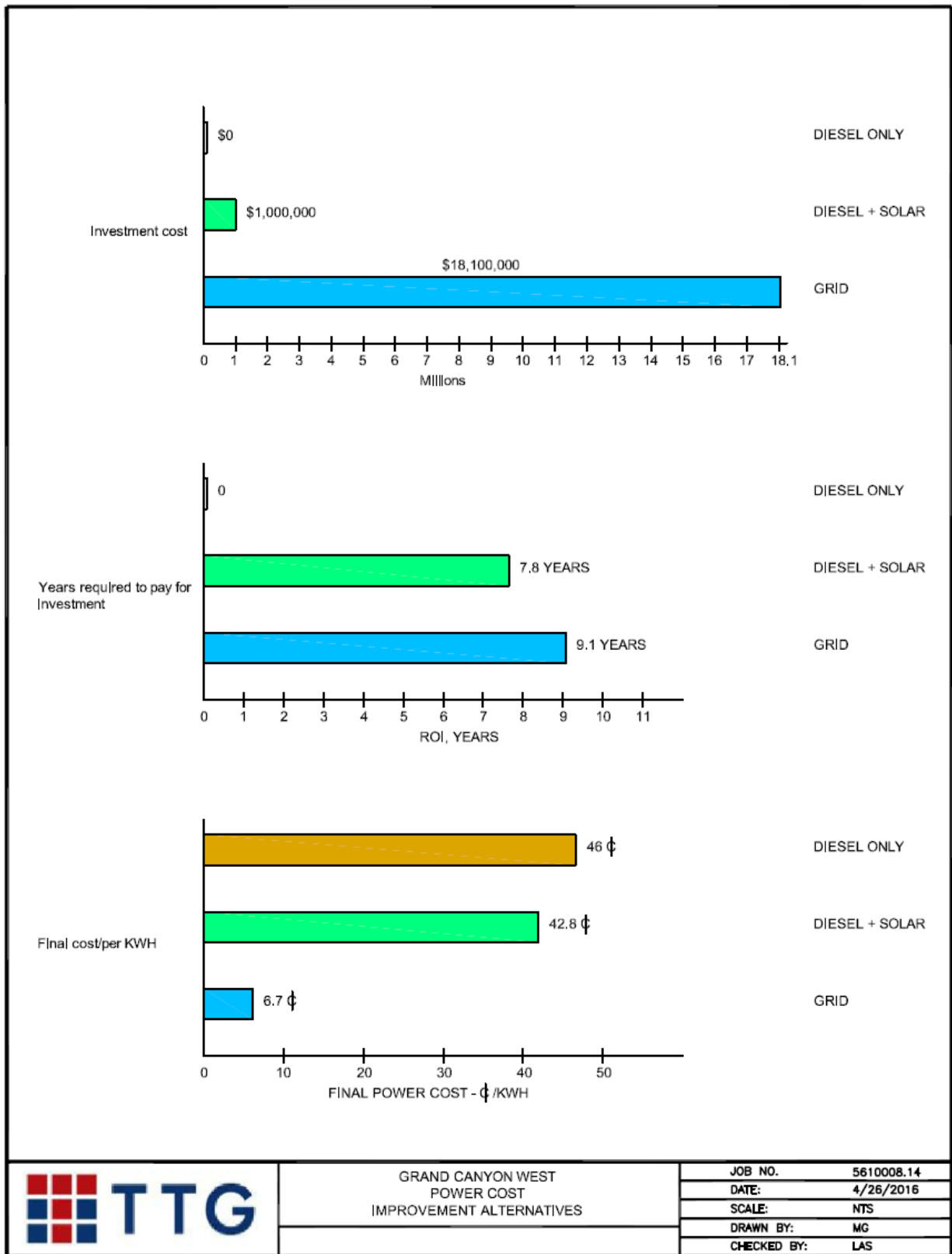
Question No. 39 – Does the limited waiver lead to a giving away of Hualapai’s future?

Each request limited waiver of sovereign immunity will be handled by Tribal Council and the tribal entity, such as the HTUA, on a case-by case basis. The limited waiver will lead to increased investments

in the tribe's infrastructure which will allow the tribe to grow and provide better services to the people. In addition, as the tribe makes regular and timely loan payments, the tribe's credit rating and creditworthiness will increase. As Hualapai moves into the world of debt financing, its credit rating should be established allowing the tribe to become a "player" in the financial market, as any other corporation, state or country.

Comment No. 40 – We need a second meeting in Phoenix. The membership of the HTUA seems trustworthy.

Chart to Accompany Question No. 35



GRAND CANYON WEST
POWER COST
IMPROVEMENT ALTERNATIVES

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DATE:	4/26/2016
SCALE:	NTS
DRAWN BY:	MG
CHECKED BY:	LAS

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