APPENDIX C-1

GILA RIVER INDIAN COMMUNITY COORDINATION

Appendix C-1, Gila River Indian Community Coordination, contains correspondence from the Arizona Department of Transportation to the Gila River Indian Community regarding whether the Gila River Indian Community would like to hold a forum to give its members the opportunity to provide oral testimony on the Final Environmental Impact Statement.

ADOT

Intermodal Transportation

August 29, 2014

Governor Gregory Mendoza
Gila River Indian Community
525 West Gw G Ki
Sacaton, AZ 85147

Subject: Proposed South Mountain Freeway Public Involvement

Dear Governor Mendoza:

The Arizona Department of Transportation (ADOT), in partnership with the U.S. Federal Highway Administration, is working to complete the Final Environmental Impact Statement (FEIS) for the proposed South Mountain Freeway (Loop 202), which is part of the Maricopa Association of Government’s Regional Transportation Plan. As part of the Draft Environmental Impact Statement process, ADOT received comments regarding oral tradition of the Gila River Indian Community in recognition of the Community’s traditions and in agreement with our previous government to government communication protocol, ADOT seeks guidance on how to best accommodate the comments received in this final stage of public involvement for the FEIS.

If there is interest from the Gila River Indian Community leadership, ADOT proposes that the two entities, in partnership, conduct a forum for Community members during the 60-day review timeframe for the FEIS. This forum, if desired, would allow members of the Community to provide oral testimony on the FEIS at a time, place and in a manner that is mutually agreeable.

We respectfully request a response to this inquiry by September 19, 2014 to allow for the appropriate arrangements to be made, should a forum be desired during the 60-day review period, which is scheduled to begin in late September.

Sincerely,

Robert Samour, PE
Senior Deputy State Engineer

CC: Governor Stephen Roe Lewis
    Michael Johnson

ARIZONA DEPARTMENT OF TRANSPORTATION
206 S. 17th Ave. | Phoenix, AZ 85007 | adot.gov
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Appendix C

September 25, 2014

Governor Gregory D. Ducey
1110 W. Washington, Suite 200
Phoenix, AZ 85007

Subject: Proposed South Mountain Freeway Public Involvement / Oral Tradition

Dear Governor Ducey:

Enclosed are comments received by the South Mountain Freeway Transportation Corridor Study Team from Gila River Community members regarding the oral tradition. These comments were collected as part of the public input period for the Draft Environmental Impact Statement and were retrieved from the more than 8,000 submitted comments from interested parties across Arizona.

On Friday, September 26, 2014, the Arizona Department of Transportation and the U.S. Federal Highway Administration will release the Final Environmental Impact Statement for the proposed South Mountain Freeway. On that day, the 60-day public review period will begin, providing the public with an opportunity to review the preferred action. Comments received during the 60-day Final Environmental Impact Statement review period will be considered in the Record of Decision. The Record of Decision is expected to be finalized in late 2014 and available for public review in early 2015. The 60-day public review window is twice the amount of time required under federal law. Public comments must be submitted by November 25, 2014.

ADOT seeks guidance on how to best accommodate the oral tradition of the people of the Gila River Indian Community in this stage of public involvement for the Environmental Impact Statement. If there is interest from Gila River Indian Community leadership, ADOT proposes that the two entities, in partnership, conduct a forum for Community members during the 60-day review timeframe. This forum, if desired, would allow Community members an opportunity to provide oral testimony on the Final Environmental Impact Statement at a time, place, and in a manner that is mutually agreeable.

We respectfully request a response to this inquiry by October 27, 2014 to allow for the appropriate arrangements to be made, should a forum be desired during the 60-day review period.

Sincerely,

Robert Samour, PE
Senior Deputy State Engineer

Arizona Department of Transportation
205 S. 17th Ave. | Phoenix, AZ 85007 | azdot.gov

Gila River Alliance for a Clean Environment;

Complaint, v.

Arizona Department of Transportation,
Respondent.

I. INTRODUCTION

This is a civil rights complaint by the Gila River Alliance for a Clean Environment (hereinafter “GRACE”), comprised of Akinel O’Toole (River People) and Maricopa (Pai Posh) Indigenous peoples of the Gila River Indian Community (hereinafter “GRIC”) under Title VI of the United States Civil Rights Act against the Arizona Department of Transportation (hereinafter “ADOT”) for its discrimination in the form of unequal treatment and unequal impact against GRIC members based on race. As indigenous people of the American Indian race, Complainants are people protected by Title VI.

As a recipient of Federal highway funding, ADOT is subject to Title VI of the United States Civil Rights Act.

Complainant alleges that ADOT violated Title VI of the United States Civil Rights Act by the following actions:

A. On April 26, 2013, ADOT released a Draft Environmental Impact Study (DEIS) identifying its proposal and preferred alternative for building a major highway—the South Mountain Loop 202—that would go through and desecrate a mountain held sacred by tribal members including members of GRACE, and is taking further action to complete the process and approve the project, despite being fully aware of and acknowledging the sacredness and spiritual and cultural significance of the mountain, that if implemented would have a profound negative impact on the cultural and spiritual well-being of the tribal members/indigenous peoples who are members of GRACE and would cause major cumulative health effects from toxic and criteria pollutants emitted by cars and trucks.

B. Discriminated in its public participation process toward tribal members including members of GRACE by providing less public participation opportunities to tribal members than non-tribal members, despite the fact that the proposed highway project would disproportionately impact tribal members.

1 “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000a.
To succeed in this Civil Rights complaint, the complainant does not have to show that there was a deliberate, intentional discrimination by ADOT, but rather, that there is a discriminatory effect / disparate impact that gives rise to a section 601 Title VI of the Civil Rights Act of 1964 violation. Section 601 of Title VI of the Civil Rights Act of 1964 states that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Section 602 of Title VI states: “Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity shall— (A) to the maximum extent practicable, utilize methods and practices which assure non-discrimination among participants; and (B) assure that any person receiving Federal financial assistance from such department or agency shall have the same rights and opportunities as are provided for in section 601 of this title.”

Section 603 prohibits recipients of federal funds to engage in any activities that result in discriminatory effect or disparate impact against individuals, groups of people, or whole communities of a certain race, color, or national origin. The discriminatory effect / disparate impact can occur when a seemingly neutral decision or action results in an unjustified adverse effect. Or in other words, as inaction or action by a recipient of federal funds that may appear neutral on its face and is not accompanied with any intent to discriminate, but nevertheless negatively affects an individual, groups of people, or a whole community of a certain race, color, or national origin, without any substantial legitimate justification, violates Title VI.

The actions of ADOT were clearly not neutral and were made with total awareness and acknowledgement that the proposed freeway route through the sacred mountain would have serious negative cultural, spiritual, and physical impacts on a protected class of people.

III. THE COMPLAINANTS

Complainant GRAC is a grassroots organization of the Ak nipple O’dum, (River People) and Maricopa (Pai Pema) indigenous peoples of the GRIC. The GRIC’s reservation abuts the proposed project site, the GRAC and its people including the complainant have strong cultural and spiritual ties to South Mountain and they use the project site for cultural and spiritual purposes. Under Title VI, Native Americans are a protected group and historically have been discriminated against by the US government.

GRAC advocates for the protection of the environment and the sacred and cultural sites of the Gila River Indian Community and its people. Its mission is “to inform indigenous peoples on environmental issues affecting their communities.” GRAC was formed in the early 2000s when action was needed to stop Stericycle, a medical waste incineration facility, located on the GRIC reservation from continuing to illegally burn medical and non-medical waste imported onto the reservation and emit Hazardous Air Emissions (HAPs). GRAC also led the successful campaign to prevent Riomichi, another private hazardous waste facility operating on the GRIC reservation without the required federal permits, from continuing to violate hazardous waste laws and pollute the area and residents.

GRIC tribal members and the tribe hold the South Mountain sacred and see it as central to its creation story. GRAC opposes the proposed South Mountain Loop 202 because the project would desecrate the South Mountain by going through it, resulting in a disparate impact—culturally and spiritually on the GRIC— and in disparate impact on critical health effects on the GRIC tribal members.

Complainant GRAC brings this Civil Rights Complaint on behalf of its GRIC tribal members who have been discriminated against by ADOT’s inadequate consultation and unequal public participation process and who would be disparately affected by the implementation of the South Mountain Loop due to devastating cultural, spiritual, health and environmental impacts.

The GRIC includes the tribes of the Ak nipple O’dum, (River People), and the Maricopa (Pai Pema). The Ak nipple O’dum, who have inhabited the Sonoran Desert region before Europeans settled the Americas, are native to central and southern Arizona and are descendants of the Hohokam, whose artifacts have been dated as far back as 10,000 years ago. Known as the “desert farmers” by some, the Ak nipple O’dum were sophisticated farmers and farmers, successfully growing a variety of crops in the Sonoran desert landscape. The Maricopa are a Tohono O’odham tribal people. As early as the mid-1700s, the Maricopa arrived from their former Colorado River area homelands.
In 1859, GRIC was established as the first reservation in part of what later became Arizona in 1912.18 In 1862, when water flowed freely, GRIC was growing more than one million pounds of wheat a year; however, between the 1870s and 1880s, water supplies drastically diminished due to upstream diversions by non-Native farmers. These diversions renders farming almost nonexistent.19 Between approximately 1880 and 1920, GRIC faced mass famine and starvation.20 Due to the need for outside assistance, diet and way of life completely changed.21 Alcoholicism became a major problem and the GRIC "experienced the loss of certain cultural and artistic traditions and rituals."22-23 This time became one of... the darkest moments in their long history.24 In the 1930s, circumstances began to improve when the U.S. government completed Coolidge Dam on the upper Gila River, which created the San Carlos Reservoir to restore some farming practices.25 Eventually, small businesses, schools, health centers, and new housing began to appear on the reservation.26 However, GRIC faces one of the highest levels of diabetes in the United States, thought to be directly a result of the disappearance of the traditional lifestyle and diet.

The GRIC history also includes forced boarding school for children, which not only was psychologically and physically oppressive but was culturally and socially oppressive, as it was institutionalized Native American children into non-native American Indian speaking and practicing children.

Today, encompassing 372,000 acres along the Gila River, GRIC is the seventh largest federally recognized reservation in Arizona.27 It is in both Pinal and Maricopa counties and is 17 miles south of downtown Phoenix.28 Approximately 14,000 of the 21,000 enrolled GRIC members live on the reservation.29 4274 or 50% of GRIC tribal members on the reservation are under 18 and 4,748 or 64% are over 18, 575 or 6% of GRIC tribal members are 65 and older.30 The Akimel O’odham (River People) comprise 90% of the GRIC reservation and the Pueblos (Maricopa), who live at the west end of the South Mountain, comprise about 10% of the GRIC reservation. GRIC is organized into seven territorial districts.31 GRIC has an extensive branch, comprised of a governor and lieutenant governor; a legislature, made up of a Community Council32 consisting of members from the seven territorial districts of the reservation; and a judicial branch, with a Community Court of seven judges that provides services to approximately 20,000 members of GRIC.33

GRIC’s economy has been growing via agricultural, gaming, and the development of Industrial parks.34 GRIC is currently one of the largest agricultural producers in the state of Arizona, growing cotton, wheat, alfalfa, barley, sorghum, pinto, olives, citrus, and vegetables.35 How that it has finally settled an ongoing water dispute and will be receiving enough water to sustain itself, it plans to put in approximately 160,000 more acres of agriculture in the next 20 years.36 GRIC has three casinos, Wild Horse Pass, Lost Bats, and Vee Quiva.37 GRIC operates three industrial parks.38 Like the US states, GRIC has its own transportation and environmental departments.

As a Native Nation, the federal government has a direct trust relationship with the GRIC and its people. The basis for this special legal relationship is found directly in the Constitution and memorialized in treaties.39 This trust relationship applies to all Federal agencies and to Federal actions outside Indian reservations.40 Due to this trust relationship, the government has a special legal responsibility to review this complaint according to the unique requirements owed to the GRIC by the government.

Because of the 1992 National Historic Preservation Act (NHPA) Amendments, the GRIC has a Tribal Historic Preservation Officer (THPO) to assist in identifying and nominating historic properties / historic resources on their tribal lands41 for the National Park Service (NPS) to place.

2 According to Article 8, Sec. 4, of the Gila River Indian Community Constitution, “No Council shall have the power to enact ordinances, subject to review by the Governor of the Interior.” http://www.govdata.arizona.gov/places.htm (last visited July 6, 2013).
5 Id.
6 GCRIC responds to EPA, Gila River Indian Community Responds to EPA ’s Nine Federals Request for Determination of Part 5.5 Under the National Ambient Air Quality Standards, 2, 4-6, 7-9, http://www.wiringhastheheart.com/index.php?article=1-14-16-010 (last visited June 7, 2013).
on the National Register of Historic Places (NRHP) of 1966. The purpose of the NRHP is to “preserve the historical and cultural foundations of the Nation as living parts of community life.” The NRHP “established the National Register of Historic Places and the requirements under Section 106 of that Act that require federal agencies to take into account the effects of their actions on historic properties listed on or eligible for inclusion on the National Register.”

The South Mountain has been approved as a traditional cultural property “eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community’s history, and (b) are important in maintaining the continuing cultural identity of the community.”

IV. THE ARIZONA DEPARTMENT OF TRANSPORTATION

ADOT, a state government agency created in 1974, is the sponsor of the proposed construction and operations of the South Mountain Loop 202. It is “responsible for collecting transportation revenues and for planning, constructing, and maintaining Arizona’s highway infrastructure,” as well as the state’s public transportation and municipal airports. Its mission is “to provide a safe, efficient, cost-effective transportation system.” On April 26, 2013, ADOT released a DEIS for the Loop 202 South Mountain Freeway Study. ADOT is a recipient of federal highway funds and is thus subject to and required to comply with the non-discrimination requirements of Title VI of the U.S. Civil Rights Act.

V. RIPKENNESS

This complaint is timely filed because it is in response to the improper and discriminatory action taken by ADOT’s April 26, 2013 sponsorship and release of the DEIS for the Loop 202 South Mountain Freeway Study that was prepared by the Federal Highway Administration (FHWA), the federal lead agency for the proposed action, in cooperation with the U.S. Army Corps of Engineers (USACE), the U.S. Bureau of Indian Affairs (BIA), and the Western Area Power Administration. The release of the DEIS began a 90-day public review and comment period that will conclude on July 31, 2013.

This complaint is also timely filed because ADOT conducted a public participation process to receive public input on the proposed project, but conducted it in a way that provided OIRIC tribal members, including members of GRACE, less of an opportunity to meaningfully participate in the process than non-Native people.

VI. STATEMENT OF FACTS

A. SOUTH MOUNTAIN (Mahahawik, Arkwawson)

The South Mountain, known in the Pima language as the Mahahawik and in the Maricopa language, Arkwawson, consists of the Ma huwiku, Gila, and Gualibdah Mountain Ranges. It abuts the northern boundary of the GRIC reservation. A portion of Main Ridge North and Main Ridge South of the South Mountain is on the GRIC, and serves as the “Community’s main, direct physical link to the South Mountain.” The South Mountain “figure prominently in oral traditions of both the Aklalm’ Oo’daham (River People) and the Pat Peam (Maricopas).” The Aklalm’ Oo’daham believe that South Mountain is where their creator immigrated.

On January 6, 1982, the Gila River Indian Community Tribal Council adopted an ordinance declaring “as a matter of Community policy and legislative determination, that the public interests of the Pima-Maricopa people and the interests of all other persons living within the jurisdiction of the Gila River Indian Community require that the Community adopt a strategy whereby all sites, location, structures, and objects of sacred, historical or scientific interest or nature will be protected from desecration, destruction, theft, or other interference.”

Then in 1989, the Gila River Indian Community Tribal Council adopted a resolution to preserve the lands of their Hohokam ancestors, by approving the “Policy Statement of the Four Southern Tribes (Salt River Pima-Maricopa Indian Community, Ak Chin Indian Community, Tohono O’odham Nation, and the Gila River (Indian) Community which outlines the Four Tribes intent to protect, promote, and preserve cultural affinity to the Hohokam.”

On April 4, 2007, the Gila River Indian Community Tribal Council adopted a tribal resolution affirming that the South Mountain is “a sacred place / traditional cultural property that must be kept inviolate” thereby recording the sacredness and significance of South Mountain.
Mountain to the people of the GRIC and its tribal government. This important tribal resolution is
attacked as Exhibit A and incorporated into this complaint. The resolution states the GRIC Community Council “strongly opposes any alteration of the South Mountain Range for any purpose” and “any alteration...would be a violation of the cultural and religious beliefs of the Gila River Indian Community and would have a negative cumulative effect on the continuing lifeways of the people of the Gila River Indian Community.”

Not only is South Mountain itself sacred, but there are also numerous sites with highly significant historic and prehistoric sites, and archeological and geological sites, and ancient shrines. Further, the Colorado River Indian Tribes, Salt River Pima-Maricopa Indian Community, the Ak-Chin Indian Community, the Tohono O’odham Nation, and the Pascua Yaqui Tribe also hold the South Mountain sacred.

Mound of the South Mountain is within the South Mountain Park Preserve (SMP), which is a 16,600 mile park preserve in the Sonoran desert in Phoenix, Arizona. First created in 1924 during the New Deal era, 130 acres of the land were bought from the federal government by the city of Phoenix for a “pansychic park.” Then, in 1977, the Bureau of Land Management (“BLM”) conveyed 9,200 acres of land to the City of Phoenix where some of that land was converted into the SMP. Then, in April 2009, 247 acres of State Trust Land, were purchased from the Arizona Land Department. SMP is a historic property and is eligible

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49 For example, Red Mountain, South Beach Mountain, and South Mountain.
55 The DEIS notes “archaeological sites and places considered culturally significant by Native American groups were affected by any of the build alternatives. The Gila River Indian Community (GRIC) and the Salt River Pima-Maricopa Indian Community have both passed Tribal Resolutions designating the South Mountain as a TCP and the Colorado River Indian tribes have said that they also consider the South Mountain a TCP.” (South Mountain Transportation Corridor August 28, 2008 Draft Technical Report Summary Chapter 4, available at http://www.smpd.gov/transportation/pdf/080828_DEIS_SMCAT_CurrDraft_SummaryChapter4_Final.pdf).
56 The Trust for Public Land: Conserving Land for People, The 100 Greatest City Parks available at http://www.tpl.org/cities/oglobin organizacións presenta la proyección de 2013 de las 100 mejores parques de América (last updated July 5, 2013).
57 This desert is approximately 100,000 square miles spanning Des Moines, California, and into Southern Arizona. The Sonoran desert is one of the most diverse deserts in the world. http://www.deserts.org/desertinfo/030201/kroe-scientific-facts-of-the-sonoran-desert.html (last visited July 5, 2013); Further, the Sonoran desert is providing rare, arid-ecosystem services to humans, some already identified, the climate regulation. http://www.smpd.gov/transportation/pdf/080828_DEIS_SMCAT_CurrDraft_SummaryChapter4_Final.pdf.
58 ADOT, City Commissioner Agenda Item For Regional Park in Salt River Mountains, April 6, 1936, South Mountain Historic, found at http://southmountainhistory.blogs.com/20000505/city-commission-agenda-item-for.html.
59 ADOT, South Mountain Study Team, chapter 5 Section 4.2 Evaluation at 25.
60 For example, the elevation of what is known as South Mountain 2.3 miles lower. Through years of negotiating with the City of Phoenix, and after many unsuccessful attempts, the 247 acre parcel north of Chandler Boulevard was acquired successfully on April 2, 2009 for $16 million. The Development Agreement for the parcel provides for a preserve, fire station and park, and also preserves the way for sale and development of approximately 500 acres south of Chandler Boulevard when the market allows.” This site was under the name of Arizona Open Space Trust. (Arizona State Agency Publications, Arizona State Land Department: Annual Report 2008-2009 p. 11 available at http://azdof.state.az.us/propounds/bio/collectors/animalReceipts/a12/excerpt121651.html)
61 ADOT, South Mountain Study Team, chapter 5 Section 4.2 Evaluation at 25.
62 The 700,000 square mile area that could go over to be 70.0 out. It is made in the Phoenix Desert in Arizona. The square is known as the State Park of Arizona. Fighting a squash in any parish is illegal by state law in Arizona, and when known as highways are busy, special permission must be obtained to serve or serve the squash affected.
63 ADOT, South Mountain Study Team, chapter 5.1 Afforded Environmental, Environmental Consistency, and Mitigation at 44-49; Maricopa County has 35 synure, 1 1/2 square, and 7 town square (of Laddles), http://www.azcentral.com/story/news/2013/07/22/downtown/36336020 (last updated July 4, 2013). In public transportation includes a 25-mile transit service in Phoenix, Tempe, Mesa, Chandler and Mesa, which includes Link, LINK, Express and rapid service in county service, light rail, neighborhood circulator, and route, like as - Ride, Vanpools service, and an online carpool and vanpools matching system. (Providing Public Transportation Alternatives for the Greater Phoenix Metropolitan Area, http://www.valleymoves.org/overview (last visited June 16, 2013)).
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Maricopa Association of Governments (MAG)\(^\text{1,2}\), that when connected to a surface transportation system would allegedly: "reduce existing congestion on the Interstate Highway System in the urban core; facilitate and more effectively distribute the regional movement of goods and delivery of services, more evenly distribute traffic on the major arterial street grid and reduce regional traffic using the grid; better serve already-occurring regional traffic; provide an alternate route for pass-through traffic; provide an integrated intermodal network of freeways strategically located to accommodate local and regional land use planning; enhance local mobility by removing regional traffic from the local road network; cross jurisdictional boundaries to support the regional bus transit system component of the integrated Long Range Transportation Plan (LRTP) (MAG 2001a); encourage and direct planned growth.\(^\text{3}\)

Although the master plan Regional Freeway and Highway System has done without this last notion, the DEIS asserts that this section is necessary. The DEIS states that "over the past 40 years, Phoenix-area population, housing, and employment experienced some of the fastest growth in the nation...and from the early 1950s to the mid-1990s, population in the MAG region grew by over 200 percent.\(^\text{4}\) The DEIS assures that population growth will continue at the same rate as it did between the 1950s to mid-1990s and that Maricopa County's population will add an average of 1 million a decade from 2005-2035.\(^\text{5}\) The DEIS states that "within 50 percent of projected increases in population, housing, and employment from 2005 to 2033 for the entire MAG region are expected to occur in the southwestern and southeastern portions of the Phoenix metropolitan area" and would benefit from the highway to get back and forth to central Phoenix.\(^\text{6}\) The DEIS cites public support of the South Mountain Loop by "voter approval of the one-half cent sales tax in 1985 (Proposal 300) and the continued endorsement in 2004 (Proposal 400) for continued public support for investment in regional transportation projects, results from the Maricopa County Office of the Mayor (Maricopa County 2004a) that show voters in 50 percent of the country's 1,058 voting precincts voted in favor of Proposition 400 and the

projects it would fund; and voters in 81 percent of the 31 voting precincts in the Study Area favored Proposition 400 and the projects it would fund.\(^\text{7}\)

The DEIS also asserts that pollution will actually be reduced, ultimately improving air quality with the South Mountain Loop 202. The stated reason for this viewpoint is that the problem with the existing roadway is traffic and congestion. With the South Mountain Loop 202, some cars would have an alternative route for driving back and forth to downtown Phoenix. The DEIS lists out several options, called "action alternatives" to choose from implementing the proposal.\(^\text{8}\) One action alternative is a no-build.\(^\text{9}\) The DEIS evaluation concluded that the No-Build Alternative would not satisfy the project purpose and need: the purpose and need are based on socioeconomic factors (population, housing, and employment projections); regional transportation demand (traffic and congestion); and existing and projected transportation system capacity deficiencies (present and future transportation system management, transportation demand management, transit, street network expansion, land use, and a combination of the transportation systems).\(^\text{10}\) The DEIS states that with population growth, and its resulting increase in traffic and congestion, and even future alternative freeway modes that have been planned and would likely be funded, like for example, increasing bus routes, could not solve the purpose and need that the South Mountain Loop would fulfill. Chapter 3 states that "these alternative alone would have limited effectiveness in reducing overall traffic congestion in the Study Area and, therefore, would not meet the purpose and need criteria; specifically, they would not adequately address projected capacity and mobility needs of the MAG region... Based on projected regional travel demand and the extent of mobility needs of the MAG region and in the Study Area, arterial street network improvements alone would not meet the needs of the MAG region; and The Land Use Alternative is not a viable alternative because no plans exist to alter planned land use in the region.\(^\text{11}\)

The build options consist of choosing one western alternative: W59, W71, and W100, and the one available eastern action alternative: E1.\(^\text{12}\) All western alternatives begin at 1-10 (Papago Freeway) and proceed east to a common point to all as an alignment parallel and adjacent to the GRIC boundary. All alternatives would cross Union Pacific RR, Salt River, Roosevelt Canal, Laveen Aravaavenport Canal, and all require 10-10 improvement.\(^\text{13}\)

There is only one eastern alternative because the only other alternative that ADOT had considered was a route on ORIC land, which the GRC rejected. DEIS states "the E1 Alternative is the only action alternative developed for the Eastern Section. Despite efforts by ADOT and FHWA to seek permission to study an alternative in detail on Community land, permission has not been granted. Therefore, ADOT, with concurrence from FHWA, identified the E1 Alternative as the Preferred Alternative to the Eastern Section."\(^\text{14}\)

\(^\text{1}\) ADOT, South Mountain Study Team, Chapter 1 Purpose and Need at 9.
\(^\text{2}\) ADOT, South Mountain Study Team, January at 5.
\(^\text{3}\) ADOT, South Mountain Study Team, January at 5.
\(^\text{4}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{5}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{6}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{7}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{8}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{9}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{10}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{11}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{12}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{13}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
\(^\text{14}\) Maricopa Association of Governments (MAG) (2001a) (Appendix C) [Electronic Source].
The DEIS states: “Based on the alternative screening process, environmental impacts assessment, and stakeholder input, ADOT, with the concurrence from FHWA, identified the W-95 Alternative as its Preferred Alternative in the Western Section and the E-1 Alternative in the Eastern Section. This ‘preferred’ route would be along Pecos Road in the Ahwahnee Floodplain, through the western portion of the South Mountain Preserve, including through the South Mountain itself, and up 58th Avenue through Laveen. The DEIS approximates that 31.3% of the 16,640 acres of the SMPP would be taken for the proposed highway and 9.9 miles of Loop 200 would pass through the southwestern edge of South Mountain. Costs to South Mountain would be a 220-foot cut through one ridge, a 190-foot cut to another, and a 70-foot cut to a third for an estimated cost of $30 million.”

C. ADOT AND THE DEIS ACKNOWLEDGE SACRED AND CULTURAL SIGNIFICANCE OF SOUTH MOUNTAIN

The DEIS acknowledges that the South Mountain is sacred to the GRC, is a TCP, and further, is National Register of Historic Places (“NRHP”)-eligible. The DEIS indicates that ten locations have been identified by GRC as places of cultural importance: the South Mountains, two prehistoric village sites, an active divine site, two prehistoric petroglyph sites, and four prehistoric vial sites, which qualify as NRHP-eligible TCPs. The NRHP eligibility of two of the properties was confirmed by FHWA through consultation with the GRC. Five TCPs have been identified within the project area of “potential effects.” The DEIS specifically states that the South Mountains were determined eligible for NRHP listing as TCP under Criteria A and B.

The DEIS states: “The Community has expressed to ADOT and FHWA its concerns about its alignment through the South Mountains and the irreversible impacts on the South Mountains from proposed actions. To the Community, the South Mountains are part of a continuum of life and not an individual entity that can be isolated and analyzed.”

The DEIS further acknowledges that the GRC is opposed to any destruction of the South Mountain. It states “the mountains are considered sacred—playing a role in tribal cultures, identities, histories, and oral traditions—and appear in many creation stories. Many traditional

religions and ceremonial activities continue on the mountains.” Further, ADOT is aware that GRC performs a cultural assessment, the DEIS states that their preferred-action alternative would cut through the South Mountains resulting in removing two archaeological sites identified as contributing components of the South Mountains TCP, (considered NRHP-eligible under Criteria A and B) modifying the spiritual landscape of Native peoples; altering access by Native American groups to culturally important places; interfering with ceremonial practices and religious activities of some Native American groups.

The DEIS also states: “two contributing components to the TCP are located within the Study Area, one of which is considered NRHP-eligible under Criterion A. The first site is...unique and possibly associated with traditional religious and ceremonial activities associated with the South Mountains. The second site is situated within the South Mountains TCP. These sites contribute to functions in the living Akimel O’odham and Pee Pek communities and...serve as spiritual places (Tribe Historic Preservation Office (THPO) response [not concurrent] regarding NRHP-eligibility of the South Mountains as a TCP and its contributing components was received on August 17, 2011; consultation is ongoing).”

Further, the DEIS acknowledges that the portions of the South Mountains on GRC located on the western end serve as the “Community’s main, direct physical link to the mountains.” Further, it states “the E1 Alternative would result in direct use of the TCP. Approximately 3 miles of freeway alignment would pass through the mountains and would affect the southern and southwestern portions of the TCP.”

Further, the DEIS states “While the conversion and permanent loss of part of the mountains to a transportation use by the proposed action is a concern, related Community-expressed concerns focus on impacts on history, culture, traditions, and the ability to maintain and continue the cultural identity of the communities. Within the context of the TCP, the proposed action would be a physical barrier on the landscape, altering traditional access to sacred sites, disrupting traditional cultural practices, and degrading the overall integrity of the cultural traditions and identity. Even with mitigation, implementation of the proposed action would alter the direct physical connection Community members have between their homeland and the South Mountains and would restrict the ability to visit or use these locations in a traditional cultural manner.”

After stating all of the above, the DEIS states that the E1 Alternative was designed in such a way as to avoid a site that is a contributing element to the South Mountains TCP, resulting in no direct use of this TCP element. A R/W fence would limit access to the site by freeways.
users, but Community members would continue to gain access to the site as they currently do.\textsuperscript{106}

Nevertheless, the DEIS then states, “even with mitigation, implementation of the proposed action would alter the direct physical connection Community members have between their homeland and the South Mountains and would encroach the ability to visit or use these locations in a traditional cultural manner.”\textsuperscript{107}

The DEIS later states, “alternatives to avoid use of the South Mountain Loop TCP were evaluated and determined to be not prudent and feasible.”\textsuperscript{108}

The DEIS states that besides the South Mountain itself, another TCP would be affected. Although not physically damaged by the constriction of the South Mountain Loop, this TCP would also be affected by the South Mountain Loop and would be affected by highway-related consequences, i.e. noise. The DEIS states: “A2: 7:12:112 (ASM) is used by contemporary Community members actively extending their traditional religious and ceremonial practices and beliefs. The site and its use are part of a broad pattern of traditional religious and ceremonial practices and beliefs that defined the cultural identity, continuity, and traditions of the Alkamel O’Dellah. Therefore, the site is eligible for listing in the NRHP under Criterion A as a TCP.” However, it states, this “resource does not have site-sensitive activities or viewed characteristics that contribute to its importance as a Section 106 resource. Therefore, according to 33 C.F.R. § 774.15, no further analysis of these proximity impacts to determine whether they would substantially impair the resource is necessary.”\textsuperscript{109}

The DEIS concludes, “in summary, the intrusion of the proposed freeway into the South Mountains, including especially the cuts into three ridgelines, would likely be perceived as severe by many members of the Community. The above measures have been and/or would be undertaken to avoid, reduce, or otherwise mitigate impacts on the South Mountains TCP and on A2: 7:12:112 (ASM). The proposed freeway would be located in an area used frequently by members of the Community, one that provides direct access to the South Mountains. Thus the proposed action would adversely affect physical access to the TCP and adversely affect another TCP within the South Mountain TCP. Perhaps more important to members of the Community, the proposed actions might be perceived as serving the Community’s spiritual connection to the mountain.”\textsuperscript{110}

VII. ARGUMENT

Disappointment against people on the basis of color, race, or national origin is prohibited under Title VI. Title VI provides that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”\textsuperscript{111} One form of discrimination prohibited is action that causes a disparate impact on a protected class of people. For the DEIS to move forward, it cannot violate Title VI.\textsuperscript{112}

However, if the South Mountain Loop 202 is constructed, the distribution of negative impacts and burdens\textsuperscript{113} would be highly unequal to the GRC and for the foregoing reasons, Title VI was violated by ADOT because:

- the proposed route through South Mountain would knowingly, improperly, and illegally demean a site with profound sacred and spiritual significance resulting in an unjustifiable disparate impact on the GRC;
- construction and the effects of vehicle and track traffic on the proposed South Mountain Loop 202 would result in pollution causing disproportionate cumulative health effects causing a disparate impact on the GRC and its tribal members, including members of GRACE, and;
- inadequate consultation and inadequate process was given to the GRC.

A. SOUTH MOUNTAIN LOOP 202 DISPARATE CUMULATIVE SPIRITUAL AND CULTURAL EFFECTS ON THE GRC, INCLUDING GRACE COMPLAINTS

GRC grievances about the proposed South Mountain Loop 202 have common themes. Like the following, they identify the great cultural and spiritual meaning the South Mountain signifies to the GRC: “our people feel that the mountains is a sacred place and we should respect it.”\textsuperscript{114} “We need to protect it because that mountain is sacred to our people.”\textsuperscript{115} It’s impossible to treat the mountain right. South Mountain is one of our sacred mountains.”\textsuperscript{116} See attachment. Plainly put, construction of the South Mountain Loop 202 would denigrate a natural landscape with profound sacred and spiritual significance to the GRC. One GRC tribal member wrote that “my connection to South Mountain is that it is a very sacred place to me and my people.” See attachment. Another noted it is a sacred mountain to our people... “It is a place that we have lived on for generations.” See attachment. Another said “it is a sacred mountain to our ancestors... there are stories about that mountain... I was told by my elders, and there are places that grow on this mountain that we use today for healing, oats, and blessings.”\textsuperscript{117} See attachment.

Cutting and blasting the South Mountain to place a highway through it would result in a major disparate impact on the GRC. One tribal member stated “the mountain is central to the

\textsuperscript{106} This is the first time the GRC would have the opportunity to review the terms of a terminal-proposal agreement.

\textsuperscript{107} A “range that is prominent to local communities and [is] a reference point (to) which the tribe is referred” (Dana Haskins, The Republic, 1998, p. 26). For the South Mountain Loop’s Feasibility Report, March 25, 2013 (http://www.arizona.com/community/planchanges/article/1791380尚书mountain/feasibility-plans-concluded (last visited July 11, 2013)). Further, the GRC just-completed its property evaluation by ADOT for allowing $5 million to the reservation.

\textsuperscript{108} Brenda Thomas, GRC tribal member, Aff. 7/3, 2013.

\textsuperscript{109} Lawrence Thomas, GRC tribal member, Aff. July 6, 2013.

\textsuperscript{110} Stephanie Thomas, GRC tribal member, Aff. July 6, 2013.

\textsuperscript{111} Larry Thomas, GRC tribal member/GRACE member, Aff. 7/13, 2013.

\textsuperscript{112} David Haskins, GRC tribal member Aff. ¶ 1.

\textsuperscript{113} Nicole Johnson, GRC tribal member Aff. ¶ 1 and 24, 2013.

\textsuperscript{114} Whitney Cates, GRC tribal member Aff. ¶ 7 and 2 July 3, 2013.
O’odham creation story continues to be a place to hold ceremonies by and for the O’odham people. The mountain is also sacred to us because of the plant life we use for medicinal and ceremonial purposes and also because of the wildlife we hunt to sustain ourselves. The construction of this freeway would greatly harm the wellbeing of the mountain and therefore will bring harm to the O’odham.122 See attachment.

South Mountain is a very major and significant part of the GRIC spiritual and cultural life. It is a piece of importance with esteemed meaning: it is associated with integrity, strength, patience and offers immeasurable cultural and spiritual benefits to the GRIC. It has been there on the landscape and has witnessed time and the elements in good and bad times with generations of GRIC ancestors. Becoming a major historical and spiritual theme in the GRIC’s lives, stories, teachings, rituals, ceremonies, and medicines are derived from South Mountain. One tribal member stated “South Mountain is important to me because it’s part of our heritage. There are many teachings that go with that mountain. Stories and songs that our generations to carry on.”123 See attachment. Another stated “according to our oral history South Mountain is a sacred mountain to our people. A Kiimíi O’odham legends and stories talk about South Mountain being the home of the deity for our tribe. There are also stories about animals and petroglyphs from our ancestors the Hohokam located on South Mountain.”124 See attachment. Another GRIC tribal member stated “Our oral history and legends state that South Mountain is the home of ‘Siler Brother’ (‘shúsh) deity of the Akiimíi O’odham Tribe (Gila River Indian Community Tribe). South Mountain was also once inhabited by our ancestors the Hohokam. The Hohokam has been acknowledged by archeologist, anthropologist and historians to be one of the first settlers of this region. South Mountain is also a place of worship, sacred ceremonies are performed, prayer and offerings are given and shrines are built to honor ‘Jitlal’ and our ancestors.”125 See attachment.

Disturbing South Mountain would be desecrating it and desecrating it would be harming the GRIC itself. “To take the South Mountain away is a great impact to the Gila River Indian Community. It would be losing a part of us even more.”126 See attachment. “To hear of this mountain being destroyed has put a great hurt in my spiritual life...the mountain has given me so much in my life. It has kept me strong, taste, peaceful, and healthy.”127 See attachment. Much harm would occur because this significant historical and cultural site that has been handed down through the generations is rich with the past; its heritage interwoven into the present and connects with the GRIC living today. One tribal member stated “I have a very strong connection to South Mountain. In my late teens I left my hometown of Ajo, Arizona to attend Arizona State University. As a young woman far from home it was a difficult adjustment to live in the city, but going to South Mountain helped with this transition...as a young mother raising a child in the late nineties and early 2000’s, I often went to South Mountain to meditate when times became tough or if I was unable to return to Gila River for family emergencies. South Mountain has always made me feel closer to home and closer to my O’odham Heritage.”128 See attachment.

122 Stoner Jede e, GRIC tribal member Aff E. 5
123 Faštini Móogo, GRIC tribal member Aff E. 1.
124 Peggy Mar Morago, GRIC tribal member Aff E. 9 July 6, 2011.
126 Faštini Jede e, GRIC tribal member Aff E. 1.
127 Bernelita Soreme, GRIC tribal member Aff E. 6 July 2, 2013.
128 Peggy Mar Morago, GRIC tribal member Aff E. 9 July 6, 2011.

GRIC and GRIC tribal members in GRACE129 have repeatedly and publicly communicated the sacred significance of South Mountain, while at the same time, opposing ADOT’s actions and the South Mountain Loop 202 project. However, ADOT has consistently ignored these communications and continued its efforts to plan the South Mountain Loop 202 through the South Mountain. One tribal member lamented “you may see the Mountain as an obstacle! But we see it as a refuge for our animals, a place where we can take our children and teach them our culture. It may not seem like a lot but the Mountain means so much to our community.”130 See attachment.

In April 2008, the Arizona Republic published an article entitled, “Gila river decoy freeway path spared land.”131 The article reads: “The (GRIC) council in April 2007 designated the South Mountain Range as a “sacred place/traditional cultural property” that must not be violated. The council said any alteration of the range “for any purpose would be a violation of the cultural and religious beliefs of the Gila River Indian Community.”132 Nevertheless, ADOT’s August 2008 Draft Technical Report Summary states “direct impacts on cultural resources from construction could result in their partial or total loss.”133 It goes on to state “archaeological sites and places considered culturally important by Native American groups would be affected by any of the build alternatives. The Gila River Indian Community (GRIC) and the Salt River Pima-Maricopa Indian Community have both passed Tribal Resolutions designating the South Mountains as a TCP and the Colorado River Indian tribes have said that they also consider the South Mountains as TCP. The Federal Highway Administration (FHWA) and the Arizona Department of Transportation (ADOT) recognize the South Mountains as a TCP.”134

During a MAG public comment meeting on the South Mountain Loop 202 on December 21, 2009, GRIC tribal members and supporters pled with the government association to stop their plan to go through the South Mountain and “respect the heritage of their peoples.”135 With a banner outside stating “standing against those who ruin the land” tribal members expressed their “deep and abiding love” for South Mountain and their “responsibility to protect” it for their ancestors and future generations.136 One youth stated: “this pressure has to stop...we had a river taken away...our lands have been reduced enough...our ancestors should not have had to go through what they did for a highway to go basically past their cemetery.”137 A speaker from Protecting Arizona’s Waterways and Children (“PAW”) pointed out that GRIC at that time was
being permitted to permit a highway either through their limited reservation or through sacred ancestral land shotting their reservation—both of which have sacred and traditional values.12

Also in that meeting, GRIC tribal members shared how their ancestors are a part of the “sacred territory” of South Mountain and how the tribal members of GRIC continue to be defined by it.12

One tribal member expressed his concern that this donation was “just another attempt to take more land” from indigenous people, whose historical legacy was one of losing more and more of their land by non-Indigenous people.12 He further shared with the audience how South Mountain is where they “create standards” and reiterated that it is a “sacred area that cannot be touched.”12

Another speaker stated his elders taught him that South Mountain “wasn’t disturbed and if disturbed, would cause problems” to the world.12 Another speaker stated that “this (cultural land of his ancestors) is what binds us together” and another stated that “desecration of the South Mountain would break and kill them.”12

Another pointed out to the audience the compromises the tribal members have already had to make like having to tolerate sacred places in the SNPP being desecrated with graffiti and trash.12 She said it was unfair and wrong that now they are expected to permit their sacred South Mountain to be bulldozed for a highway.

GRACe co-founder, Lori Riddle, also spoke to the audience during the 2009 MAG public comment meeting. She stated that GRACE was opposed to the project because the proposal “leaves no fundamental ‘cultural sensitivity’ of Indian peoples of the GRIC.12 Further, she said, the GRIC “honor the land… honor the mountains.”12 This is where they “you…fact, respect, gather… strength.”12 This is “a heritage that goes back hundreds and thousands of years.”12

Frustrated with ADOT’s failure to respect tribal concerns about the proposed desecration of the sacred mountain, Riddle had to say once again “the community has already done all not to have a highway.”16

The November, 11, 2009, Arizona Republic article, Questions remain on blinding new South Mountain, questioned the soundness of “blasting through…major ridges of South Mountain in the park, which the Gila River Indian Community (GRIC) considers sacred.”16 It went on to quote Shannon Rivers, a member of GRIC, who said that the South Mountain “has burial sites, archeological sites and shrines.”16 This is where they “you…fact, respect, gather… strength.”16 This is “a heritage that goes back hundreds and thousands of years.”16

12 Id. at 300, a reason the reservation was being permitted on the GRIC.

13 YouTube South Mountain Freeway Project, https://www.youtube.com/watch?v=DeLEDqOJU1s (last visited June 17, 2013).

14 YouTube, South Mountain Freeway Project Public Comment (Part I) found at https://www.youtube.com/watch?v=2BM9X6U5AMQ.

15 Id.

16 Id.

17 Id.

18 Id.

19 Id.

20 Only certain tribal members are allowed into this sacred place and only certain tribal members have access and still do ceremonies in the sacred place.


22 Id.

23 Id.

24 Id.

25 Id.

26 Id.

27 In 2010 an Environmental Assessment for a tower site on South Mountain, the Arizona Department of Game and Fish reported the sacredness of the South Mountains. It stated “the Gila River Indian Community and Salt River Pima-Maricopa Indian Community have passed resolutions declaring the South Mountains to be a sacred place/traditional cultural property because of the prominent role the mountains have in oral traditions and songs of the Akimel O’odham (Pima) and Pueblo (Miwok) tribes.”

28 On January 21, 2011, the Arizona Republic News published, Gila River Trivia: Sacred Sites On South Mountain Take Focus In 2020 Debate, which stated “Forest Service on the move. Gila River Indian Community members are the sites and shrines on South Mountain that would be destroyed if plans to blast a freeway through the mountain proceed. The No 1 concern by far in the desecration of that mountain...there are a number of areas of cultural significance that would be compromised. There are a number of cultural sites throughout the entire mountain.”

29 Further, in a 2013 press release, Lori Riddle of GRACE stated “This project would harm the physical and spiritual integrity of Mahadag Do’ak (South Mountain) and traditional cultural properties associated with the mountain.” of the affected mountains in the South Mountain Range are sacred lands of the O’odham people.”

30 That is why the people in the Gila River Indian Community voted against having it on our lands and why we oppose the alignment that would run through the mountain.”

31 In 2013, in an interview on 91.5 KJZZ, Riddle spoke again stating “I know people try to dismiss that (sacredness of the mountain to the GIUC tribal members), but it’s a freedom of religion that we all have rights to, and we feel like they are taking that freedom away from us.”
B. SOUTH MOUNTAIN LOOP 240: DISPARATE CUMULATIVE HEALTH AND ENVIRONMENTAL EFFECTS ON THE GRIC, INCLUDING GRACE COMPLAINTANTS

With approximately 67,000 cars travelling daily between Phoenix and Tucson on Interstate 10 (one of the three interstate highways that serves at the throughput for nearly all truck traffic) only a small fraction of these cars are driven by trial members. However, because approximately 25 miles of Interstate 10, two lanes in each direction, is running through the GRIC, pollution is being carried and emitted onto the GRIC. The GRIC asserts that this is its single biggest source of air pollution in the community. There are also several million cars owned by people who live, work, and commute within the greater Phoenix area, causing pollution, while car ownership in GRIC is low because GRIC members work and live in the same districts. The GRIC even goes so far to encourage consumers to itsialis to use buses from the nearby urban areas on a regular habit to reduce single occupancy car traffic to its area. However, even with this proactive approach to the environment, the 2005 Joint Air Toxics Assessment Program (JATAP) report shows that GRIC has high Particulate Matter ("PM") and Volatile organic compounds ("VOC") in its air. The South Mountain Loop 202 would be yet another source of pollution not created by the GRIC but the GRIC itself. Maricopa County has struggled to meet the National Ambient Air Quality Standards ("NAAQS") for particulate matter (PM). The American Lung Association’s State of the Air 2011, gave Maricopa County a grade of F for the period between 2009-2011 in High Particle Pollution 24-hr days. It also ranked Phoenix-Mesa-Chandler, AZ 14th in Most Polluted by Year-Round Particle Pollution (Annual PM 2.5) and 21st in Most Polluted by Short Term Particle Pollution (24-hour PM 2.5). According to the EPA Green Book, Maricopa County has been in nonattainment in Particulate Matter (PM10) since 1992. PM-10 is a "complex mixture of extremely small particles and liquid droplets...made up of a number of components, including solids...organic chemicals, metals, and soil or dust particles." PM-10 are "inhalable coarse particles," that can be found near roadways and dusty industries. They can affect the heart and lungs and cause serious health effects. Those most at risk to PM-10 are people with heart or lung disease, older adults, children, and physically active people. People with diabetes may also be at risk. Further, new studies suggest that exposure to high particle levels may also be associated with lower birth weight in infants, pre-term deliveries, and possibly fetal and infant deaths. Long-term exposure has been associated with problems such as reduced lung function and the development of chronic bronchitis and even premature death. Short-term exposures to particles can aggravate lung disease, causing asthma attacks and acute bronchitis, and may also increase susceptibility to respiratory infections. Almost every one of the PM-10 exceedances has been detected at the air quality monitor at 43rd Avenue and Broadway Road. Because the air is already heavily polluted, the placement of a freeway about a mile and a half upwind from this monitor will have a drastic impact on the health and well-being of the GRIC, who are situated near the proposed site. The GRIC has the highest level of diabetes in the nation; those with diabetes are more susceptible to irritation from PM-10 and more susceptible to other medical conditions. Additionally, during the construction phase, thousands of tons of dirt would be moved moved upwind of the 43rd Avenue and Broadway Road monitor causing increased levels of PM. The proposed path of the South Mountain Loop 202 would cause PM over the Salt River bed, where extensive earth-moving will be necessary for the construction of the bridge. Blasting South Mountain would also release enormous amounts of PM, and the natural wind currents and prevailing wind patterns would push this PM toward the air monitor at 43rd Avenue. Because people are contesting Valley Fever (Coccidioidomycosis) in Southern Arizona (especially in the Phoenix and Tucson areas), Valley Fever is a threat. The two species of coccidioides fungi that cause Valley Fever are commonly found in the soil of specific areas, one of which is Arizona’s Sonoran desert, and are stirred into the air by anything that disrupts the soil like construction. Moreover, Native Americans are more susceptible to developing serious

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The GRIC would also be disproportionately affected by negative environmental consequences to its agricultural sector. Agriculture plays an important role for the GRIC and is a major sector in GRIC’s economic development plan. **15,000 acres of Community farms on the GRIC support a variety of crops such as cotton, wheat, millet, alfalfa, barley, melons, pistachios, olives, citrus, and vegetables. And independent farming operations cultivate an additional 22,000 acres of similar crops, bringing in the total agricultural product value to an excess of $15 million.**

Now with its newly restored water rights, the GRIC is planning on developing a much larger agricultural industry. However, PM decreases crop production, and because of this, not only will the health of the crops be compromised but the profit from the GRIC’s agriculture will be compromised by the air pollution from the South Mountain Loop 202.

Maricopa County has also been in nonattainment in 8-hour ozone since 1997 and is in 8-hour ozone 2008 since 2012. The American Lung Association’s State of the Air 2013, gave Maricopa County a grade of F for the period between 2006-2011 in High Ozone days and 21st in Most Ozone-Polluted Cities. Ozone is formed when pollutants emitted by cars, power plants, industrial boilers, refineries, chemical plants, and other sources react chemically in the presence of sunlight. These pollutants are active in the presence of sunlight. Those most at risk are children, adults who are active outdoors, adults including older adults, pregnant women, and people with unusual susceptibility to ozone. Ozone can aggravate asthma and inflame and damage the lining of the lungs that can in turn cause long-term health problems and a lower quality of life.

Higher ozone levels would have a disparate effect on the people of the GRIC. First, many GRIC members have asthma and other respiratory problems. Ozone increases will exacerbate existing problems. Second, because the Hassayampa Fowry CANAMEX route is not first being built, the South Mountain Loop would be used as a bypass for truck drivers traveling from Canada to Mexico. This would also have a major disproportionate effect on the GRIC. With Interstate 10 already running through the GRIC, more diesel trucks near the GRIC would only increase pollution, some of which are cancer-causing. Diesel from trucks can create the same amount of air pollution as 150 passenger cars and diesel exhaust has been linked to lung cancer and the development of asthma. Moreover, although the United States has implemented national heavy-duty diesel emissions standards and 1 Ultra-low-sulfur diesel (“ULSD”) fuel requirements, Mexico has not made significant progress in implementing its heavy-duty diesel emissions standards nor has it transitioned to ULSD. And, although the Arizona Department of Air Quality monitors 1997 through 2008 diesel powered vehicles in the metro Phoenix (Area A) and Tucson (Area B), commercial vehicles that are licensed in multiple states are not. Further, some trucks using the South Mountain Loop 202 will be carrying hazardous material causing major risks to the GRIC. Although the DEIS admits that the South Mountain Loop 202 will be used to transport hazardous waste, it does not include an emergency plan for the different communities that could be affected by accidents by transporters of hazardous materials.

There is also a risk of a pollution hot spot developing in the GRIC because of the leveling of mountains ridges and the placement of a highway with speeding cars and trucks on the flattened area situating the GRIC. The GRIC reservation is situated between the Sierra Estrella to the west running north and south along the entire distance of the GRIC on the western edge, the South Mountain to its north separating the GRIC from Phoenix and Tempe, and the Sonora Mountains on the southeast side, separating the GRIC from Gilbert and Apache Junction.

“These natural barriers are large enough and have sufficient altitude to prevent pollution from transporting onto GRIC even during periods of inversions and migrant air.” The South Mountain Loop will eliminate the natural barrier of the South Mountains separating the GRIC from the heavily polluting cities of Phoenix and Tempe. Further, the new car and truck emissions will be added near the GRIC. Under certain wind and weather patterns, these emissions will be captured and contained within the remaining ranges in the GRIC causing a hotspot. Like past off-reservation polling activities, the GRIC will have to bear the consequences of pollution not created by them but migrating to its lands.

The GRIC also would be disproportionally affected by other public health concerns. Concerns of which were not mentioned in the DEIS. The GRIC struggles with substance abuse, such as alcoholism and crack/cocaine addiction, and have been struggling with a high suicide rate. American Indian and Alaska Native (AI/AN) people are significantly more likely to report past-year alcohol and substance use disorders than any other race. And suicide rates for AI/AN people are 1.7 times higher than the U.S. all-races rate.

Further, several sources

173 Ibid.
indicate the AVANs are at higher risk for certain mental health disorders than other racial/ethnic groups. The Office of Minority Health reports that AVANs experience higher rates than all race in the following areas: serious psychological distress; feelings of sadness, hopelessness, and worthlessness; feelings of nervousness or restlessness; and suicide.

The Indian Health Service, the Federal Health Program for American Indians and Alaska Natives, recognizes that one major reason for these higher national rates of substance abuse and psychological problems is historical trauma. Historical trauma describes the cumulative effects of the massive group trauma experienced by AVAN people and nations since the arrival of European settlers on the American continent. This trauma has taken various forms, from outright violence of war and forced relocation to damaging prohibitions on Native languages and cultural and religious practices. Historical trauma has many dimensions, but one important aspect is that, as with any trauma situation, parents and caregivers who have been traumatized often pass on trauma sensitive patterns to their children. This means that the effects of historical trauma in AVAN communities include not just past or present acts of oppression and racism the AVAN people have been victimized by, but also the ways that trauma responses are internalized, repeated, and passed on within AVAN families and communities.

The people of the GRIC, like many other Native Americans in the US, have continued to socially and psychologically struggle to heal from losing traditional ways of life, homeland, language, traditions, etc. due to intrusions on their culture. Because cultural identity and psychological health are related, healing is thwarted by continued marginalization of their culture and worldview. ADOT, deliberately destroying more culture unnecessarily is discriminatory and irresponsible. It is discriminatory because the act destroys an integral part of the GRIC’s identity while history shows that Native Americans and the people of the GRIC have lost an incredible amount of their culture already. The GRIC in particular have been embattled in a water right dispute for decades. The loss of water has changed its way of life in very significant ways, such as food production, diet, independence, etc. and only just recently is the GRIC’s water rights being restored after having had to struggle for almost a century with severely reduced water flows. Moreover, ADOT’s action is discriminatory because modern psychology shows that cultural identity and environment play a major role in human health, especially for Native Americans who have a unique relationship with their culture and the natural environment.

Not only will a second mountain be destroyed but access to historical, ancestral land will be more limited, less accessible, and will be disturbed by noise, cars, and pollution. The landscape will be more fragmented and urbanized, quality not compatible with sacredness. Modern psychology is not the only message to ADOT: the GRIC’s 2007 Community Council resolution stated that they "strongly oppose[ ] any alteration of the South Mountain Range for any purpose"... and any alteration..."would be a violation of the cultural and religious beliefs of the Gila River Indian Community and would have a negative cumulative effect on the承载ing livelihods of the people of the Gila River Indian Community. ADOT’s decision is irresponsible because the government is sponsoring a program that significantly reduces Native American culture and identity while at the same time knowing the integral relationship the GRIC has with the South Mountains and customizing all the tools to recognize that Title VI of the Civil Rights Act is being violated.

C. ADOT DISCRIMINATED BY NOT CONDUCTING ADEQUATE CONSULTATION TO PREVENT A DISPARATE IMPACT AND BY PROVIDING INAPPROPRIATE NOTICE, ACCESS, AND PUBLIC PARTICIPATION OPPORTUNITIES FOR GRIC AND GRACE TRIBAL MEMBERS

GRIC tribal members are speaking out strongly because GRIC feel that they have not been truly consulted, consulted, and heard. In analyzing ADOT’s procedures and process before and after the release of the DEIS, it is apparent that ADOT did not comply with Title VI’s requirement that no person may be excluded from participation in, denied the benefit of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color, or national origin. It is also apparent that ADOT did not comply with NEPA’s provision to provide for “all Americans safe, healthful, productive, and aesthetically pleasing surroundings,” or to take a “systematic, interdisciplinary approach” to aid in considering environmental and community factors in decision making.

Ignoring the fact that GRIC, as a Native American people with community centered values and a strong sense of responsibility to protect the integrity of the past, present, and future generations, ADOT has embraced MAAG’s interpretation that the South Mountain Range is an absolute necessary component of the MAAG master-plan. MAAG’s subcommittee, the Transportation Policy Council (TPC), plans for and sets aside money for transportation projects in the Maricopa County region and provides the overall plan for all modes of transportation in Maricopa County, in heavily filled with business leaders and corporate executives, who have a bias toward seeing the South Mountain constructed. The GRIC however must make decisions that protect their culturally rich ancestral lands and the health and wellbeing of present and future generations of GRIC. The TPC includes executives from trucking companies (Swift, Knight), shopping mall owners and operators (Macerich), several realty companies, casino architects (The Hillard Companies), and a construction firm that builds freeways (TNF Construction). ADOT, who is captive to MAAG’s belief that the project is necessary, has designed the DEIS so as to cause the impression that the South Mountain Range 202 must be built and no other alternatives are prudent or feasible, disregarding and ignoring the disparate impacts that would result if the South Mountain Range 202 were constructed.

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ADOT has minimally consulted with the GRIC in the scoping and preparing of the DeS both efficiently and effectively. While ADOT indicates that it has conducted 178 meetings with GRIC on its South Mountain Loop 200 proposal between 2001 and 2012, only three, all in 2011, were identified as cultural resource consultation meetings and none were attended by the BIA. Further, these cultural resource consultation meetings were designated as “Meetings Focused on the Proposed On-Community Alignment, 2010–2013 biasing any efforts to satisfy the goals of a cultural resource consultation meeting. The National Park Services’ guidance for federal historic preservation programs states: “consultation means the process of seeking, discussing, and considering the views of others, and, where feasible, making agreement with them on how historic properties should be identified, considered, and managed. Consultation is but one of the exchange of ideas, not simply providing information.” Further, consultation should start early for a proposed project, not 9 years after conducting meetings. And those best equipped to communicate the tribe’s sensitivities to cultural places should be consulted with and not just meet with so as to satisfy what it believes is its Title VI and EJ requirements.

ADOT spent the first 9 years just informing GRIC representatives what its plans were and trying to “coordinate” its agenda and consulting ADOT worked mainly with the Natural Resources Standing Committee (NRSC) and the Transportation Technical Team (TTT). The NRSC is a special committee reporting to the Community Council that reviews all land use actions under its jurisdiction, acts as a key decision-making agent in actions pertaining to land use affects on Community land, and issues right-of-entry permits for non-Community members wishing to conduct a survey or other data collection tasks on Community land.” And the TTT is a special committee established by the Community Council to facilitate informed decision making on transportation requests. These two committees do not participate in consultations, which is something very different from making land use decisions, issuing right-of-entry permits for non-Community members, and facilitating informed decisions on transportation requests. Moreover, ADOT did not conduct the informational scoping meetings itself. The DeS states that in August 2010 while ADOT believed it still could secure an on-reservation alignment, it presented an environmental and engineering overview outlining the freeway and its

...
accordance with Executive Order 12894, on environmental justice, and with Title VI of the Civil Rights Act of 1964 (Title VI), the coordination efforts outlined in this chapter established that reasonable efforts have been made to engage and provide the Community’s population access to the EIS process for the proposed action.

ADOT’s weak coordination efforts and flimsy access to the EIS process however are not enough: Title VI fundamentally requires consultation where exchange of ideas happens to prevent disparate impacts that Title VI prohibits. One-sided informational meetings, which most of the various GRC meetings were between 2001 and 2012 do not give a community the potential to affect the opinions of the decision makers. The meetings to discuss the South Mountain Loop 202 were only for technical, information gathering, and for ADOT to present its intent and not for consultation. For example, while the DEIS acknowledges that the Community Council is “the primary decision-making and legislative body for the Community—consisting of 17 members elected by residents of the Community’s seven districts,” ADOT only coordinated two meetings with them, one in 2001 that only included community council representatives from districts 4, 6, and 7 and another in 2005. It is apparent ADOT was only meeting to satisfy what it allegedly believed its requirements were under Executive Order 12894 and Title VI to coordinate “and engage” the GRC and, moreover, to “ensure full and fair participation,”—and not to truly consult or to consider anything but an on-reservation or a South Mountain Preserve alignment.

Additionally, ADOT’s meetings between 2001 and 2012 with the GRC were not even full and fair. As a potential especially affected group, full and fair means equal opportunity to participate in community and community-specific positions. For example, between 2010 through 2012, none of the 76 meetings focused on the proposed on-reservation alignment were conducted in districts three or five because as chapter 2 GRC Coordination states, they would have been “less affected” by as an on-reservation alignment. This is not true because overall, the reservation is community land and any change of use will affect all tribal members. Further, a re-build is an equally legitimate option that NEPA requires analyzed. However, the meetings between 2001 and 2009 were conducted under the assumption that an alternative on the reservation was obtainable, while the meetings between 2010 and 2012 were conducted under the assumption an on-reservation alignment could be ultimately negotiated: none of the meetings therefore consulted and considered alternatives focusing on the effects and impacts on the GRC for using GRC land or the effects and impacts on the GRC for denominating sacred land. For example, chapter 2 points out and says: “informal meetings have been conducted with District 1 and 2 representatives regarding project status and identification of their concerns regarding the proposed project. These meetings occurred in 2001; both Districts 1 and 2 are outside of the Study Area. Although presentations to Districts 1 and 2 have not been made since 2002, articles regarding the project have appeared in the Gila River Indian News. One GRC tribal member stated “I wasn’t notified about the meetings that they had about this freeway being built. I believe that they should put out flyers to notify people not just only landowners but members of our community that should also be included to this matter that is coming in affect to our

reservation.” See attachment. Another tribal member stated “I don’t know why they can’t hold a meeting in each District to see what the people think. Even though it is for landowners. I feel that it is going to affect the whole reservation.”

GRC’s issues and concerns of the environmental, health, and cultural cumulative impacts on them and the misuse of transportation dollars for unnecessary highway expansion in the name of parochial economic development could not be considered as the decision making process because they were ignored by ADOT’s tunnel vision agenda of obtaining an on-reservation alignment so that they could save the South Mountain and the Ahwatukee Footills.

No evidence suggests that the GRC’s concerns were appropriately considered: why else after the GRC voted for a no-build224 did ADOT end up with only one option alternative that goes through the GRC’s sacred mountain.

The community forum meetings during the 90 day comment period also were not full and fair.

As a nation with an oral tradition centered around community involvement and community consultation, which is very different from a written tradition that is individualistic and easily transferrable by non-community engagement, the use ADOT meeting on the reservation did not allow for formal “public testimony.” Rather, the meeting only allowed participants to report to a court reporter who recorded GRC members’ comments individually. This was similar as the May 21st downtown Phoenix public hearing allowed people to speak with a court reporter, complete a comment form, or give a formal 3-minute comment (public testimony). By the time GRC’s community forum meeting came around June 23rd, the three options offered at the downtown Phoenix public hearing narrowed into only speaking with a court reporter or completing a comment form. Attendees at the GRC community forum meeting were also forbidden to bring signs and banners to communicate and voice their opinions. Three meetings were a great insult to tribal members, especially since they last excluded from the DEIS scoping and preparation of the EIS.

Also, the same video that was played at the beginning of the release of the DEIS and that can be found on the website was played over and over at this meeting instead of providing tribal members the opportunity to address everyone at the meeting.

224 ADOT, South Mountain Study Team, Chapter 2 Gila River Indian Community Coordination at 11.
225 ADOT, South Mountain Study Team, Chapter 2 Gila River Indian Community Coordination at 3.
226 Id. at 3-4.
227 ADOT, South Mountain Study Team, Chapter 4 Affected Environment, Environmental Consequences, and Mitigation at 29.
228 ADOT, South Phoenix 3 (July) Titus, Chapter 2 Gila River Indian Community Coordination at 8.
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"Many Community members voiced disappointment in the forum of the forum, which they added was completely from ADOT's perspective...and...one older.

One GRIC tribal member said "I was unable to attend the ONE and only meeting that I would have been allowed to participate in was held in the Gila River Indian Community was held over fifty miles from my home. I feel that A.D.O.T. violated my civil right by not allowing anyone to speak at the meeting held in the Gila River Indian Community, as well as other meetings held in other communities. I was raised by oral traditions, it was taught to speak out, and I have a right to be heard in a public forum." Another tribal member said "I feel ADOT discriminated against us at the last public forum held in Komatke, AZ. Gila River Indian Community members were not able to voice their public comments. No matter where the meetings are held, all哪里 issues are not addressed and the freeway should be able to speak. No meeting should be one sided for any reason whatsoever." This is very sad.

This did not give tribal members enough notice to plan and prepare to attend the meeting, especially because many GRIC members lack transportation. To make matters worse, transportation was not provided to the GRIC as promised for the downtown Phoenix public hearing. Because of this, minimal GRIC participation at the Phoenix meeting was possible. In attempting to obtain community support for the Phoenix event, GRACE representatives, Lori Riddle, called to speak with ADOT on numerous occasions to ask about transportation assistance. However, no one ever picked up. She had to leave messages and left several until ADOT's answering machine became too full is allow her to leave any more messages. Then, when she then turned to MAG's Senior Engineer Bob Hazel for assistance in resolving this issue, he only shrugged his shoulders at her and said but it was just discovered that the ADOT message machine was designed to take up to 12 or so messages at a time. He said nothing else and did nothing to help. Not until the Phoenix meeting did ADOT then hand out instructions about transportation assistance.

And then when GRACE tried to secure transportation for GRIC tribal members for the on-scene public forum meeting on June 22, 2011, ADOT failed to provide a van to pick up tribal members that many of the GRIC members had counted on attending. At the last minute, ADOT put the responsibility on the GRIC requesting that GRACE representative, Lori Riddle, provide ADOT with a list of those who needed transportation with their contact information and addresses because of the time constraints, this was not possible to provide.

One GRIC tribal member summed up ADOT's performance with the GRIC: "the manner in which ADOT has pursued the Gila River community member's voice and cooperation regarding the Draft Environmental Impact Study and the planning process has been poor to say

the least. There was very little communication between the GRIC and MAG and ADOT. When community members were made aware of public hearings and meetings, it was short notice and not sympathetic to our community members lack of transportation. Furthermore, when ADOT did hold a "Public Forum" in GRIC, members were not to voice their statements verbally as others were able to do at the Phoenix hearing." See attachment.
ADOT is responsible for ensuring its actions and non-actions do not violate Title VI. Building a freeway through and destroying South Mountain disproportionately affects a protected class and may only be done if there is a substantial legitimate justification. Connecting Ahwatukee Fountain Hills to the Loop 202 as the results of major storms and severe weather can come in is not a substantial legitimate justification. Nor is alleviating traffic a substantial legitimate justification without first addressing the alleged problem of congestion and pollution when there are more practical and feasible alternatives as well as comparably effective alternatives with less of a disparate impact to choose from.

A substantial legitimate justification for creating a disparate impact is just not found in the DEIS. To prove "substantial legitimate justification," the recipient of federal funds must show that the challenged action or non-action was "necessary to overcoming a goal that was legitimate, important, and integral to the [recipient's] institutional mission." The justification must be "a meaningful and demonstrable relationship to the challenged policy," and there must not be an alternative that is comparably effective with less of a disparate impact.

ADOT purposely placed in its proposal and project to minimize a no-build alternative appear non-debatable. The DEIS gives reasons for why it appears the proposal is favored and what the project's alleged purposes and needs are. The DEIS states that population growth, boosting demand, economic growth, and the deficiencies in alternative modes of transportation

256 In a stump speech in May 2013, Phoenix City Councilman Michael Nowakowski stated that Lawsens "plans for a hospital, a mall, restaurants, and shops...will all the plans are dependent on the South Mountain freeway being built...and businesses won't come unless there's a possibility that comes from other parts of this Valley could be attracted to the area." (Gilbert Horowitz, Albuquerque Journal News, May 2013) Plagued by 100% of the limited funds available, the project was at risk of being canceled. On July 14, 2013, Denver Adkins, 66th District Member of Congress wrote to the Phoenix-Mesa Metropolitan Area WSS" and said" (voted 107-0). Scotts who provided an essential part of the DEIS's text: "intervenor, the DEIS of the project on the issue of highway properties. The DEIS notes that the project on highways.

257 Section 402 refers to the original section within the U.S. Department of Transportation Act of 1966 which established the requirement for consideration of public and commercial lands and historic sites in transportation projects. The law, now codified in 49 U.S.C. § 303 and 23 U.S.C. § 134, is implemented by the Federal Highway Administration (FHWA) through the regulations 23 CFR 776. Before approving a project that uses Section 402 property (e.g., a public park like Suny-Park, FHWA must meet (i) determine that the purpose of the project is (ii) undertake an Environmental Review. If the Section 402 Review identifies a plausible public alternative that completely avoids Section 402 property, it must be implemented. If there is no feasible project alternative that avoids all Section 402 property, FHWA may not make a determination that the project is unavoidable.

258 FHWA, Section 402 of the Clean Air Act, (2002-02) U.S. Environmental Protection Agency (EPA) (voted 107-0). Scotts who provided an essential part of the DEIS's text: "intervenor, the DEIS of the project on the issue of highway properties. The DEIS notes that the project on highways.

259 In the recent report on this topic, ADOT is not identifying CRIC even as a protected class. It is isolated because of its extraordinary longevity and its impact. The US Census currently identifies the following races: White, Black, African American, American Indian, and Alaska Native, Asian, Native Hawaiian and other Pacific Islander, Race, and Hispanic (see: unvoted 02/03/05). Scotts who provided an essential part of the DEIS's text: "intervenor, the DEIS of the project on the issue of highway properties. The DEIS notes that the project on highways.
The DES analysis of the no-build scenario would result with pollution more with right built and that the US Environmental Protection Agency’s air quality standards could not be met if the project went through. However, building more highway miles will only increase more driving and more pollution. And it would only motivate more urban sprawl that supports further development into the Sonoran desert of cultural significance. However, the Sonoran desert is being reduced at record speed causing the loss of major ecosystems services. 205 For example, the Sonoran desert regulates temperature. “As the Phoenix metropolitan area continues to sprawl, replacing Sonoran desert with more development” the urban heat island will expand from the urban core further into suburban regions. 206 What Arizona’s unchecked urban sprawl is creating is unaccountability. 207 Because the more, it is more unsustainable it is with sustainable transportation. 208 The urban heat island actually affects people of lower socioeconomic status, elderly, and authorities, like Native Americans. 209

Moreover, because of their inaccurate assumptions and relative inexperience, the build versus no-build differences in percentage of trips in the study area, travel time to downtown, and differences in miles of 1-10 with 3-4 hours of congestion do not identify a substantial legitimate justification for the financial cost, pollution consequences, and drastic impact to OGIU, as well as the additional consequence of added congestion on existing roadways for example, to bypass the additional 10 miles the loop would put on the Alhambra Freeway residents on their way to downtown Phoenix. 210 According to the DES, the percent change in traffic on arterial streets would be 5% and the percent change to traffic on freeways would be 2%. 211 Further, the DES estimates 10 saved initiatives for travel time from Laveen to downtown and 6 saved initiatives for Ahwatukee to downtown if the South Mountain Loop was completed. 212 And, the DES estimates that with the South Mountain Loop, there would be 7 less miles of 1-10 with 1-2 hours of congestion in the morning and 12 less hours of congestion in the evening. 213

The substantial legitimate justification argument fails by the fact that E-1 as the preferred alternative for the east side had no other alternatives from which to choose or compare because, as the DES states, GIRC Sobel ADFO from using GIRC reservation land for the South


208 Paul Meat, Transport for Suburbia Beyond the Jovencalas Age Database 2013


210 If you are going to use the new Loop 202 to go to downtown Phoenix, goodluck as you just added another 10 miles to your route. The loop Rides 1-10 (Sun耀To Phoenix) 5.9k Av1 (avg) is 22 miles, and then add another 10 miles to back-track to Continue and you have a total of 23 miles. The inner campus University of Phoenix, postcard Alhambra Freeway (accessed July 11, 2013) http://www.alhambra.com/postcard_alhambra_freeway (accessed July 11, 2013)

Mountain Loop. The DEIS does not make it clear why there were no other alternatives. In putting in the failed attempt with GRIC indicates there was a real assumption by ADOT that GRIC should have permitted the highway through its territory. Because GRIC rejected the request, only one other option was available, and one that would also disparately impact the GRIC. By late 1998, ADOT had spent $24 million on Pocoy Road right of way. And now ADOT says it owns about 85 percent of the land it needs along Pocoy Road. From the facts, having a disparate effect on the GRIC, either by putting the South Mountain in the GRIC's region of influence or through its second moment has never been determined.

Regulations implementing NEPA explain that an EIS "shall briefly state the findings and conclusions to which the agency is responding in preparing the alternative," and the Ninth Circuit has determined that agencies should be afforded considerable discretion in defining the purpose and need of a project. However, this discretion is not without limitations. For example, "an agency cannot define its objectives in unnecessarily narrow terms." And the Ninth Circuit has determined that an agency will be permitted to narrow the objective of its rating artificially and thereby circumvent the requirements that relevant alternatives be considered. Because there is no other alternative, the purpose and need for the proposed project is unreasonable.

ADOT's Long Range Transportation Plan 2010-2035, enumerates several goals and objectives for building transportation systems. They are: improve mobility and accessibility; preserve and maintain the system; support economic growth; link transportation and land use; consider natural, cultural, and environmental resources; enhance safety and security; strengthen partnerships; and promote fiscal stewardship. ADOT's Long Range Transportation Plan is obviously flawed by ignoring natural, cultural, and environmental resources only consideration as

206 After Governor Rhodes of the GRIC wrote a letter dated January 27, 2010 to ADOT's Director John Hallock (voluntarily asking to allow a study of the impacts of an On-Reservation Loop 202 alignment in order to "insist on any negative impacts our culture and land" because "despite our desire for a no-build option, we recognize that Pius is a high-likelihood that the Loop 202 Mesquite will "be built"), Governor Brewer of Arizona requested on January 20, 2010 letter to ADOT, John Hallock, ADOT Governor, Feb. 1, 2010 letter to Governor William B. Rhodes, GRIC.

207 ADOT spokesperson Tim Tice stated during the ADOT outreach in Kin凯’in on June 22, 2013 that "A possible Gila River could move off the table unless the community changes its stance and either takes one of Community Council action. If such a reversal occurs any time before the final record of decision on the freeway is reached in 2014, then an alternative Gila River alignment would be studied. At this point, there is no indication that such a change is coming about with the EIS alternative. That’s the only thing that’s on the table." (Joshua Joyner, GRIC Website, ADOT assumes on proposed 202 as part of ADOT's Kin凯’in outreach, June 26, 2013; 713, 30 7-21-2013.


209 Maryanne, 137 F.3d at 1066.

210 Id.

211 City of Crown Point, Ind. v. United States Dept. of Transp., 516 F.3d 143, 115 (7th Cir.1997).

212 See also City of New York v. United States Dept of Transp., 715 F.3d 722, 743 (2d Cir.2013).

explained before, just considering significant cultural resources will limit federal funding. Further, in light of the goals and objectives, the South Mountain Loop 202 actually weakens partnerships, as the GRIC is a partner in transportation projects: marginalizing partners, not strengthening partnerships. The South Mountain Loop 202 is also contrary to the promotion of fiscal stewardship. The South Mountain Highway will cost twice as much as any other highway that ADOT has built in the past: the $101 and the $205 loops cost about 40 to 60 million per mile. South Mountain would cost about 80 million per mile. The DEIS also fails to even include and therefore estimate the cost of the highly contaminated areas in the path of the proposed South Mountain Loop 202 that would have to be cleaned up for the highway to be put in.

The South Mountain Loop 202 is neither legitimate and integral to ADOT’s mission nor is it necessary. The South Mountain Loop 202 would not be efficient or cost-effective. It would be more efficient to design a transportation mode that will strategically complement the realistic population projections, socioeconomic needs and current transportation modes to reign in urban sprawl and promote smart growth. It is not cost effective because it is going to be twice as much as other highway projects, 30 million of which would just be used to cover going through South Mountain. Having the highway through the ridges will require less maintenance, which will require ongoing costs. Population growth, socioeconomic development and limits to current transportation modes do not bear a manifest demonstrable relationship to going through South Mountain. There are numerous ways to accommodate population growth, create smart growth and invest and improve in present transportation modes and public transportation without going through South Mountain. As PARC and others suggest, there are alternatives that are comparatively effective with less of a disruptive impact. Therefore, there is no substantial legitimate justification for the disruptive impact on the GRIC.

If ADOT wants to fulfill the purpose and need of reducing congestion and traffic at the same time, follow the Arizona Transportation Plan, several alternatives offered by PARC are feasible: (1) Light rail along Pocoy Road but going through a small portion of the GRIC; (2) with permission) rather than cutting through South Mountain; (2) 8-10 lane Loop 202 following Baseline Road from 31st Ave to I-10; (5) 8-10 lane Loop 202 from I-10 near Avondale going along the west side of the Estrella Mountains and then cutting between the Estrella and Maricopa Mountains. Following the southerly boundary of the GRIC to the I-10 north of Casa Grande; (4) 8-10 lane freeway along State Route 85 from I-10 at Buckeye to I-10 at Gila Bend as a "real" truck by-pass; (5) 8-10 lane freeway along State Route 85 from I-10 at Buckeye, cutting between the Estrella and Maricopa Mountains and across to I-10 north of Casa Grande as a "real"
by-pass; (6) 8-10 lane freeway along one of the routes described in 2, 3, or 4, and remember it as the I-10 all "through" traffic would take this route as a default; (7) Remember the I-10 through Phoenix as I-1410 or the like, making it obvious that it is for Phoenix traffic only. Additional alternatives are improve the Broadway Curve by applying good engineering directly to the interchange in that area; build a road to help Lemon traffic reach I-10 West, much as Pecos Road helps Ahwatukee reach I-10 East; and improve SR 85 to a freeway and reroute the truck bypass I-10 to better facilitate and encourage all pass-through traffic to travel around the valley instead of through it.

Further, just by applying smart technology to existing highways, infrastructural projects would look entirely different. For example, traffic planners know solutions to escalating congestion that could be applied in the Phoenix-metropolitan area. For example, simple partial solutions is a toll-free 511 traffic telephone system. Another technology is based on a network of freeway cameras and sensors that would measure and monitor the amount of traffic and predict how long a journey will take; this information could then be fed to mobile devices and the electronic message signs on freeways that tell motorists how long it will take to reach certain intersections. Highway signs could also give alerts of traffic jam miles in advance and advise people to take detours. The signs could also signal lane closures miles before cars approach a bottleneck. Also, some current lanes might be better off converted back into regular lanes.

And, more signs urging slow traffic to stay to the right could also relieve congestion.

VIII. REMEDIES

For all the reasons above, ADOT violated Title VI of the Civil Rights Act by engaging in discrimination based on race, ethnic identification, and nationality.

In order to provide effective remedies for the discrimination set forth in this Complaint, ADOT must:

(1) exclude any route for the proposed freeway that would go near or through the South Mountain or GHR or other sites considered sacred or culturally significant to indigenous people;

(2) adopt an environmental justice policy that will ensure compliance with Title VI for all current and future projects;

(3) and prohibit future federal funding to ADOT if the South Mountain Loop 202 is built.

Submitted by: Lori Riddle
on behalf of the Gila River Alliance for a Clean Environment

P.O. Box 11217
Desert View
520-616-3463
contaminatedizaz@yahoo.com

Please send all communications via mail or email.
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Gila River Alliance for a Clean Environment (GRACE)

EMBARGO UNTIL 7 AM TUESDAY JULY 30, 2013 Contact: Lori Rebel 520-610-3405; Joseph Morris 520-610-4377

GILA RIVER INDIAN COMMUNITY TRIBAL MEMBERS TO SERVE ARIZONA DEPARTMENT OF TRANSPORTATION WITH FEDERAL TITLE VI CIVIL RIGHTS COMPLAINT FOR ADOT’S PROPOSED BLASTING OF SACRED SOUTH MOUNTAIN AND DESCENTION OF SACRED SITES IF SOUTH MOUNTAIN LOOP 202 FREEWAY IS BUILT

PRESS CONFERENCE AND SERVING ADOT WITH CIVIL RIGHTS COMPLAINT: TUESDAY, JULY 30, 2013 8 AM

IN FRONT OF ARIZONA DEPARTMENT OF TRANSPORTATION 206 S. 17TH AVE., PHOENIX, ARIZONA

Phoenix, AZ – Gila River Indian Community tribal members and their community group the Gila River Alliance for a Clean Environment will have a press conference on Tuesday, July 30, 2013 at 8 am to announce that they have filed a federal civil rights complaint under Title VI of the United States Civil Rights Act against the Arizona Department of Transportation. The press conference will take place in front of ADOT, 206 S 17th Ave, Phoenix, Arizona.

Following the press conference, tribal members with the Gila River Alliance for a Clean Environment will serve ADOT with a copy of the civil rights complaint.

The civil rights complaint alleges that ADOT violated the civil rights of Native peoples of the Gila River Indian Community by proposing and promoting the South Mountain Loop 202 Freeway that would negatively and disparately impact Gila River Indian Community tribal members by desecrating their sacred South Mountains and causing disparate health impacts. The complaint is being filed with the United States Department of Transportation, as ADOT is a recipient of funds from the USDOT/Federal Highway Administration and is subject to the non-discrimination provisions of Title VI.

Title VI states that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Tribal members, a protected class of people, were discriminated against because:

- ADOT knowingly and purposely designed the South Mountain Loop 202 through the GRIC’s sacred South Mountain, despite recognizing and acknowledging that the South Mountain Loop 202 would have a serious and major disparate impact on tribal members culturally, spiritually, and religiously.
- ADOT purposely designed a narrow purpose and need for the DES based on inaccurate and false estimates of population projections and used of the South Mountain Loop 202 Freeway, narrow assumptions of potential alternative transportation mechanisms, and ignored the environmental and sociological consequences of creating more freeway rather than moving toward smart growth, eliminating any alternative that would not have a disparate and a negative cumulative effect on the Gila River Indian Community and its people.
- ADOT failed to analyze the South Mountain Loop 202’s disparate health, environmental, and economic impacts on the tribe and tribal members who already experience higher rates of diabetes and asthma that would be exacerbated if the South Mountain Loop 202 were constructed.
- ADOT provided inadequate consultation and informed consent, access, notice, and meaningful participation in the Draft Environmental Impact Statement scoping and planning to the Gila River Indian Community tribal members.

The civil rights complaint requests that the federal government cease all further funding to ADOT if the South Mountain Loop 202 project is built due to the devastating cultural, spiritual and health impacts on tribal members that would unacceptably and illegally violate civil rights of tribal members.

In addition, the Gila River Alliance for a Clean Environment will be filing international complaints with UN Special Rapporteurs on human rights and fundamental freedoms of Indigenous peoples, cultural rights, and freedom of religion.

Cultural Resource Management Program
Cultural Resources Specialist Office
Post Office Box 3160
Sacaton, Az 85247
(520) 962-2070
Fax: (520) 962-1975

MEMORANDUM

TO: Jennifer Ghil, GRC General Counsel
FROM: Barbel G. Lewis, CRM/Cultural Resource Specialist
DATE: March 26, 2007

SUBJECT: RESOLUTION DESIGNATING THE SOUTH MOUNTAIN RANGE (Mii-łih-l-age) AS A SACRED SITE AND TRADITIONAL CULTURAL PROPERTY OF THE GILA RIVER INDIAN COMMUNITY.

Attached is a draft resolution designating the South Mountain Range as a sacred place and traditional cultural property for your review. We wish to present this resolution before GRC’s Cultural Resource Stewardship Committee at the next regular meeting on Tuesday, March 27, 2007. Thank you for your attention in this review. Please call me at 562-0713 or Assistant Cultural Resource Specialist, Angela D. Ostrom-Levis at 562-0473 if you have any questions.
RESOLUTION NO. GR-41-87
A RESOLUTION DESIGNATING THE SOUTH MOUNTAIN RANGE (Mikahday, Akimel O’odham) AS A SACRED PLACE AND TRADITIONAL CULTURAL PROPERTY OF THE GILA RIVER INDIAN COMMUNITY.

WHEREAS, the Gila River Indian Community Council (“the Community Council”) is the governing body of the Gila River Indian Community (“the Community”); and

WHEREAS, the Community Council on January 6, 1982, did adopt Ordinance No. GR-01-82 under Title XV of the Gila River Indian Community Law and Order Code in which “[a]t the request of the Akimel O’odham (Pima) and the Pee Posh (Maricopa) people and the interest of all other persons living within the jurisdiction of the Gila River Indian Community request that the Community adopt a motion whereby all sites, location, structures, and objects of sacred, historical, or scientific interest or nature will be protected from devastation, destruction, desecration, and other interference;”, and

WHEREAS, the Community Council through Resolution GR-15-89 did approve the Policy Statement of the Four Southern Tribes (Gila River Pima-Maricopa Indian Community, Ak-Chin Indian Community, Tohono O’odham Nation, and the Gila River Indian Community) which outlines the Four Tribes intent to protect, preserve, and preserve cultural affinity to the Hohokam; and

WHEREAS, the Community Council has always held the preservation of historical, archaeological, cultural, religious sites as a high priority and recognizes the need to protect the cultural heritages of the Akimel O’odham (Pima) and the Pee Posh (Maricopa); and

WHEREAS, the identification and authentication of sacred places / traditional cultural properties is the sole responsibility of the federally recognized tribes according to its unique culture; and

WHEREAS, the Community does recognize certain locations to be sacred places / traditional cultural properties based on the unique cultural and spiritual beliefs of the Akimel O’odham (Pima) and the Pee Posh (Maricopa); and

GILA RIVER INDIAN COMMUNITY
RESOLUTION NO. GR-41-87
PAGE 1 OF 1

WHEREAS, all, but not limited to, of the places referenced in the oral traditions of the Akimel O’odham (Pima) and the Pee Posh (Maricopa) are culturally and spiritually significant to the continuing life ways of the Akimel O’odham (Pima) and the Pee Posh (Maricopa); and

WHEREAS, the Akimel O’odham (Pima) and the Pee Posh (Maricopa) are culturally and spiritually significant to the continuing life ways of both the Akimel O’odham (Pima) and the Pee Posh (Maricopa); and

NOW THEREFORE BE IT RESOLVED, that the Community Council hereby does acknowledge and recognizes that the South Mountain Range in its entirety is a sacred place / traditional cultural property and must be kept inviolate.

BE IT FURTHER RESOLVED, that the Community Council hereby strongly opposes any alteration of the South Mountain Range for any purpose would be a violation of the cultural and religious beliefs of the Gila River Indian Community and would have a negative cumulative effect on the continuing lifeways of the people of the Gila River Indian Community.

BE IT FINALLY RESOLVED, that the Governor, or in his absence, the Lieutenant Governor, is hereby authorized to sign and execute such documents as are necessary to effectuate the resolution.

CERTIFICATION
Pursuant to authority contained in Article XV, Section 1, (a) (b), (c), (d), and Section 4 of the amended Constitution and Bylaws of the Gila River Indian Community, ratified by the Tribe January 22, 1980, and approved by the Secretary of the Interior on March 17, 1980, the foregoing Resolution was adopted on the 27th of April, 2007 at a Regular Community Council Meeting held in Denon 3, Session, Arizona at which a quorum of 20 members were present by a vote of: 20 In Favor; 0 Against; 0 Abstain; 2 Vacancies.

GILA RIVER INDIAN COMMUNITY

GOVERNOR

ATTACH:

AUTHORITY COUNCIL SECRETARY
RESOLUTION OPPOSING THE USE OF 51ST AVENUE FOR THE PROPOSED TRUCK BYPASS ROUTE AND ANY FUTURE BYPASS PLANS FOR THE PROPOSED SOUTH MOUNTAIN PARKWAY THROUGH THE DISTRICT SIX COMMUNITY OF THE GILA RIVER INDIAN COMMUNITY

WHEREAS, the Maricopa County Department of Transportation (the “MDOT”) compiled a 51st Avenue Corridor Study Report indicating that projected traffic volumes of 7,000 vehicles per day on 51st Avenue in 1997 with volumes projected to increase to 23,000 vehicles per day by the year 2020;

WHEREAS, MDOT has prepared a truck bypass route that would relieve traffic and reduce noise and future congestion on 51st Avenue in Livermore;

WHEREAS, the City of Phoenix completed a South Mountain Parkway Study Plan in 1999 to address the limited access to the west valley from Interstate 10 east;

WHEREAS, the Maricopa Association of Governments (the “MAG”) has formed a South Mountain Parkway Stakeholders group to develop a recommendation for the alignment of the proposed South Mountain Parkway;

WHEREAS, the Arizona Department of Transportation (the “ADOT”), MDOT, City of Phoenix, and MAG plan an expanding Peters Road west around South Mountain with an option of crossing across lands of the Gila River Indian Community (the “Community”);

WHEREAS, the District Six Community has experienced the negative impact of increasing traffic through the residential area along 51st Avenue, south of the Community’s eastern boundary;

WHEREAS, 51st Avenue is essential to the Community because it serves as the principal arterial from Riggs Road-Bell Road road and is a significant east-west travel route to the western portion of the Community;

WHEREAS, 51st Avenue is essential to the Community because it serves as the principal arterial from Riggs Road-Bell Road and is a significant east-west travel route to the western portion of the Community;

WHEREAS, the District Six Community is concerned with the safety and welfare of its members, as well as other members of the Community who utilize this roadway, due to excessively speeding vehicles on 51st Avenue, which has several bus services, churches, a health clinic, a school, a day care and Gila Club, and a convenience store within its area;

NOW, THEREFORE, BE IT RESOLVED, that the Community Council strongly opposes the development plans by ADOT, MDOT, and MAG for the truck bypass route or any future bypass plans for the proposed South Mountain Parkway across Community lands;

BE IT FURTHER RESOLVED, that the Governor, or in the Governor’s absence the Lieutenant Governor, is hereby authorized to take such action as is necessary to enforce the intent of this Resolution.

CERTIFICATION

Passed by the Council on January 23, 1995, the foregoing Resolution was adopted by the 25th Council of the Gilar River Indian Community, in a Regular Council Meeting held in the Council Chambers, at which a quorum of 8 Councilors were present by a vote of 25.

ATTACH

COMMUNITY COUNCIL SECRETARY

GOVERNOR
Appendix C • C25

Elderly Concerns Group
Motion Sheet

Date: June 12, 2013

Mr. Sharon Gonzales, District Seven Elder, made a motion that we no elders oppose
the Free Way project and to keep them from destroying South Mountain.

The motion was seconded by Mr. Fred Rogers, District Three Elder.

Motion approved on this 22nd day of June, 2013, by a majority vote.

Of hands from the group.

[Signature]
Secretary's Signature

[Signature]
Chairperson's Signature

July 2, 2013

I, Winnena Cahua, am a community member of the Gila River Indian Reservation. My connection
with the South Mountain is that it is a sacred mountain to our people. Also, it was most sacred to
our ancestors.

There are many things that the mountain was used for such as ceremonies, there are stories about
how it was used by my elders, and there are plants that grow on this mountain that we use today for
healing, eating, and blessings.

I wasn’t notified about the meetings that they had about this freeway being built. I believe that
they should have met with more people not just only landowners but members of our community
that should also be included in this course that is coming to affect us all in our community.

Also, they should provide transportation for the districts or have meetings at each of the
service centers. Some of the community members don’t have transportation to the meetings,
which were located at.

Our land and mountain is important to me than this freeway. As I look towards the district 6 area,
I can see a slight cloud of pollution. If we have this freeway there will be a huge cloud of
pollution that will cover our land. It will affect our people’s health like asthmatics, kids with
defects, asthmatics may be born with birth defects, and heart disease. I am concerned about our future
generations’ health and what they would have to live with if a freeway is built. We need to look
forward and think of our future before considering anything, because I remember when I was
younger my grandmother would always say, “This is your land and never let a white person take
it from you.” Well, she said it to me is Pima, I understand what she was saying after she
explained it to me.

Thank you,

Winnena Cahua
P.O. Box 1021
Sacaton, AZ 85147
(520) 564-1320
mr2joephsia0913@msn.com
My name is Renee Jackson and I am a member of the Aklal O’odham (also known as the Gila River Indian Community. I am writing this statement for two reasons: 1) to give a supportive statement regarding the cultural significance of Muhudag (South Mountain) and 2) to state my concerns regarding the Arizona Department of Transportation’s lack of cooperation and planning with the people of GRIC.

As an Aklal O’odham woman, I regard Muhudag (South Mountain) as a place of spiritual significance to the O’odham tribes. The mountain is central to the O’odham creation story and continues to be a place to hold ceremonies by and for the O’odham people. The mountain is also sacred to us because of the plant life we use for medicinal and ceremonial purposes and also because of the wildlife we hunt to nourish ourselves. The construction of this freeway would greatly harm the wellbeing of the mountain and therefore will bring harm to the O’odham.

The manner in which ADOT has pursued the GRIC community member’s voice and cooperation regarding the Draft Environmental Impact Study and the planning process has been poor to say the least. There was very little communication between the GRIC and ADOT. When community members were then made aware of public hearings and meetings, it was short notice and not sympathetic to our community members lack of transportation. Furthermore, when ADOT did hold a “Public Forum” in GRIC, members were not to voice their statements verbally as others were able to do at the Phoenix hearing.

Most importantly, I feel that the possible construction of this freeway through our sacred Muhudag is a direct violation to my civil and religious rights as an Indigenous person.

Also, as an advocate for my children, I wish to state my opposition to the Loop 202 expansion, also the South Mountain Freeway as I see it as a threat to their religious freedoms being that Muhudag is considered our most valued place of worship and must be protected for our future generations.

Renee Jackson
P.O. Box 10704
Rayville, AZ 85131
rjackson11@gmail.com
(520)233-1634
My name is Peggy McIlhango. I am 66 yrs old and elementary school teacher and a native of the Gils River Indian Community. I am writing this statement to express my opposition and concern about A.D.O.T.'s proposed South Mountain Loop 202 Freeway.

I had a very close connection to South Mountain. In my boyzone I left my hometown of Ajo, Arizona to attend Arizona State University. As a young woman far from home, it was difficult to adjust to life in the city, but going to South Mountain-hills with this connection. According to our oral history South Mountain is a sacred mountain to our people. Akimel O'odham legends and stories talk about South Mountain being the home of the deity for our tribe. There are also stories about ghosts and parrots from our ancestors the Hohokam homeland on South mountains. As a young mother raising a child, and to this day, I remember my gods and goddesses. In the Native American tradition, women are made from the earth. My daughter and young children will be hurt because of this freeway. I am an elder with Valley Fever; this freeway will definitely affect my healing. This is the major reason why I don’t travel to the Phoenix metro area. It is difficult for me to breathe from all pollution in the air, and I don’t want this pollution in my community.

Another issue I wish to address in the way A.D.O.T. conducted the meetings for the public. I was asked to attend the only meeting that I would have been allowed to speak at publicly. As stated before, I don’t travel to the Phoenix metro area due to the distance, pollution, and the fact that I am an elder; this is in the秒钟, which needs assistance to get around. Attending this meeting was impossible for me and the ONX meeting held in the Gils River Indian Community was held over fifty miles from my home. I felt that A.D.O.T. violated my civil rights by not allowing anyone to speak at the meeting held in the Gils River Indian Community, as well as other meetings held in other communities. This was raised by oral traditions. I was taught to speak out, and I have a right to be heard in a public forum.

I believe this is not the first time that the proposed Loop 202 South Mountain Freeway is wrong. The destruction of the South Mountain is not only a violation of our traditional land, heritage, but disrespectful to our O’odham Elders. Enough has been taken away from us already, why must we sacrifice more.

Peggy McIlhango
Thursday, 7-2-2013
G.B.O. 14075
P.O. Box 1089
Sahuarita, Arizona 85628

My name is Joseph McIlhango. I am a member of the Gils River Indian Community. I am writing this document to address my opposition to the South Mountain Loop 202 Freeway. As chair of the Gils River Indian Community. As a chair member of G.R.I.C. (Gila River Indian Community) I have followed this issue for many years. During this time I have noticed the misleading activity and lack of respect that A.D.O.T. (Arizona Department of Transportation) has shown to the people of the Gils River Indian Community. Far well over two decades our community has repeatedly rejected the idea of a freeway passing through our community, because of our cultural, religious, environmental and the current and potential health effects to our community. In spite of our concerns and objections A.D.O.T., M.A.G. (Metropolitan Association of Governments) Maricope County, and the Maricope Regional Transportation Team still insist on building the South Mountain Loop 202 Freeway by blinding away a piece of our sacred mountain.

South Mountain is a sacred place of cultural significance to the people of Gils River. Oral history and legends state that South Mountain is the home of “El Dorado” (the lost city) of the Akimel O’odham Tribe (Gila River Indian Community Tribe). South Mountain was once inhabited by our ancestors the Hohokam. The Hohokam has been acknowledged by archeologist, anthropologist and historians to be one of the first inhabitants of this region. South Mountain is also a place of worship, sacred ceremonies are performed, prayer and blessings are given and directions are built to honor it and our ancestors. Other activities such as the Journeying of the 14-pilgrimage occur at different times of the year. Because of the sanctity of South Mountain, any destruction would be detrimental to the spiritual well-being of the people of the Gils River Indian Community.

Another major concern about this proposed freeway project is the health effects on the people of the Gils River Indian Community due to air quality. According to the 2001 Joint Air Toxics Assessment Program (JATAP) Gils River has a high level of Particulate Matter (PM) and Volatile Organic Compounds (VOCs) in the air above the community. If the proposed South Mountain Loop 202 Freeway is completed the air quality over the Gils River Indian Community would surely change for the worse. The U.S.E.P.A. (United States Environmental Protection Agency) “Green Book” states that Maricopa County has some air pollutants in Particulate Matter (PM) 10 since 1992. PM-10 is inhalable coarse particles that consist of a complex mixture of extremely small particles and liquid droplets made-up several components such as organic chemicals, metals, and soil or dust particles, which can cause an increase of heart and lung disease.

Short term exposure to PM-10 can increase susceptibility to respiratory infections, aggravated lung disease, acute bronchitis and an increase of allergies attacks. Long term exposure to PM-10 have been associated with reduced lung function, chronic bronchitis, premature death, low birth weight in infants, premature delivery, and possible fetal and infant death. Infants are not the only care at risk to these types of pollutants. Older adults, the elderly, children, native- elders, and people with lung and heart disease, recent studies have shown that people who work on these issues are more at risk when exposed to particulate matter (PM-10).
The Gila River Indian Community is not the only community to raise concerns over this proposed freeway project. The citizens of Ahwatukee (Phoenix) raised some of the same concerns about the South Mountain Loop 202 Freeway. As stated before I was a member of G.R.I.C.C. and I am also a member of P.A.R.C. (Phoenix Aztec’s Resources & Children) to protect South Mountain. One of P.A.R.C.’s major concerns is the potential for a hazardous material incident if an accident occurred on this proposed freeway project. According to the maps in the U.S.I.S. and A.D.O.T.’s video presentation, the South Mountain Loop 202 Freeway would be within a mile of several schools, homes, and businesses that would have to be evacuated in such an incident were to occur. With too few exits and no effective emergency management plan the possibility for serious injury, long term illnesses or loss of life is extremely high.

The next issue I wish to address is the reason to which A.D.O.T. has documented information concerning the South Mountain Loop 202 Freeway to the people of the Gila River Indian Community. The D.E.I.S. states that A.D.O.T. attended 18 meetings with the Gila River Indian Community. If this is true why did A.D.O.T. only attend a couple meetings with tribal council to over a decade? Who did A.D.O.T. meet with from the Gila River Indian Community? Why did A.D.O.T. fail to properly notify community members of public meetings, and why didn’t A.D.O.T. acknowledge the cultural and religious significant of South Mountain to the Akimel O’odham people but dismiss these facts by insisting on moving forward with the construction of the South Mountain Loop 202 Freeway?

An addition to the previous mentioned issues I would like to address A.D.O.T.’s handling of the D.E.I.S. I that that A.D.O.T. mishandled and misinformed the people of the Gila River Indian Community. The D.E.I.S. was released on April 25, 2013. On April 30, 2013 A.D.O.T., M.A.O. the TTT (Transportation Technical Team), Gila River Indian Community Executive Office, G.R.I.C. Law Office, G.R.I.C.E., G.R.E.Y. (Gila River Environmental Youth) with the other grassroots and private corporation organizations met to discuss how community members would be able to comment on the D.E.I.S. Among the issues discussed was transportation to the public comment meeting in Downtown Phoenix, consolidation of a meeting(s) in Gila River, issues with submitting comments online, and notification to community member about important meetings, dates and other relevant information concerning the D.E.I.S. comment period.

At this meeting, A.D.O.T. agreed to hold one or more public meeting(s) in Gila River to accept comments on the D.E.I.S. A.D.O.T. stated at this meeting but they would also provide live feed from the Downtown Phoenix public comment hearing. What A.D.O.T. failed to do was provide proper and concise information. A.D.O.T. never told community members that they would not be able to speak at the meeting in Gila River. A.D.O.T. also failed to provide adequate notice of this meeting. Although notice was posted in the Gila River Indian Newspaper, this notice appeared in the paper only once on the days prior to the meeting scheduled in Gila River.

In closing I would like to state for the record that A.D.O.T. has not acted in good faith concerning the South Mountain Loop 202 Freeway project as it pertains to the needs of the Gila River Indian Community. In fact A.D.O.T. has violated the Civil Rights of the Gila River Indian Community by acknowledging the significant and sacredness of South Mountain, but dismissing these facts with plans to build through portions of South Mountain. In effect A.D.O.T. has discriminated against the Gila River Indian Community by preventing tribal members from participating in the comment process. The failure of notification of meetings held within the Gila River Indian Community, not allowing tribal members to make verbal public comments at the only public forum held within the Gila River Indian Community, and failure to provide the best service promised to the Gila River Tribal leadership for community members to attend the only meeting that public verbal comments were accepted. A.D.O.T. has violated the Civil Rights of the residents of the Gila River Indian Community and should not be able to receive federal funding for the South Mountain Loop 202 Freeway project.

Joseph C. Montano 7/22/2013
O.R.D. # 12192
P.O. Box 1289
Sedona, Arizona 85147
(520) 563-3880

Reprint of 2013-07-22 op-ed
Appendix C

My name is Laura M. Thomas. I am an enrolled member of the Gila River Indian Community. I am also a member of G.R.A.C.E. - Gila River Alliance for a Clean Environment. I am the founder of G.R.E.Y. - Gila River Environmental Youth. I am also a member of F.A.R.C. - Protecting Arizona’s Resources and Children.

When I was younger I recall being taught about our people’s heritage. Hearing the stories and being told about things that occurred many years ago in our culture. I remember being taught by my aunts that we come from South Mountain. Battles were fought, families settled, it was always considered to be home to our people.

In regards to this issue, I had been under the impression that the people of Gila River Indian Community had passed a vote for no build on the loop 202. This issue continues to be pushed upon our community after it has been said by the people we do not want this. The efforts put forth by A.D.O.T. (Arizona Department of Transportation) in the case of the freeway are a burden upon the people of the community. Each meeting they hold to try and convince community members to be in favor of the freeway is reaching a level of harassment. People have to take time out of their day in order to be able to attend meetings after it has been clearly said “we as a people do not want it”.

My people have been affected by chemical exposure. There are also many questions about health concerns that may arise because of the projected freeway. Air pollution, destruction of our sacred mountain, negative effects on the environment and the discrimination against our religious and cultural beliefs is why I am against the proposed South Mountain Loop 202 Freeway.

Laura Thomas
P.O. Box #11217
Schofield, Az. 85621
480/532-5331
lthomas105r@earthlink.net

Pauletta Monago
Gila River Indian Community

South Mountain is important to me because it’s part of our heritage. There are many teachings that go with that mountain. Stories and songs that our future generations to carry on. To take the South Mountain away is a great impact to the Gila River Indian Community. It would be losing a part of us even more.

I am the 7th generation from the boarding school era. Because of that era that happened to our grandparents. Some of the stories and songs will be lost forever. Our community on O’odham people on Gila River Indian Community need to save what is left of our lands. We can do it by putting a freeway through it. Learn to honor and take care of our lands.

He making change this drastic is beyond the environmental issues, and the budget that it will take to put this freeway there.

It’s spiritually connected to all walks of life. A way to stay in balance for society to be whole as best as it can be. Nobody takes time to listen or learn to why certain places should be left untouched. More days the concrete human being lives in that pace. Just think of the present time. A long time ago we knew how to think of the long term impact of ways of life.

Lift there is no fast fix. This freeway is travel as stated at previous meetings. A 20-minute interval to get to place A to place B doesn’t eliminate anything. A fast fix to life creates more problems you end up with a bigger mess than what you started with. I am against putting in a freeway through or by South Mountain. It’s a disruption to nature’s way of life.

I feel A.D.O.T. discriminated against us at the last public forum held in Quarles, Az. Gila River Indian Community members were not able to voice their public comments. No matter where the meetings are held. All parties whether you are against or for the freeway should be able to speak. No meeting should be one sided for any reason what so ever. That is very unfair. Again this is a fast fix to eliminate process that everyone should abide by. Good, bad, and indifferent. Every comment counts. No one comment should be left unheard or unused.

Pauletta Monago
P.O. Box 893
Schofield, AZ 85147
(480) 508-0869
C30 • Appendix C

July 24, 2013

Hella, my name is Lea Kajiali. I am a daughter of the Hoopa Kwa nation and a daughter of Aminie Audie, the last chief of my people. I am an enrolled member of the Gila River Indian Community. I was born here; I was raised here, I live here most of my life and will probably die here. In my lifetime, I’ve lived here in my territorial land and my confined reservation land, both in traditional manner and with modern conveniences. I was taught as a young girl how to gather, harvest and acquire foods and medicine for personal use. However I’m not a medicine person, a traditionalist or anything like that. I’m just a modern day O’odham woman who lives in 2 worlds and can balance both worlds. I pass this knowledge to my future generations. I am the co-founder, director and a member of GRACE (Gila River Alliance for a Clean Environment) a grassroots organization that has been, for more than a decade operating to protect my community from hazards of all types around the community. In addition, GRACE has been educating the community about health matters surrounding these issues. I also sponsor a youth group GLEY (Gila River Environmental Youth) who also do the same thing GRACE does but geared toward youths in the community. I am also a member of various other groups and organizations, but to mention have had or currently hold seats on various committees, boards and commissions throughout the community. Finally, I am also a member of PARC (Protecting Arizona’s Resources and Children).

Sometimes after the turn of the century events happened that set in motion my part of the equation. While being raised on the reservation I found myself living on a toxic superfund site. This began my environmental experiences. I became knowledgeable of toxic substances, bio-accumulation, persistent organic pollutants, half-life and many other terms that kids such as myself shouldn’t have to learn. As I distributed information to my grandparents I began to find myself unknowingly being educated in the procedures used for assessing and cleanup processes. I was present for the original remediation of my family’s land and then again 20 years later when a blue-ribbon panel was needed.

With this knowledge and background I found locally. Multiple issues in my community, one of these was the proposed South Mountain Loop 202. Taking a closer look I began to see the difficulties in this project and noticed that there was virtually no public participation. Consultation seemed minimal at best, if any? I began to look at the data for the exhaustive analyses and persistence of these substances. Ultimately, as any other project I looked at how these substances would impact Health and Human Life. As a family we’ve been through the fire once, we’ve became quite aware of symptoms as a result of toxic exposure. In Mr. Meara’s next to the claim in reference to some of the knowledge related to exposures. Back in the day of our exposure there wasn’t enough information available.

My concern about the Diocletian forms, the Particular matter below 2.5 and 10 microns, Carbon monoxide and the multitude of other substances that would continually be present in our community is immense. There is more concern because of the impact of the natural makeup of our community. The heaviest impacted areas would be the populated villages located directly between two natural barriers, the South Mountain and the Papagoa Mountain range. These barriers would most definitely keep these toxic substances in my community.

Currently, we live in a society that is full of toxic substances that most Americans and people from all around the world picture when thinking of the well-known Sonora desert. As a privileged individual, I’ve lived at the western edge of the South Mountain and seen many beautiful vantage points to the desert and the people based on those gorgeous sunsets. In addition, while working for my community I have gained knowledge of recycling, waste yields and waste cases to be strongly impacted.

My people would be cut off from interactions with the mountain, as a third party member of this information I have found that the engineers and universities have mentioned animal crossings that would be put in place but no mention of human crossings that would be needed to go play and have recreation and access. Not to mention the interaction of wildlife from the vehicle. During prayer, it’s important to be in a peaceful quiet area. I told my daughter to complete researches; she found that it takes multiple generations for animal line forms their “new” crossings. During that learning time we lose numerous animals because of destruction of current natural barriers. I have to mention about the zoo in the area on the reservation the coal grows more abundantly around and on mountain areas, not so much in the flat lands anymore. So naturally as we lose our commercial harvesting activities, there is greater need to gather the fruit in mountain areas. Lastly, we are proud O’odham as many other peoples acknowledge the spiritual properties associated with mountain. It is in our O’odham way’s memory as many of my O’odham ancestors that I recall her making jellies and other delicious dishes for the Alto personal and financial sustainability, yet another reason to have direct accessibility to the mountains.

There is an enormous concern about Hazardous historical crossing through our community. If this were to become the “bus” route, it must surely it will be the homefront material route. Since I sit on the CTEC (Chemical Tribal EmergencyResponse) Committee, I have not seen what the infrastructure obligations for this freeway. I also have not seen proposed policy to address what will happen in case of a hazardous incident to occur on this proposed freeway. Currently, we as a community do not own our share of hazardous incidents/situations on the freeway by way of the 1-10 (Surround 10) freeway. Even though, when we look at protected incidents or other freeway, it will be upkeep and renewable as we have differences in the already established freeway (1-10) and the proposed freeway (1-201).

There were very few meetings, very little public participation. The very few that were extended were days after the IDES was released which was April 25th, 2013. The meeting was on April 30th, 2013 at Japan in CRDC at the Governance Center. Present were the TTT, Governor, and the Governor (who is Chair of the TTT), various tribal departments, a rep from ADOT (who I’m not sure), a rep from MCD, Senior Engineer Rick Hardt as well as a few of the grassroots organizations. Represented were at least organizations from
July 24, 2013

5 groups. During this meeting we were given 3 copies of the DEIS to divide among ourselves. A few days prior, a community member attempted to call in order to obtain a copy of the DEIS, she was told in order to get a hard copy she would have to pay 50.00 dollars. During the April 30th meeting they also advised us about the 50.00 dollar charge for hard copies. At this meeting they also told us that few bus services would be provided to the May 21st DEIS public comment hearing in Phoenix at the Phoenix Convention Center. Details about how the first bus ride to the hearing staying community members could catch the bus in two locations and even take the light rail, but no other details regarding the bus service were given. They also went through the scenario of what to expect at the hearing, how it would be set up, etc. At the beginning of the meeting the general rules set as outlined by TTT's David White and Stephen Levea both individuals head of the TTT. We were not allowed to speak about anything else but what the process was going to be, at this point there wasn’t any mention that the Phoenix hearing would have some differences than the community forum. It was at this meeting where GRIC Li Gov had to officially request that a meeting (or two) be held in GRIC for community members who couldn’t make the public hearing. At this meeting the handed out “First sheet” and “How to participate” were distributed. That's all I can recall,

A few times I attempted to call the number provided on the handouts, which also had a recording saying they couldn’t receive any more messages, the box was full, or something to that effect. I had also heard similar accounts from other women who were attempting to call the number. On the Thursday before the hearing I started to get worried because there was no further mention of first transportation besides what was relayed to us during the April 30th meeting. I called the number provided and was able to have an opportunity to hear a voice message in which I said something to the effect of: Hello my name is Luis Badillo from the Gila River Indian Community and I’m trying to get some further information on bus service, passes or vouchers for my community members. When will this work? Would someone give me a call on my cell 520-610-3405, thank you?

No Response!!!!!!!

So on the day of the Phoenix hearing May 21st, 2011 I lingered several hours. I only reached Mr. Bob Harrell from MAG, I approached Mr. Harrell and asked him, “So who’s in charge here?” He chuckled but didn’t answer, I told him, “I was told because I have some concerns.” I told him there’s a problem with the number that is always full and we can’t leave anymore new messages, his response, “Yes, we just found out today that it only holds so many messages (I think the number he gave me was 137)”. So I told him maybe they need to update that a few times a day? The other thing I mentioned was that I had left a message on the number and nobody had left the week prior. After that I said, “So how was this supposed to work? Because we could have gotten more tribal members present”. He shrugged his shoulders and said, “Well it’s too late now.” Also on the day of the Phoenix hearing the participants received the small booklet “SMTN Meeting Guide”. This was the first time we as community members

had seen this. The guide did not say the community forums were going to be held at a different format. It also listed only 1 GRIC forum and listed it as tentative. The meeting in GRIC was short notice (less than a day) to the community literally days before the event. Before this event at least three weeks prior one community organizer emailed a request urging GRIC to provide transport to community members to the meeting. There is a lack of community members without vehicles. No response. Lastly a few days before organizers and community voiced their concerns over the inability to voice, in open forum, their concerns at this meeting it was this time we saw the GRIC forum flyers for the first time. We additionally asked again if transport would be provided, they finally said yes, but we organizers had to provide a list of community members who needed transport. This was not expected, it was too short of notice to gather all that information. The day of the GRIC forum was community members dismantled the lack of ability to openly voice their concerns. The video was taped, as posted on ADOT’s website, throughout the day.

Previously, While the TTT was going through the community with their presentation about the proposed loop 202 that I specifically TTT’s David White in two district meetings that I had attended one in district six and the other in district four. There were concerns about ADOT not coming to present the information themselves. The one elder in district six asked who they were working for? He (the elder) asked that he felt like the TTT should not have been presenting this information but ADOT should have been the one bringing this information to the community. That same concerns was expressed at the district four meeting it was raised by an elder was him (although not as confrontational as the one in district six).

In closing, I’m tired of fighting this monster of a freeway being pushed into our community. I’m tired of reading blogs, comments to news articles and8 diverse forms of people with a “Bullying” attitude, telling my people what “You (Indian) need to do”. Even articles written about the American Indian Community and how they should do this or that. I’ve seen that this freeway has successfully brought out the racial war effort. It’s brutally unfair debates, arguments and full blown fights! This needs to stop and other we need to work on determination of climate transportation, safe technologies for a better cleaner, greener future for all our children.

Josie Ann Riddle, GR-ACE GR-811, 138
P.O. Box 1227
Phoenix, Arizona 85012
Cell # 520-610-3405
E-mail: commenting@fierce@ymail.com
Hi my name is Stephanie James and I'm at Tule River now. I lived here all my life and I've been hearing about until now going on with the Tule Mountain. If I had the transportation I'd be there at all hearings, and I've been trying to get my eyes one in Orgeu. But most of all is I have nothing going on I don't like them trying to destroy the Tule Mountain. Because it's been here for countless years and I really don't think they need to tear that down because it's part of the family and as I can recall I've been here with my family just to see the whole view of California and the Tule River and it's a beautiful thing that I know most of the people who lived being up there and having family and all the scenery there herself. So I pray that the Mountain will stay there if we can have this. Would they why? Can't the Mountain stay and as I use to live on Tule. We able to have live right across from the Mountain on $1 family line and as I use to wake every morning going to school I would see the sun rising from there and I knew most of people the land.
Appendix C

7-28-78

Mary, the tribe's official historian, shared her valuable insights on the significance of the traditional canoe trip to the South Mountain area. Mary, who is deeply committed to preserving the tribe's cultural heritage, has been instrumental in documenting and sharing the stories of our ancestors. Her passion and dedication are truly inspiring.

Sincerely,
Mary

P.S. It's been a pleasure working with you on this project.
and around the freeway...

We had that ADO it didn't ask in proper manners what we as a community would like done or not done... with our sacred place of gathering...

Thank You,
Mike Johns
Gila River Indian Community Member
629-1908-418-1469
mjohns@la6.640.com

7-3-13

Hello my name is Beonka Thomas and I am from the Gila River Community. I am writing this letter because I feel like I didn't get proper notification about meetings. I feel these are important meetings to be part of. Are people feel that the mountain is a sacred place and we should respect it. I have a small child and I don't want him to sick from the pollution. I feel that the freeway would be taken something, away from our people and ancestors.

Beonka Thomas
3071206
247
(512) 616-0247

Do Box 1096
Bakraulie Arizona
= E572/1
Frances Stevens, I am 13 years old, I am a Gila River Indian Community member and a member of G.R.E.Y. (Gila River Environmental Youth).

I'm against the freeway to be built, because the pollution will make us sick also destroy our plant life, in the future even make our animals die or get sick.

First of all, I really don't like the idea of this freeway/loop 202, because it can ruin our life in the future, make us very sick. What I'm saying is that we have enough pollution on the reservations, we don't need more pollution to ruin our future families.

Second of all, the pollution will destroy our plants/crops that we make a living off, also our trees! We need our trees.

The last thing I would like to talk about is why wasn't there transportation given to the community.

Franco Stevens
Almost everyday, I would sit on the top and pray. It gave me a good feeling within myself. Each day I did this I would also see the snow cover the house and started to come out. This was only the beginning. Now today, I see how much life the city has taken. Then it makes me realize how many white people have changed their lifestyle. We have lost our way and are prejudice to Indians. To check up this mountain being destroyed has put a great hurt in my spiritual life. Because God has made this Creation and people are wanting to press it up for something that is not really necessary, the Freeway today has been serving a good enough purpose. Also if the Freeway being built in our area would stay away my grandchildrens right to have a home and March, as well as my children. She has a part of this nation about the Freeway being built through all this area that has not been notified of yet, only of that was held. She only heard it given her aunt after the meeting and when she was told she needs to be notified of all things. I love to know who these people who are even working.
to build this Freeway. I don't know why they can't hold a meeting in each District to see about the people. Even though it is for land owners, but I know it is going to affect the whole Reservation. Especially with the living conditions of the people who are in the houses. Will they continue to stay or will they move to more I know is life. That change is good. But in this matter I don't think so. I know my own elders are still up to the medicine and T'ash in food and sage for their health and spiritual needs. As we grow older, how can our tradition stay alive? If we don't stand up for our community, I can see that there are more money being built today and if these people have the money then why are we wasting money when it could start going to medical or other emergency need. Because of this Freeway, many people are still going to the hospital. We all know to need a lot of medical help especially of the youth. And if the car does not the hospital, there is no one there. But all the community and medical there should be. I don't know why many people climb that mountain. But you need to climb it and take a good look at the pollution. Believe me it is not a very good feeling. To see all of the grey. Even we don't even want to stand in a dust storm. That even carries all kinds of chemicals as well. I thought it was just dust until my daughter went on a Valley Fever and then I realized that we all have it. Because we live in the desert. So ask our relatives. Work with our immune system. So I wonder if the pollution gear will come along with the Freeway. To say to someone, that I helped put my family in danger. As kind of foolish, because I might as well have killed them myself. I wish there is another way to build a road, not a Freeway. Because there is always another decision. Education of life we have a wrong and a right to make. Take into consideration the electric vehicles from infancy to adults. As well as all the budget reasons of the people since today. The mountain does have a reason for it being there. If it is today's to tomorrow it would bring more than we all breathed. Yet if it is on the west of our heart, and it might be very hot. I also wonder if they build this Freeway.
my people who live out there going to have to start paying for their water from the city. I knew there are several other wells, but this, but will they have to be covered because of the freeway. The water out in that area is not as well. But in order to have better water, the wells would have to be dug deeper. So to take charge away or destroy is not a good way to live. The newaliing has given me much in my life. It was kept me strong, gave purpose, and meaning. As well as other purposes, so do see if being destroyed is sad, because am sure if we want our kids to play active and exercise, we need to all need to take a stand. So our needs to be really focused about all aspects of this freeway. Especially to the community of the reservation.

K.m. 30
260-362-1590

1 for the future in 10, 15, 20 years for the people that live out there? Thank you.
2 THE FACILITATOR: Thank you very much.
3 Andrew Pedro.
4 MR. PEDRO: Hello, I'm from the Gila River Indian Community and I'm one of our community managers, our community manager, David White for Gila River, he stated that transportation officials were to be taking cultural awareness training, and has that ever happened for people part of the 2027? Anyone? And if it were, who would be taking those cultural awareness training classes; would it be construction? Would it be ADOT officials themselves? And in the DEIS it does say that if any uncovered cultural items, that construction would stop immediately. How are they supposed to know if training never happened?
5 And like Danielle said, it is a sacred place to us and we have been here thousands of years, you people have been here 200 years. And that thing in the EIS, except for saying that it could cause loss of cultural property that is like -- that's a violation of our religious rights, that is a sacred place. How is ADOT able to go through there with being that it's a public park and it's a public preserve, so it's owned by the public; how are you supposed to get those right-of-ways.
1. in a public park?
2. So yeah, we are against this freeway and there
3. is nothing in the EIS that says that they stopped working
4. with the community to look into the effects of the
5. community when it's right on our border. And obviously,
6. it's going to affect us. And yeah, like people in
7. Laveen, they're on the other side of the mountain,
8. they're not going to feel it as much as we do.
9. And especially to our culture, how we live.
10. We're almost gone, most of our community lives in poverty
11. and most of the people there can't even speak our native
12. language. And it's not our fault, it's colonization's
13. fault for pushing us out of our own land. And right
14. here, right where you stand and where you're sitting is
15. traditional Akimel O'odham territory, and I hope that you
16. realize that and wonder about how it really affects us
17. and not just the financials of it, how it affects us
18. internally and spiritually. If we were to build through
19. one of your churches, I'm sure you would be standing here
20. where I am telling you that this is a bad idea, because
21. it affects your religious rights. Well, this affects our
22. religious rights.
23. If there's one corridor that separates us from
24. the mountain itself, that's a violation of our religious
25. rights and that -- yeah, there's supposed to be one

1. tunnel going under the freeway, that's unsafe and it
2. would affect our medicinal plants that we use culturally
3. that are going extinct and cultural animals that we use
4. in our culture: The owl, tortoise, Sonoran Desert
5. tortoise, Mexican spotted owl, those are all endangered
6. species that you're willing to sacrifice other species
7. just for progress.
8. Is that really how you want your kids to view
9. the world; do you want your kids growing up in pollution,
10. growing up with cancer, asthma, bronchitis, birth
11. defects? We don't want that for our community. Look how
12. bad it is already. We don't want none of that, so I just
13. hope that you look back into that.
14. And with the shuttles, I mean, nobody actually
15. got the shuttles, there wasn't that much effort put into
16. it from ADOT themselves, the community had to invite ADOT
17. to come to the community to give out information. They
18. weren't giving out any information before until the
19. community told them to. That itself is just disgusting.
20. how she said before, and how disgusting it is to see
21. people pushing this freeway, which they don't acknowledge
22. us as a people, being that we've been here before anybody
23. has been here and our ancestors go back. And what if
24. there was other people who came into this? This doesn't
25. affect just the Gila River Indian tribe, this affects all
tribes in Southern Arizona, being Tohono O’odham, Ak
Chin, Salt River Indian Community, culturally it affects
them and is disgusting to see how this is still being
pushed forward.
The Facilitator: Thank you.
If anybody else who has not registered would
like to speak at the hearing, please make sure that you
register at the registration desk and then come before
us.
If you need additional time, please, if you
would like to make additional comments, please give your
comments to the court reporter. Thank you.
Harlan Barheand.
Mr. Barehand: Good morning, sir. Thank you
for the opportunity to come and speak with you this
morning. I am Harlan Barehand, I’m registered with the
Gila River Indian Community. Thank you very much for not
putting it on our reservation, we appreciate that very
much. I hope that it will stay off our borders and into
the Ahwatukee and the Laveen area. And I think that we
can benefit financially through them, but our reservation
as it is is very small and we cannot afford to lose any
more land as it is. And history tells us that the
original Gila River boundaries is Van Buren on this side,
so you’re asking for Gila River land, but that’s history.

Mr. Chane: I’ll start out by saying I’m angry. I
am angry because I came here to have something to say about
this, to the State of Arizona and to the people. And now I
find out, when I get here, I can’t say anything.
Well, I’m just now pointing out that all I can talk
to is a court reporter. I can’t even talk -- And that’s not
what the paper said. The paper said that -- The paper said
there was going to be another meeting here, for public -- for
public opinion. Well, that’s what I’m here for.
I’m not here to talk to a court reporter. I’m not
here to talk to the State of Arizona. I’m here to talk about
this issue to the people that are involved: community members;
Pangea, who wants to do this thing. What for? And to the
State of Arizona.
The Government gave us this land, this reservation,
for our benefit, for our use. The State of Arizona aren’t
Indians. Go on the other side of the boundary. Put your
freeway on the other side of the boundary.
Yeah, well, you can just listen to what I’ve got to
say here, being I can’t talk to anybody.
That’s wrong, doing it, because that’s tyranny,
what you’re going to tell us what you’re going to do but you
don’t want -- you don’t want us to tell you what we think about
it except to a court reporter?
I want to talk to the people. I want to be able to
get my ideas and what I think about this thing to the people. That's the whole purpose of the meeting, as to whether they're going to build the freeway or not. How are you going to build the freeway when you don't know what we think about it, except on paper?

I'm not here to talk to you.

And that's wrong. That's not Indian way. That's another thing that I'm talking about, wanting to talk about, is Indian way. We have our way, our traditions, our culture. And you people, you Americans, we call you Americans. You Americans, you don't know Indian way.

Well, I'm here to tell you what Indian way is. And Indian way is still here on the reservation. It's alive and kicking.

And Pongees wants to build this freeway on there, and they're not even -- I called and found out, they don't even have any exit. What is it? 22 miles, that freeway is going to run? There aren't even any exits on the reservation.

And Pongees wants to bring industry and business? How are they going to bring industry and business to the freeway when there's no exits?

The exit is going to be at 59th Avenue, off-reservation. All the State wants to do is put a road in here, for your convenience.

And the paper said that this is not going to be...
And the Government argued: Because it was undeveloped land.

What do they mean, undeveloped land? The Pimas built canals all over this place. It was not undeveloped land.

We had an irrigation system here that’s doing well today.

Those same irrigation canals that the Pimas built are being used right now. It was not undeveloped land.

We didn’t have 20-foot -- or 20-story skyscrapers.

But I’ll tell you what: We still had a skyscraper. We had a four-story building near Coolidge, the Casa Grande ruins today.

Four stories high, a massive building. There aren’t even four-story buildings in Casa Grande, in Florence, or Coolidge today.

And they have the nerve to tell -- call us uncivilized? Heathens? They didn’t know Indian history. They don’t know Indians like we know Indians.

I’m an Indian. I’m a Pima Indian. I was raised by Pimas. My first language was Pima. I was born on the reservation. I know what our history is.

I know what it is today: We’re in a transition.

And I don’t like that transition.

This guy -- I wasn’t going to say this, but I will now. This guy, what’s his name? Joseph Perez. Pankees. I said -- I was talking to some young people in the computer lab, some time ago, and I says, “Who is this guy, anyway?”

And one of the young men there laughed, and he said, “I went to school with -- with Joey. He used to say, ‘I’m not an Indian. I’m a Mexican.’”

And now, all of a sudden, it behooves him to become an Indian because he wants to make money? So now he’s saying, “Oh, I’m a tribal member. My family this, and my family that.”

What kind -- What kind of stuff is this? I mean, that’s not Pima way. He wasn’t raised as a Pima. He doesn’t even speak Pima.

And that’s what I’m saying, is now, what we’ve got, we’re in a transition, where that we have people like me, who know Indian life, who know Indian tradition and Indian way. And we have the new generation, who don’t even speak Pima and didn’t even want to be associated as being an Indian. He’s a Mexican.

Well, I’m glad to be a Pima because I know my heritage. I know my ancestors. I know their way of life. I know how they lived and what they did.

And I have something against those contractors that were at that last meeting, saying that they wanted -- that this meant 30,000 jobs for them and they wanted -- they wanted that freeway in there. Well, I’m sick and tired of them.

I’ve got news for them: I’m sick and tired of rescuing the American public, people, because we did that when the settlers came through. They had Indian scouts, Pima
1. scouts. that went out in the desert and picked up the settlers
2. because they were dying from lack of water, dehydration. And
3. they rescued them, fed them, gave them water, took care of
4. their animals.
5. And now these contractors are coming to the Pimas
6. and saying, “Oh, help us. We want 30,000 jobs.”
7. I’ve got news for them: They’re barking up the
8. wrong tree. Let them go to their Government.
9. It was the United States Government that was
10. overseeing all this housing thing that went corrupt and
11. bankrupt and put us into recession, put this country into
12. recession. Hold those people responsible. Make them provide
13. jobs for them. Don’t come to the Pimas and ask the Pimas to
14. provide jobs for them. We already did that. And I don’t want
15. to do it now.
16. Now all we’ve got is 373,000 acres. This land is
17. for our children. It’s for us to live on. The Government gave
18. us this land for our use, for our benefit.
19. And those contractors and the State of Arizona,
20. they’re not Pimas. They’re not Indians. Go on the other side
21. of the freeway -- or the boundary. Go on the other side of the
22. boundary and build your freeway over there.
23. They gave us 15 cents an acre for this land.
24. Don’t -- You don’t need any more. We’re not giving you another
25. square inch. You go on the other side of the boundary and
26. build your freeways.
27. These freeways are like snakes: a freeway here, a
28. freeway there, a freeway here. Freeways all over the place.
29. We don’t want any freeways on our reservation.
30. Where is all that pollution going to go? Right here on the
31. reservation.
32. Does Phoenix care? Does the State of Arizona care?
33. Does Governor What’s-Her-Name care? No.
34. We’re survivors. And I’m here to tell you guys;
35. Take your freeway and go on the other side of the boundary.
36. You’ve got Baseline over there. Put your freeway
37. over there. And then don’t put any exits on it for 22 miles,
38. and see what those people, those business people, have to say
39. about that.
40. A freeway with no exits? And these Rangees people
41. think they’re going to get rich because they’re going to put in
42. a freeway with no exits and they’re going to put businesses up
43. alongside the freeway? That’s disaster. That’s failure.
44. because people off-reservation aren’t going to come to the
45. reservation, to their businesses, to do business, when they can
46. go two blocks down there from their house and go to Bashas’, go
47. to Walmart, and Target, and all of those other places. They’re
48. not going to come here.
49. Business is: Location, location, location.
50. Where is your location?
Appendix C

1. And they want to put business out in the middle of the desert, by a freeway with no exits? How smart are these people at Pangaea? Who are they, anyway? We don't even know anything about Pangaea. Who is this Joey Perez? Has he done land development? How successful has -- What's his history? Where is his money coming from? Who is financing this Pangaea outfit?

They're paying -- They're paying people $50 a signature to sign those petitions. And where else is that done? Do off-reservation people get $50 when they sign a petition? They're doing it here.

And who is paying them that $50? Where is it coming from?

Joey Perez is just a front. I understand, his wife is a partner in this, too. He's just a front.

But who is behind it? Where is the money coming from? Who are the -- Where is the money?

And even those people aren't too smart if they want to put businesses out in the middle of the freeway with no traffic.

We're 22 percent unemployed here. And they expect us to go and buy from them? We're poor. We're poverty-stricken, and that's why those landowners want that freeway to go in there. They think it's going to be money for them. But it isn't.

They're promised $2,000, that they're going to get $2,000. But those landowners don't scope to think that that land is fractionated land. What -- how that turn -- How that came about is that, when the Allotment Act was passed in 18-something -- '87, I think it was. When they passed that first Allotment Act, every Indian in the Gila River got ten acres. My grandfather got ten acres. His children got ten acres.

Then, when he died, then his children got a fraction of his allotment. And then his grandchildren -- who I'm a grandchild -- how I have interest in that land. So that's what this land is. That ten acres is fractionated.

When it's leased out, all the people, the allottees that have interest in that land, just get a fraction of the $2,000. But these people think they're going to get $2,000. Huh-huh. They're only going to get a portion of that $2,000, depending on how many people are in that land.

All of the landowners are -- They're not landowners because they don't own the land. They just have interest in the land. All of those people are going to get a portion of that $2,000.

So what are they going to end up with? We have hundreds of people that have interest in these fractions, one piece of fractionated land, so that some of them only get pennies when that land is leased out. So how far is $2,000?
going to go?
And this is why I'm here to tell the people, to
bring out these things, so that they won't be taken in. They
don't -- they don't think about this. All they see -- All they
hear is: We're going to get $2,000.
And where is $2,000 going to go, anyway?
One lady told me she went to a meeting. They told
her she was going to get $2,000. She said, "What am I going to
do with $2,000? I can't fix my car, pay my electric bill.
What am I going -- What good is $2,000 going to do me?"
She said, "I left. I wasn't interested."
She was a smart one. She had it figured out. But,
unfortunately, there are people that don't figure it out. They
don't think.
And that's what I'm here for, is to try to tell
them: Look, this is what's happening. This is what's
involved. These are -- These are all the things that are
involved in this freeway thing.
(Ms. Chase speaks a brief phrase in Pima) Don't
like it. Don't accept it.
And -- and Joey Perez, and he wants to -- He wants
to have another election on this? We already said, "No." The
people already had an election.
And here, here, I found this thing here. I didn't
get a copy of that. But read that.
way and the American way. American way, you can keep
petitioning and petitioning and petitioning and petitioning.
It's like a crying baby. The baby cries and cries and cries
until momma comes and gives it some milk and shuts it up.
So then -- And that's what -- That's what Pangea
is doing: Crying and crying and crying, petition after
petition, to get their way because legally they can do it.
But Indian way, Indian way, you can't, because we
already decided. We already told you: No, we don't want it.
Go away. Leave us alone.
That's Indian way.
And I said -- And that's the conflict that we're
in. We're in one -- we're in one -- We're in one life and in
another life. We're Indian way, living Indians -- living
Indian way, and trying to be living American way. They're in
conflict.
And we're getting this new generation of people who
don't know Indian way. And Perez doesn't even want to admit
he's an Indian, saying, "I'm a Mexican."
So what have we got here?
And I'm just here to say, to the people, that we
need to -- we need to -- if we're Indians and this land is our
land, we need to preserve it for our children. We need to be
careful about the environment. We have the Sierra Club now and
all kinds of other clubs that are concerned with the
environment.
I've got news for them: We had Sierra Club long
before they ever came along, because Indians didn't kill just
to kill. It wasn't a sport.
The Indians up north, they hunted buffalo. And
they used every bit of that buffalo for their -- for their
livelihood or whatever. They used the -- They used the hides
for tents, for clothing, for food. They used the whole
buffalo. They didn't go out there and just destroy it.
They did the same thing with other life. Deer,
they didn't go out there and kill Bambi's mother and kill
Bambi, too. They were concerned with wildlife.
They called the earth "Mother Earth," because
Indian way, Indian language, is expressive and they saw that
the earth provided grain, berries, rabbits, buffalo, deer, for
their food and for whatever they needed. The earth did that.
So that's why they called it "Mother Earth."
And they lived in harmony with their environment.
When those settlers came west and they saw the
buffalo and the beavers, all they saw were hides and money.
And that's the difference between the Europeans and the
Indians.
Our lives are different. We think different.
We're Indians. And -- and we live, many of us, just like our
ancestor did. And we've lost so much of -- of our way of life
now. My grandfather, when I was a little girl, our little dog, Tuffy -- I still remember his name. It was a little -- kind of, a little white dog with fluffy fur. That little dog was running in circles, yipping and yapping, and just wild. And we all stood there watching him, my brothers and sisters and I.

And my grandfather was close by, and he saw that little dog. He calmly walked over to the house and got a pitchfork standing up against the building. He took that pitchfork and he killed that little dog.

And I thought: Why are you doing this? Why are you killing our dog?

And it wasn’t until I went to high school and had a science class and heard about cables, then I knew why my grandfather killed that dog.

And that was the way the whole Indians were. They -- He didn’t bat an eyelash. He saw the danger, and he moved. He didn’t wait an hour, 15 minutes, or the next day. He took that pitchfork and he killed that little dog for the safety of us children.

And that’s part of what I know Indian way is like. And that’s why that I’m here, to say that there’s still some of us that are traditional. There’s still some of us that know Indian way.
jail."

My dad, because he was an Indian, raised Indian
way, put his head down, turned around, and walked away.

Yeah, American way, my grandfather could have gone
to prison for forgery. But Indian way, he won. And my dad
walked away and didn't do that.

So that's the way Indian way is. That's what I
know about Indian way. It's different from the American way;
And that's what I'm here, to remind these people that want to
do this: No, don't do it. Don't be like my grandfather did. He
killed that little dog for the safety of his children. Think
about your children. Don't give away this land because what
are your children going to have? Nothing.

I have -- I have interest in my grandfather's land
now because he didn't give it away. He was poor. He didn't
have money. They were poverty-stricken. But he didn't sell
his land because in those days, those old people said, "Don't
sell your land. If you do, you're going to be walking down the
road with a bag of clothes. You're going to have nowhere to
live. You're going to have nothing. You save this land."

That's what we were told. That's how we were
raised. But some of our people don't know this.

This Joey Perez, he's not Indian way. All he's --
He's American way; Greed. Give me that money. Give me that
money. That's the way -- That's the way it is.

And I'm here to say, I don't want the freeway on --
on Indian land. I like our buzzards. I like our jackrabbits.

An elderly man at an elderly-concerns meeting said,
"I saw -- I saw two eagles up there on South Mountain. What's
going to happen to them once that freeway goes in?"

Because Indians live with their environment. They
care about the roadrunners, the quail. They learn from it.

I used to go to the old-time Farmers Association
meetings and hear the stories that they told. And the stories
were about the animals, and they lived with the animals. They
didn't -- They only took what they needed. They didn't just
kill them. They didn't destroy them.

That's why I'm saying that they were here long
before Sierra Club came along, and all of these other wildlife
programs and projects.

We lived that life, and I don't want to see it
destroyed. I want to save it for -- for our people and for our
children.

And, as it is, we have all kinds of pollution now.

We get asthma. My little great-grandson has asthma. I get
asthma because of our environment and the -- and the pollution
of the -- of the air.

But people don't think of that.

We're dying from diabetes. 80 percent of our
population on Gila River have diabetes. In 1909 they only had
one case of diabetes. Today, 80 percent of our population has diabetes.

Diabetes causes strokes, heart attacks, kidney failures, all kinds of failures in the bodies. Our legs are amputated. Our arms are amputated. And then we die.

And now they say that Alzheimer's is connected with diabetes.

So we're dying. We're becoming an extinct nation.

And that's bad enough, that we -- Now they want to put a freeway through here and further pollute our air? No.

The people need -- Our people need to think about all these things and to think of what they're doing and not just be trying to grab that money because where is that money going to go, anyway? It's not going to go anywhere. You're not going to take it with you.

And you're just depriving -- These people are just depriving their children of land, of a place to live. So that -- that -- those are -- That was what I wanted to try to bring out, and these points to bring out to the people. And -- and to cry, both sides.

And those -- Those contractors need to be ashamed of themselves because all they want is 30,000 jobs. They don't care about the people here.

And when those jobs and that freeway is completed and those 30,000 people are out of jobs, what are they going to do next?

It's just a temporary -- a temporary cure for their insatiable desire for TVs and, you know, those phones, all kinds of phones, and all kinds of computers and all kinds of stuff like that. It's never going to end, their desire for them, because that's the way that these Europeans are. They did it in Europe, fought over land over in Europe. From bible days, they fought over land.

But the Natives here in this country, we're different. We don't -- We didn't fight over land. We had our areas where we lived, but we didn't fight over land because they believed that land was to live on. It wasn't meant for personal ownership.

And this is one of the differences between the Indians and the Europeans. They want their name on a tract of land. And, when the West started being settled, the Government gave -- I didn't write that down, the statistics on that -- but gave a lot of land in the West, reserved for the Indians.

Then they passed -- I believe it was the Dawes Act. They passed that Act. And what that Act did was they took the land that they reserved for the Indians and sold it to the settlers for 50 cents an acre.

And so this Government has been -- they've -- Their intention, from the very beginning, was to kill all of the Natives off, get their land and their buffalo and everything...
Appendix C

1 else they could get. And that's been -- That's been the
2 intent, all this time.
3 And they're -- And they're still doing it. They
4 already got all our reservation land. I mean, not our
5 reservation land but the -- what do you call it, the -- the
6 Native lands where the Natives lived. They already took that,
7 That's where we got the 25 cents an acre. They already got it.
8 But they're not satisfied with that.
9 How they're coming on the reservation and wanting
10 our reservation land.
11 I fought more developers coming -- wanting to come
12 on our reservation and take our land, because they've developed
13 all of Chandler. They're up to our border now. Now our
14 reservation land is looking pretty good to them because
15 contractors, their mindset is: If they see a piece of land
16 that doesn't have asphalt on it, they're going to put asphalt
17 on it. They're going to put buildings on it. That's the
18 nature of the beast.
19 But that's not our way. We like our jackrabbits.
20 I live on a tribal home-site lot that's about an acre big. I
21 have rabbits. I have cardinals, doves, quail, all kinds of
22 birds, and owls that come to -- come to my lot because I
23 provide water for them. And birds love water. I've found that
24 out.
25 And they come to -- Even dogs, stray dogs, come to
my house looking for water. And -- and I have trees. And they
want the safety of my -- of my lot.
3 And I just found out we even have rattlesnakes. We
4 had found a little tiny rattlesnake on the porch. So even
5 rattlesnakes are coming to my house.
6 But -- but Indian way, these are all -- This is
7 part of our heritage, to live in conformity with nature. They
8 didn't -- They didn't kill animals just to kill them,
9 We had a -- We had a Gila monster one time by our
10 house, and my dad took that Gila monster and took it out in the
11 desert. He didn't kill it. And so but that's an example of --
12 of how Indian -- Indian way is, how Indian people thought and
13 how they lived.
14 And it's so sad for me to see that we're losing it.
15 For what? For money? For the greed of money?
16 And in the old days people didn't have money. They
17 didn't care about money. They put holes in nickels and made
18 necklaces out of them or put them on their shirts. You know,
19 that's what money meant to them. It was just a decoration.
20 And they were happy. I remember, as a little girl,
21 that we would go to Sacaton. And the church would take their
22 tamales and sell tamales. And they had -- They had baseball
23 teams playing against each other. They had rodeo. And people
24 were happy. People laughed and visited, and they were happy,
25 But it wasn't money that made them happy. It
was -- It was being social, getting together, relatives. We're all related. And it was people getting together. And they laughed and had fun.

I remember, as a little girl, that the girls used to hold hands, and they would walk around the rodeo arena in one direction. And the boys would walk around the arena in the opposite direction. And then, when they'd come together, they'd all giggle and laugh. The girls would giggle and laugh. And -- and you used to be able to -- Girls would hold hands, and nobody thought of them as being homosexuals. Now you don't dare walk down the street holding a girl's hand.

But so those are the -- Those are the differences.

And being 75 years old, I've lived in that generation. I know what it's like to be a Pima, what it's like to be an Indian, and what it's like to live in the -- in the Indian society. Where that -- where that families, they live together and work together and help each other. If somebody needed a house, they all got together and built a house for them. Somebody needed their grain to be -- to be harvested they all came and harvested the grain. They -- They lived together. That's the way Indian life was.

Today, it's different because Americans don't live like that. They put their grandparents in the nursing home somewhere so they won't be bothered by them. Now we're doing that.

So we're changing, and I don't think it's for the good.

And all we've got -- If all we've got now is -- is to fight for this freeway not to go through here, then we've got to do it.

And I'll just say, to that Pangee, Joey Perez, and all those people that are -- that are trying to put this freeway in, that there's still some of us here, some of us traditional, that we're still here. And we're still Indians.

We're still Pimas.

And -- and those people that were at that Phoenix meeting, they're a block that were opposed to the 202 Freeway. They're a block. And, if Joey Perez and his cohorts want to put that freeway in, they're going to have to go through that block.

And we're still Pimas, like the old Pimas. We're a formidable bunch. And you better look out because we're not -- we don't want it.

And -- and, as they said in the Marine Corps -- My husband was in the Marine Corps. And there was a saying. It goes: You feel froggy? Jump.

Joey Perez feels froggy? Jump.

So that -- yeah, he's going to have to reckon with some of us traditional.

And that's all I've got to say.
Appendix C

1. Pengsue got another petition. And so they brought it to the Council. And the enrollment or the secretary's office, they looked at these signatures, and they weren't right. And so I guess some of them were forged. They didn't really say.

2. But so they had a -- So the Council had a meeting on that. And Myron Scherers [phonetic] made a motion to clean up the petition. go through all the signatures and make sure they were all valid signatures. And the Council passed that motion.

3. But Annette Stewart, a councilwoman from District 5, didn't vote for it. And she gave her reason why. She said: They should just redo the whole petition, not just clean it up.

4. And -- and I'm in agreement with her on that. On account of the petition is one document. It isn't just this page and that page and all of the pages put together. It's all of the pages put together making one document. And, if any part of that document is fraudulent, then the whole document is fraudulent.

5. They need to refile that petition and redo it. And I'll go one step further. to say that the people that carried those petitions and got those fraudulent signatures shouldn't be allowed to carry another petition. And in my anger I'll even say that those people should be excluded from the reservation. We have people that are excluded. What that means is that, when people are so bad, they're -- they're run off the reservation.

6. And that's what they should do to these people because they're confidence people. And I don't know if they're men or women or who. But they take -- They get the confidence of the people.

7. These people that signed the petition are believing that everything is upright; everything is honest. And it isn't. And so they signed the petition, believing that everything is right when it isn't. And these people getting the petitions, signatures, they're -- They're confidence people.

8. And that -- What can be worse than to betray Indians. Way again is to betray people that have trusted you to do what's right. There's just no -- There's just no excuse for it.

9. There isn't even -- We don't even have a law, I think, about that because it's not our way. We don't have people that -- confidence men that come in here and gain the confidence of the people for their benefit and then turn around and stab them in the back. That's not Pima way. So we don't even have any laws that would cover that.

10. The only thing we have is exclusion. If -- if a family or a person is so bad, then exclude them from the
reservation. Throw them off.  
So and I think -- I would have a tendency to 
believe that, if we were living back in the seventeen, eighteen 
hundreds, they would do exactly that. I think that, if they 
found somebody that was so bad, and so immoral, so corrupt, I 
think they'd -- they'd tell them, "Leave the reservation. Get 
out of here."  
I think that's what they -- that that would be the 
remedy that they would have for that. So I would -- being -- 
Being somebody from the old ways, that's -- that would be my 
opinion on that.  
But, at least, what they should do is not allow 
these people who carry these petitions and got fraudulent 
signatures to go do it again. You -- When somebody robs your 
house, you don't open the door and say, "Come on in, do it 
again. You didn't -- You forgot my refrigerator."  
So but okay. I guess that will be all.
Because of South Mountain’s religious and cultural significance to the Gila River Indian Community, the Salt River Pima-Maricopa Indian Community, and the Colorado River Indian Tribes, building the E1 alignment will have an adverse impact on the exercise of Native American religious beliefs. If MAG, ADOT, and the State of Arizona continue with plans to build the proposed E1 alignment, these agencies and the state will be violating parts of the Religious Freedom and Restoration Act (RFRA), specifically as defined in 42 U.S.C. Amendment 2009cc-5. The proposed E1 alignment would introduce visual, atmospheric, and audible elements that would diminish South Mountain’s cultural and religious significance.

Many O’odham feel that South Mountain is in eminent danger from construction plans that will impact their sacred site for all time. There has been a lack of good faith consultation with O’odham traditional religious leaders, and almost a complete lack of diligence in the Section 106 process with GERIC. When will ADOT begin to consult closely with O’odham religious leaders, and to also inform them that the proposed 202 extension is also part of the Maricopa Association of Governments’ plan to build the Sun Corridor between Phoenix and Tucson?

What type of government-to-government talks will ADOT disclose that they have done with Gila River tribal leadership to uphold the United Nations Declaration of the Rights of Indigenous People (UNDRIP), namely Article 7 of Convention No. 169 which states that Indigenous and tribal peoples have the right to “decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control over their economic, social and cultural development.” Maricopa County is within the territorial boundaries of the U.S. and is subject to the laws, both international and domestic of the United States of America, and since the U.S. is a supporter of the UNDRIP, Maricopa County officials also are obligated to the UNDRIP’s articles and recommendations. Finally they U.S. Rastered the I.O Convention 169 (which is legally binding) and signed onto the ILO, which means they are legally obligated to is principles and conventions.

The cornerstone of Convention No. 169, on which all its provisions are based, is consultation and participation of Indigenous and tribal peoples. The Convention requires that Indigenous and tribal peoples are consulted on issues that affect them. It requires that these peoples are able to engage in free, prior and informed participation in policy and development processes that affect them. This means not just the Gila River Indian Community, but also Salt River Pima-Maricopa Indian Community, Ak-Chin Indian Community, Tohono O’odham Nation, Colorado River Indian Tribes and Hopi Nation, which are all tribes that have cultural affiliations to South Mountain. To ensure that the rights of these Indigenous and tribal peoples are protected and taken into account when any measures are being undertaken that are likely to have an impact on these peoples, scoping must be done by ADOT in those communities.

The proposed freeway is meant to be an I-10 commercial truck bypass to decrease traffic congestion on I-10 in Maricopa County. In the DEIS, the impacts of air pollution do not include vehicle emissions from commercial trucks originating from Mexico, which are fueled with diesel that does not meet the environmental standards adopted by Arizona. The air pollution models in the DEIS need to study the number of Mexican commercial trucks with destinations that pass through metro Phoenix, or whose destinations are in this geographic region. Those tons of air pollution need to be identified (what type of particulate matter it would be and the associated health impacts), quantified, and factored in to the analysis of air quality.

If living near a major highway adversely affects air quality, does it shorten the human lifespan, and if so, how much shorter is the human lifespan? ADOT or HDR has a legal and civil responsibility to bring in outside research and air toxology experts to explain how poor air quality affects the body, as well as pregnancy outcomes and fertility rates. The 2005 JATAP study must be included in the FEIS, as well.

Aerial photography must be added to the DEIS to show how many homes in Gila River would be destroyed by the path of the proposed project, as well as the acreage of Indigenous TCPs that would be destroyed.

South Mountain is a sacred area not just to the Gila River Indian Community, but to the Ak-Chin Indian Community, Salt River Pima-Maricopa Indian Community, the Tohono O’odham Nation, the Hopi, and to the Colorado River Indian Tribes. What type of scoping, community outreach, and hearings did ADOT perform in those communities?

What consultants from those communities were brought in to stress the protection of traditional cultural properties?

What types of protections are in place for NRHP-eligible resources in the South Mountain Park Preserves (SMPP)? Under Criterion A (association with an important event) and Criterion B (association with an important person) of Section 106 of the NRHP, the entire 10,600 acres of the SMPP is NRHP-eligible as a traditional cultural property. This means the No Build alternative is the only action ADOT can take to protect the South Mountains.

The DEIS describes a fence to be built around an O’odham cultural resource, as a mitigation measure. Culture cannot be fenced, and the freeway’s direct and indirect impacts to this site must be sought back to the Gila River Indian Community, Ak-Chin Indian Community, Salt River Pima-Maricopa Indian Community, Tohono O’odham Nation, Hopi Tribe, and the Colorado River Indian Tribes (CRIT) before this resource is further impaired. Article 8 of the 2007 United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) prohibits the “forced assimilation or destruction of indigenous culture.” Further analysis of direct and indirect impacts to Site AZ T:12:112 is a basic human and civil right for the affected tribal stakeholders.
If the I-1 alignment were built, there are eight O’odham TCPs that would be indirectly affected, including petroglyphs, artifact scatter, and prehistoric trails. The I-1 alignment completely destroys another TCP element, as it is in the path of the proposed freeway. The City of Phoenix is currently undertaking an NRHP-eligibility determination study of the archaeological class within SMPP. Civil rights and human rights within the UNDRIP mandate that an evaluation of the traditional cultural properties be performed with direct consultation of traditional O’odham leaders before any route of the proposed project can be selected. Article 7 of the UNDRIP states that Indigenous and tribal peoples have the right to “decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control over their economic, social and cultural development.”

The City of Phoenix, under the provisions of the Phoenix Mountain Preserve Act, is not able to sell South Mountain Park Preserves land to ADOT. ADOT would have to condemn 31.3 acres of SMPP land before it could be used for the proposed freeway extension. Under the 1964 Civil Rights Act, Native Americans are a protected class, and intrusions on Native American religious practices are illegal. How does ADOT plan to condemn 31 acres of an O’odham cultural resource without consulting with traditional leaders of O’odham tribes, as well as Hopi and CRIT? Article 25, Section 3 of the UNDRIP says that “states shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous peoples concerned.”

No action can be taken on the proposed freeway extension until the Tribal Historic Preservation Office responds to an August 17, 2011 document regarding NRHP eligibility of the South Mountains. Request that ADOT withdraw consideration of the South Mountain extension of the Loop 202 Freeway until all tribal stakeholders are directly consulted by the Tribal Historic Preservation Office about NRHP eligibility.

Because of the egregious lack of information in the DEIS, a revised DEIS must first be written by ADOT/HDR Engineering that adequately informs the public so that members of the public can make an informed decision about the proposed project.
valley between South Mountain, Moaatsh, and -- South
Mountain, Moaatsh, to the Komak, which is also known
as the Estrella Mountain range, creates a bowl effect
and all that pollution sits between -- in that
valley.

Now, there's -- Kometke is one of the
highest villages that we have here in the Gila River.
There's many children, schools, churches, Boys &
Girls Center, and many, many residential homes. Now,
there are already health concerns in our community,
and the added pollution that this freeway would
create is just adding to that problem. And I
understand the argument that it's because the
metropolis of Phoenix is growing, that we need to
have this infrastructure in place now. I believe
that money and effort could be put into the public
transportation systems, extended light rail, light
pass, et cetera.

What a lot of people fail to understand is
we live in a desert. We have limited resources, and
we have to think smarter about how we build. Another
freeway is not going to alleviate the air pollution,
as they state, it's merely going to -- it's merely
going to move that pollution to our community.

The other concern is that the lack of

information and the lack of participation that ADOT
and MAG have given to the Gila River Indian
Community, outside of this public forum. There has
been little participation in getting information to
the people of the community. I believe that everyone
in the community has not had enough information about
this freeway, and the fact that that lack of
participation from the State to our community and the
fact that this time to comment is very short is going
to give it a skewed interpretation of how Gila
River feels.

There was not -- there's not enough
outreach to the community. There's not enough
availability for the community to give their concerns
other than these forums. I believe that this forum
itself, today, is another way to silence the people
of Gila River. There should have been greater
emphasis of having community members be able to speak
about how they feel about the freeway. Not just
about the environmental, the health hazards, but more
about culture and the significance of the mountains
to us.

The Gila River Indian Community passed a
resolution in 2007 declaring that Moaatsh, the South
Mountain, is cultural property of our tribe. We find
that mountain sacred and it is equivalent to a church
to us. Any disturbance to our church is still a
disturbance, whether as much as ADOT wants to believe
that they are trying not to displace wildlife or cut
into the mountain more than they have to, it is still
a disturbance to the mountain, and to our spiritual
well-being as O’odham people.

I believe that -- I know that this
freeway system is important not only to ADOT and the
people of Phoenix, but it is barely -- it is merely
just another project for them in their transportation
system. Whereas this, protecting the mountain, is
vital to our well-being as O’odham people. There are
various stories that come with the mountain that
we’ve been taught, and that we are relearning. And,
in fact, this fight for this mountain has reignited
that passion for protecting that mountain, but also
for sharing those stories as well.

There are many plants and animals that we
as O’odham people still hold sacred to -- that live
there in that mountain range. There are medicinal
plants that are available, there’s “sheqol,” there’s
also other foods that we eat from the cactus, the
“hashem,” these -- these plants are already being
affected by the pollution that’s on the mountain
today. It’s hard to find anyplace to find a clean
area to harvest these medicines that have not been
tainted with chemicals or air pollution. We have to
preserve those plants, not just as O’odham people,
but as people all of us collectively who live in
these deserts, these plants and animals are vital to
us.

Anybody who has a concern about
conservation of nature should know that this freeway
system, this mega project to the outside community is
going to be devastating for us all. This is not just
an O’odham thing. This is an everybody thing. We’re
going to -- we’re going to feel the effects of this
freeway system in our health and in our own
well-being.

This desert cannot support this many
people, and I know as we try and try and support and
accommodate for everybody, this society is eventually
going to collapse. It has been seen before,
historically, and it is going to happen again. This
place does not have the resources to house this many
people. Our aquifers, our groundwater is being
depleted. Our plants are being polluted. Our sacred
mountains are now being destroyed.

That’s what I have to say.
THE REPORTER: Thank you so much.

Proceedings concluded at 12:00 p.m.

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From: Tristin
To: ADOT
Subject: PM: Loop 202 South Mountain Freeway Study
Date: Monday, Apr 15, 2013 2:02 PM
Attachments:

Thank you,
Matthew Eberhart
Community Relations Officer
1600 W. Jackson St. PH 120F
Phoenix, AZ 85007
602-712-2860
adot.az

From: Jeannine Hart [mailto:mondaystronmore@cox.net]
Sent: Monday, July 15, 2013 2:02 PM
To: Projects
Subject: Loop 202 South Mountain Freeway Study

LOOP 102 SOUTH MOUNTAIN FREEWAY STUDY

Reasons for a "NO BUILD OPTION" of the Loop 202 South Mountain Freeway are as follows:

• The highway will become the CANAMEX Highway from Mexico to Canada which will allow the transport of hazmat materials through our community. Chemicals such as sulfuric acid, gasoline, and especially chlorine gas would be disastrous. Evacuation would be extremely difficult and would have a health and death impact. In order to mitigate this catastrophe shelters would have to be built in the community. An accident on the highway is all that is needed for the release of these toxic chemicals. Let alone that the tax payers would be responsible for the cleanup.

• The highway is all about moving trucks through the valley from Mexico. They use high sulfur diesel fuel which is not allowed to be sold in this country.

• The highway will create dangerous air pollution due to transportation exhaust which is known to cause cancer. The Ahwatukee Foothills is at present one of the least polluted communities in the valley.

• ADOT spent $43,000,000 buying property along only one route (59th Ave.) since 1998, and not any other route. This shows bias toward their opinion of the proposed route. The study and legal process should have been concluded before the purchase of property. They violated this legal obligation.

• Use of 2005 data in the study is not valid any longer. They did not use the most current, updated and scientific data that is required by law. What about...
emission of fact.

- "Due Process" was not afforded to the community by way of asking questions and getting answers. The technical substantiated information of the Environmental Impact Study was not provided at the libraries as promised.
- Property devaluation is expected to be about 30%. This is an upscale community and the devaluation in property would significantly affect the state real estate revenues. The character of the neighborhood would change.
- It would disrupt schools, churches, personal property and the lifestyle of the Foothills residents. Some schools and churches that the community attend are now in jeopardy of being destroyed. The children who attend the remaining schools, churches and the YMCA would suffer an environmental impact because of the close proximity to the highway.
- The constant noise of the traffic would go against the reason citizens purchased property in the Foothills in the first place.
- Crime is a real concern for those living here in this peaceful, quiet community and the appeal would be destroyed. More police presence would be required putting a burden on the state.

Jeanne Hart