

# AK-CHIN INDIAN COMMUNITY

Community Government

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**PUBLIC COMMENTS FROM THE AK-CHIN INDIAN COMMUNITY  
REGARDING RR-03639A-07-0517  
UNION PACIFIC RAILROAD CO. (ALTER CROSSINGS)  
AUGUST 19, 2008**

Arizona Corporation Commission  
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Good Morning. My name is Delia M. Carlyle and I am currently the Chairman of the Ak-Chin Indian Community ("Ak-Chin"), located near Maricopa, Arizona.

Ak-Chin's reservation, created by Executive Order in May of 1912, originally consisted of 47,000 acres. By October 1912, the reservation was reduced to its current 21,840 acres. The current population of enrolled members is 822.

My comments on behalf of Ak-Chin pertain to aspects of the Applications, which are the subject of today's hearing. Route 347 runs generally north and south through Ak-Chin, with the railroad crossing at Maricopa located immediately north of the reservation boundaries. This comment deals primarily with the proposal embodied in the Application of the Union Pacific Railroad to close the railroad crossing as part of its double-tracking effort. While Ak-Chin did not receive Formal Notice of these proceedings in time to formally intervene (the actual Application package was received after the July 25, 2008 deadline had passed), Ak-Chin representatives, including several Council Members, attended the Public Comment Hearing in Maricopa held on July 31, 2008 and the public meeting on the same topic held at Maricopa's City Hall on August 8, 2008.

Ak-Chin is principally concerned with the proposal contained in the Application documents, that during the crossing closures, traffic be diverted from 347 and related roads onto roads within the reservation. According to the Application documents, this would raise the possibility of over 42,000 motor vehicles per day crossing reservation roads that are ill equipped to handle such a vast influx of additional vehicular traffic.

Rights of way for the roads on the reservation, including Peters and Nall Road and Farrell Road (the roads mentioned as possible alternative routes for closure-related traffic), are held by several different parties. The agreements for maintenance of such roads are a patchwork of arrangements with differing parties such as Ak-Chin, the United States Bureau of Indian Affairs ("BIA") and Pinal County. Such arrangements guarantee that Ak-Chin would be incapable of absorbing such a vast volume of increased traffic without significant damage to roads that already raise serious maintenance concerns. The handling of such rights of way by the BIA, and subsequent harm to Ak-Chin, is the subject of two lawsuits currently being maintained by Ak-Chin in the U.S. District Court for the District of Columbia and the U.S. Court of Claims.

At the public meeting in Maricopa on August 8, 2008, Ak-Chin representatives heard HDR, engineer consultants for the Union Pacific Railroad, describe an alternative to the possible detours set forth in Applications that are the subject of this proceeding. This alternative, as described at the August 8 meeting, was to run a detour road parallel to existing Route 347 for use by traffic while the crossing is being repaired and the double tracking completed. As the Ak-Chin representatives understood the new proposal, this alternative is much preferred by Ak-Chin in that it does not re-route the traffic over reservation roads. As it was described at the meeting, principally by the HDR representatives, it appears that this detour would not unduly interfere with north-south traffic that might go to and come from the Harrahs' Ak-Chin Casino Resort. The proposal, as described at the meeting, also included a separate lane for emergency vehicles. As was discussed at the August 8, meeting, such a separate avenue would eliminate or lessen the concerns of both Ak-Chin's Police and Fire Chiefs, but also the Fire and Police Chiefs of the City of Maricopa and Maricopa's Public Safety Director, all of whom spoke to the issue at the meeting and emphasized the high degree of cooperation that exists between Ak-Chin and its neighboring city. A passage for emergency vehicles between the City and Ak-Chin is vital to the safety of both.

Ak-Chin remains concerned about the potential for destruction or damage to cultural artifacts along the areas contained by the railroad right of way and the proposed route 347 detours. Ak-Chin's Cultural Resources Department has consulted with the Railroad's archaeological team and made comments to the proposed plan for preservation along the construction route. Ak-Chin, however, claims cultural affinity to the area bordering the reservation, and would request that its Cultural Resources Department be consulted if artifacts or culturally significant sites are unearthed in the course of the proposed construction. If human remains were uncovered, then Ak-Chin, as the closest Indian Community to the construction site, would request that the Union Pacific Railroad enter into a burial agreement with Ak-Chin for proper treatment of such human remains.

Thank you for allowing us the opportunity to speak to these issues. We hope that the recommended Order of the Corporation Commission will embody the understanding outlined above in dealing with proposed alternative routes during the Union Pacific Railroad's construction work.