

ORIGINAL

INTERVENTION



0000088270

RECEIVED

1 STRICKLAND & STRICKLAND, P.C.

Attorneys at Law

2 4400 EAST BROADWAY, SUITE 700

Tucson, Arizona 85711-3517

3 Telephone: (520) 795-8727

4 Fax: (520) 795-5649

5 Robert F. Palmquist., Esq.

State Bar No. 012840

6 Attorneys for: Ak-Chin Indian Community

2008 SEP -4 P 1: 20

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

SEP -4 2008

DOCKETED BY *MM*

7 BEFORE THE ARIZONA CORPORATION COMMISSION

8 COMMISSIONERS

9 MIKE GLEASON, Chairman

10 WILLIAM A. MUNDELL

11 JEFF HATCH-MILLER

12 KRISTIN K. MAYES

GARY PIERCE

DOCKET NO. RR-03639A-~~07-0519~~ ⁰⁷⁻⁰⁵¹⁷

13 **APPLICATION FOR LEAVE
14 TO INTERVENE**

Assigned: The Honorable Marc E. Stern

15 IN THE MATTER OF THE APPLICATION
16 OF THE UNION PACIFIC RAILROAD
17 COMPANY TO ALTER FOUR
18 CROSSINGS OF THE UNION PACIFIC
RAILROAD IN THE CITY OF MARICOPA,
PINAL COUNTY, ARIZONA AT
MARICOPA ROAD/STATE ROUTE 347,
PORTER, WHITE & PARKER AND
HARTMAN ROADS.

19
20 Ak-Chin Indian Community hereby makes Application for Leave to Intervene in the above-
21 captioned proceedings. In support of its Application, Ak-Chin states as follows:

22 1. Ak-Chin Indian Community is a federally recognized Indian tribe, organized pursuant
23 to the Indian Reorganization Act of 1934 and governed pursuant to Articles of Association adopted by
24 the Community and approved by the Secretary of Interior in 1961.

25 2. The Ak-Chin Reservation, located immediately south of City of Maricopa, was
26 established by Executive Order in 1912. At its establishment, it totaled 47,000 acres. The size of the

1 reservation was almost immediately reduced by a second Executive Order to its current size of 21,840
2 acres.

3 3. Since December 27, 1994, Ak-Chin Indian Community has operated Harrah's Ak-Chin
4 Casino Resort, pursuant to the Indian Gaming Regulatory Act and a Gaming Compact, required by the
5 Act, with the State of Arizona. Harrah's Ak-Chin Casino Resort is located on the west side of Route
6 347, slightly south of the boundary between the Ak-Chin Indian Community and the City of Maricopa.
7 Much of the traffic that carries patrons of the Casino Resort to the facility comes over Route 347
8 through the City of Maricopa and over the Route 347 railroad crossing which is one of the subjects of
9 this proceeding.

10 4. On September 7, 2007, Union Pacific Railroad Company filed an application for
11 approval for the railroad to alter four crossings of the railroad in the City of Maricopa by adding a
12 second main line track. This Application, the subject of this proceeding, was filed with the Arizona
13 Corporation Commission, and involved crossings on Porter Road, White and Parker Road, Hartman
14 Road and Maricopa Road/State Route 347.

15 5. Materials filed with the Application respecting these roads indicated that the closures
16 proposed by the railroad as part of its double tracking of the railroad line would shut off traffic from
17 City of Maricopa and points north to the Ak-Chin Indian Community for an indeterminate amount of
18 time, and also might require detour of a substantial volume of traffic away from the closed roads on
19 to roads running through the Reservation.

20 6. Upon filing of the Application by the Railroad, the Commission directed service of the
21 Application on all "interested parties." Despite this direction, no notice was directly served on the Ak-
22 Chin Indian Community, with one result being that the Community did not file an Application to
23 Intervene by the deadline of July 25, 2008 set forth in the Administrative Order.

24 7. Ak-Chin received only informal notice of the pendency of these proceedings from a City
25 of Maricopa official, and after receiving such informal notice attended meetings on this topic held in
26 the City of Maricopa on July 31, 2008 and August 8, 2008, along with the Evidentiary Hearing held

1 by the Commission on August 19, 2008. At the latter hearing, the Community, through its Chairman
2 Delia Carlyle, presented Public Comments relating to the proposed closures and double tracking work
3 by the Railroad.

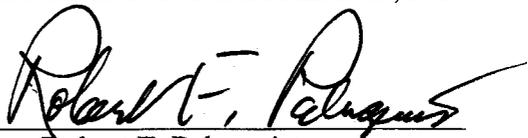
4 8. The Community remains an interested party respecting these proceedings in that it is
5 or may be directly and substantially affected by the proposed road closures themselves, their effect on
6 diversion of traffic over Reservation roads; their possible effect on the Community's business
7 enterprise at Harrah's Ak-Chin Casino Resort; the possible effect of the closures on the passage of
8 emergency vehicles to and from the Community; the possible effects of the double tracking
9 construction on cultural artifacts both within the portion of the Railroad located on the Reservation
10 and that portion of the Railroad located outside the Reservation to which the Community claims
11 cultural affiliation; and related environmental and safety concerns posed by the proposed closures and
12 construction work. The Community wishes to intervene for the limited purpose of dealing with these
13 issues and placing its positions and supporting evidence before the Commission for consideration by
14 the Commission prior to its determination.

15 9. At the August 19, 2008 Evidentiary Hearing in this matter, Counsel for the Union
16 Pacific Railroad indicated that the Railroad had no objection to Ak-Chin Indian Community being
17 allowed leave to intervene.

18 WHEREFORE, Ak-Chin Indian Community requests the Administrative Law Judge to enter
19 an Order granting the Community leave to intervene in this matter.

20 DATED this 2nd day of September, 2008.

21 STRICKLAND & STRICKLAND, P.C.

22
23 By 
24 Robert F. Palmquist
25 Attorneys for Ak-Chin Indian Community
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents on all parties of record in this proceeding by mailing a copy thereof, properly addressed with first class postage prepaid to the following:

The Honorable Marc E. Stern
Administrative Law Judge
Arizona Corporation Commission
1200 West Washington, Suite 110
Phoenix, Arizona 85007

Aziz Aman, Manager of Special Projects
Union Pacific Railroad Company
1301 East Harrison Street
Phoenix, Arizona 85034-2336

Anthony J. Hancock
Terrance L. Sims
Beaugureau, Zukowski, Hancock,
Stoll & Schwartz, P.C.
302 East Coronado
Phoenix, Arizona 85004
Attorneys for Union Pacific Railroad Company

Karen Wanders, Engineer
City of Maricopa
P.O. Box 610
4145 West Madison Avenue
Maricopa, Arizona 85239

Gregory Stanley, County Engineer
Pinal County
P.O. Box 727
31 North Pinal St., Bldg. F
Florence, Arizona 85232

Bruce Vana, P.E., Engineer-Manager
Utility & Railroad Engineering Section
Arizona Department of Transportation
205 South 17th Avenue, M/D 618E
Phoenix, Arizona 85007

Brian Lehman, Chief
Railroad Safety Section
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Janice Alward, Chief Counsel
Nancy Scott, Attorney
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Dated at Tucson, Arizona, this 2 day of September, 2008.


Renee Lippincott, Secretary to
Robert F. Palmquist, Esq.