

U.S. Army Corps of Engineers
Public Hearing
Loop 202 South Mountain Freeway Project

05/09/2017

6:00 p.m.

Held at:

The Boys and Girls Club
5047 West Pecos Road, Laveen, Arizona

Prepared by:
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Certification No. 50859

1 MR. RICE: All right. Good evening,
2 everyone. Thanks again for coming out here. My name is
3 Jesse Rice, and I am with the U.S. Army Corps of
4 Engineers. I am the regulatory project manager processing
5 the 404 individual permit for the South Mountain Freeway.
6 I welcome everyone here tonight.

7 Just a couple of issues to cover. I want to
8 point out the fire exits. We've got two on this wall here
9 and one to the left outside the door there and out the
10 front door that you guys came in. Bathrooms are also
11 available outside.

12 Gila River has graciously provided some food
13 tonight for everyone to enjoy. And that's located over
14 here on the side. There's also coffee and water
15 refreshments available over there and on that side.

16 Let's get started here. First, I want to
17 introduce Governor Lewis. He's hosting us tonight. And I
18 want to express my gratitude for hosting us and letting us
19 all in your facility and providing food for us too.

20 GOVERNOR LEWIS: Thank you.

21 My name is Governor Stephen Lewis of the
22 Gila River Indian Community. I'd like to thank everybody
23 for coming out. Also, I'd like to thank on behalf of
24 Lieutenant Governor Antone, who just came in in the back,
25 Councilwoman Carol Schurz from District 2, Councilman

1 Devin Redbird from District 7, and -- do we have
2 another -- any more council members?

3 And, of course, Councilman Villareal from
4 District 6 here.

5 And so this is some of our leadership here.
6 This is a very critical issue, and I need to thank
7 everyone for coming out.

8 And as is our -- oh. And Councilman --
9 Councilman Goldtooth -- sorry -- Mr. Goldtooth from
10 District 6 as well.

11 And as is our custom, as Akimel O'odham and
12 Pee-Posh people, we always open important gatherings and
13 meetings such as this with a prayer. So at this time, I'd
14 like to call on our THPO officer, our tribal preservation
15 officer, Mr. Barnaby Lewis, to come up and to give us an
16 opening prayer.

17 BARNABY LEWIS: Good evening, everybody.
18 Thank you for being here this evening and offer our prayer
19 to the Creator to be with us this evening. And we're
20 asking to give us understanding and that everyone work
21 together, have good hearts, and work with this whole
22 discussion with great respect.

23 (Prayer in native language)

24 GOVERNOR LEWIS: And so at this time, I'd
25 like to also thank District 6 community for hosting this

1 event and also for the building as well, the Boys & Girls
2 Club of the Komatke branch, the Boys & Girls Club for use
3 of this facility.

4 I want to thank everyone here for traveling
5 for this very important hearing to discuss the Clean Water
6 Act permit application for the South Mountain Freeway
7 project.

8 I want to make sure, also, that I welcome
9 and thank Colonel Gibbs, from the Army Corps of Engineers,
10 to agree to the community's request to hold this public
11 hearing and for traveling here from Los Angeles to attend
12 in person. Colonel Gibbs's staff and the Army Corps of
13 Engineers, they've been very helpful in coordinating and
14 setting up this hearing. So I'd like to -- I want to
15 thank them for their efforts.

16 When the community learned of ADOT's
17 application for a Clean Water Act permit for the South
18 Mountain Freeway project, we submitted written -- we
19 submitted written comments to make our position against
20 the permit known. The community also requested an avenue
21 of government-to-government consultation and further asked
22 that the Corps hold a public hearing to hear from our
23 community members and members of the public.

24 After this hearing and after considering the
25 written comments that have been filed on the permit

1 application, the Corps should have all the necessary
2 information that it needs to make a well-reasoned decision
3 on the permit application.

4 In addition, ADOT tonight will present
5 information about the permit that they are requesting. I
6 also look forward to delivering my own testimony on how
7 this roadway will impact the community and its members.

8 And I am certain that tonight we will hear
9 different viewpoints on the South Mountain Freeway
10 project. But regardless of whether you are for or against
11 this project, I ask that everyone respect each other's
12 opinions and allow all the speakers to give their
13 testimony without interruption.

14 With that, I will turn it over to the Army
15 Corps of Engineers. Thank you.

16 MR. RICE: All right. Next I'd like to
17 introduce Colonel Kirk Gibbs. He's the district commander
18 for the Los Angeles district Corps of Engineers, and he
19 will be providing some additional statements.

20 COL. GIBBS: Good evening. I think
21 everybody heard me there. That's good.

22 I'm Colonel Kirk Gibbs of the Los Angeles
23 district of the United States Army Corps of Engineers.
24 It's a pleasure and my pleasure to be out here and travel
25 out here from Los Angeles today to be part of this public

1 hearing. So on behalf of the Corps of Engineers, I'd like
2 to welcome you to this public hearing.

3 The first thing I would like to do is to
4 introduce my staff that's on the stage. As you already
5 know, project manager for this project, Jesse Rice. To my
6 right, the far right, Quana Higgins. She's in my planning
7 division. Quana is also our tribal liaison. And then
8 Sallie Diebolt, who's my chief down here for our
9 regulatory branch in Arizona. So it's a pleasure to have
10 them.

11 Additionally, throughout the room, in the
12 back, I've got several additional staff members that are
13 here, a couple all the way from Los Angeles, and primarily
14 on the regulatory branch that works out of our Phoenix
15 office. So thank you all for being here.

16 Some initial comments about our federal
17 permit program. The Corps of Engineers is responsible for
18 regulating dredge and fill activities in the Waters of the
19 United States under Section 404 of the Clean Water Act, as
20 Governor Lewis mentioned, as well as work within
21 Section 10, navigable waterways, under the Rivers and
22 Harbors Act.

23 Under these laws and in coordination with
24 other federal resource-related statutes, the Corps
25 evaluates potential impacts that would be caused by a

1 proposed project prior to making a permit decision. As
2 well, we undertake a public interest to the permit issue
3 that involves a weighing of all factors relevant to the
4 project. In meeting our regulatory responsibility, the
5 Corps is neither a project proponent nor a project
6 opponent.

7 For a bit of background as to why we are
8 here today, the applicant, the Arizona Department of
9 Transportation, referred to as ADOT, has applied to the
10 Corps for a permit, under Section 404 of the Clean Water
11 Act, to construct the South Mountain Freeway.

12 You may be curious as to why the Corps is
13 considering a permit application for this project when
14 construction is already underway. We will be providing a
15 presentation shortly that will answer this question and
16 provide some information on the permit decision that has
17 to be made by the Corps. Jesse will present that.

18 As many of you know, we issued a public
19 notice on December the 9th of last year, 2016, for public
20 review and comment that is still out for public review and
21 comment. This evening, the Corps continues its effort to
22 accept comments on the proposed project from the general
23 public and all of you. We will carefully consider all
24 comments prior to making our final permit decision. And
25 even following this meeting, the public has until

1 May 19th -- so that's next Friday -- to provide written
2 comments which will also become part of the record for
3 this project. We will equally weigh comments provided
4 verbally and in written form.

5 Now I'm -- right now I'm going to turn it
6 back over to Jesse, who will provide instructions on how
7 to comment tonight, which is very important. Please
8 listen to that. I will emphasize that in additional
9 comments when he turns it back over to me after the
10 presentation by ADOT as well.

11 He will then present information about our
12 permitting process. We want you all to understand that
13 process. And then ADOT will follow up with information on
14 the proposed action that is being considered by the Corps
15 in the project. We will then transition to the public
16 input session.

17 At this time, if you would like to speak
18 tonight and you have not already turned in your speaker
19 card, please provide that now to any member of my staff or
20 at the table. And if you did not receive a speaker card
21 and you wish to speak, the Corps of Engineers table is
22 right back there. Ms. Heather is waving her hand. You
23 can -- you can go back there, get a card, fill it out, and
24 turn it in, and we'll get you on the list of people that
25 will speak tonight.

1 So thank you very much. At this time, I'll
2 turn it back over to Jesse.

3 MR. RICE: Thank you.

4 All right. So right now I'm going to go
5 over some of the instructions for tonight on how to
6 provide comments, kind of reiterate that we want to hear
7 from you, the public, on what your views are on this
8 project, particularly with Waters of the U.S. So I'll
9 describe those instructions and then also kind of go into
10 our permit process, what Waters of the U.S. are and what
11 we're going to be doing while we make our determination.

12 So we've already introduced a few of these
13 people. You've met them. I also want to point out some
14 ADOT staff here tonight. We have Carmelo Acevedo from
15 ADOT here sitting in the front row. We also have Walter
16 Lewis and Doug Lamont from Connect 202 representing those
17 staff here tonight.

18 So just to reiterate, we're here to hear
19 from you, the public. And we've got three ways that you
20 can you provide your comments tonight. You may do that
21 directly up front for the audience here. You may also be
22 able to speak to a court reporter located out in the hall.
23 If you speak up here in front, there's going to be a time
24 limit, but if you go to the court reporter out into the
25 hall, there's an unlimited time out there, so you can

1 speak as much as you wish.

2 We're also going to be accepting written
3 comments both tonight and till May 19th, as the colonel
4 just stated. No matter the format that you make your
5 comments, they're all going to be considered; they all
6 have equal weight.

7 So in order to speak tonight at the hearing,
8 you should have filled out a card there at the back table.
9 We will consolidate those, and we will be calling those in
10 the order received. We will be displaying those over here
11 on the side board. So that way you'll see who's next and,
12 if there is a wait, how long you have to wait to get up
13 here and speak.

14 There will be a time limit imposed for
15 speakers. And that's going to be three minutes for
16 individuals. And we're going to indicate that by having a
17 stopwatch over here on this projector. And we will also
18 have Doug Miller over here with the Corps. He's going to
19 have a light that kind of indicates that time. So when
20 that light is showing green, you still have plenty of time
21 to talk. Once one minute is left with that, it will turn
22 yellow. And when 30 seconds is left, it will turn red.
23 Don't worry if you see red. It just means you're running
24 out of time shortly. Once your time is out, the light
25 will flash and go out.

1 So also want to reiterate we do have
2 translators available tonight for both Spanish and
3 O'odham. And those translators are available for both up
4 front and in back with the court reporter outside.

5 To maximize speaking time, there will not be
6 any cross-examination of any of the speakers tonight, and
7 the Corps will not be responding to any questions.

8 And that was the wrong button.

9 There we go. All right.

10 So if you are part of a group tonight, we've
11 got a little bit of different procedures for those. So if
12 there are three or more people present in your group
13 tonight, we're asking that you select a representative to
14 speak on behalf of your group. And this is to maximize
15 the speaking time we have tonight. That representative
16 will come up here and speak in front of the audience, and
17 all the other members that are present can come up here
18 and join those -- that representative. Other individuals
19 within that group, if they have personal views on that
20 project that they would like to share, they may sign up
21 separately and talk within that three-minute time period.
22 Group representatives will receive an additional minute,
23 so that will be four minutes to provide testimony tonight.

24 Mutual respect, courtesy, and patience are
25 tonight's guiding principles. Please do not interrupt any

1 of the speakers or presenters. Please be respectful of
2 that. Be aware of the time limit and don't run over too
3 much. If you're doing that, you're taking time away from
4 other people.

5 It kind of looks like we've got plenty of
6 time tonight, so we may actually have an opportunity for
7 people to come up once again if they need to.

8 Please speak clearly and slowly for the
9 court reporter, and please provide comments with
10 substance. If you do like the project or don't like the
11 project, tell us specifically why. That helps us when we
12 address it later making our decision.

13 Again, you may also provide any oral
14 comments to a court reporter out in the hall without any
15 time limit, or you may provide your comments in writing.
16 We request that you e-mail those to that address, or you
17 can mail them to that address on the screen.

18 If you want to get your cell phones out and
19 take a picture of that, that's fine. We'll have that
20 stuff later on in the presentation again, and it's also
21 available on the boards in the back.

22 So after tonight's public hearing, we will
23 take the transcripts from the court reporter, and we will
24 post those online at this Web address for your inspection
25 and viewing. We will also have a hard copy available in

1 our office in downtown Phoenix in our visitors area for
2 you to come and inspect. And you'll be able to purchase
3 copies if you'd like.

4 So what happens to these comments? Well,
5 full consideration will be given by the Corps. I will
6 personally read every single comment tonight and will
7 forward those to the applicant, who will also have to
8 respond to those. All those responses will be documented
9 in our decision document, and that will be made available
10 at that website as well once it's released.

11 All right. So now I'm going to talk a
12 little bit about our permitting process and what goes into
13 that. Our agency is a little different. We tend to
14 permit things slightly different than what the public is
15 used to with working with other agencies. So we want to
16 make sure that's clear. That way, when you guys are
17 providing comments, you know what -- what's important to
18 us, what's under the authority and jurisdiction of the
19 Corps.

20 So the Arizona Department of Transportation
21 has applied for an individual permit under Section 404 of
22 the Clean Water Act. Their proposed action is to place
23 dredged or fill material that will permanently impact
24 approximately 8 acres of Waters of the U.S.

25 And I'll discuss what that is here in a

1 little bit.

2 As the governor and colonel both indicated,
3 a public notice was issued in December announcing our
4 consideration of the permit, and Gila River requested that
5 we hold a public hearing as a part of that process.

6 So if approved, the proposed action would
7 result in those permanent impact stages to almost 8 acres
8 of Waters of the United States, which is under the
9 regulations of the Corps. To reiterate, no impact to
10 Waters of the U.S. is approved. If you've driven down
11 Pecos Road at all, you will see that a lot of those washes
12 and arroyos have been fenced off. Some of them even have
13 signs designating them as Waters of the U.S.

14 So what are Waters of the U.S.? These are
15 going to be straights, streams, lakes, rivers, and creeks,
16 basically any water body. Here in Arizona, ephemeral
17 streams, washes, and arroyos are really common. And so
18 that's where the Corps has our regulations and our coding
19 that apply. And more specifically, it's going to be
20 pretty much from bank to bank.

21 We also have jurisdiction over any wetlands
22 or swamps, which, of course, we don't have those in
23 Arizona. But definitely, any upland areas, that is
24 outside of the Corps' jurisdiction, and that typically
25 falls under another federal or state agency.

1 So, again, we're limited to Waters of the
2 U.S., and we're only concerned with the discharge of fill
3 material. We do not permit freeways. We do not permit
4 pipelines or housing developments. We're more concerned
5 with bridges and culverts and crossings associated with
6 those types of facilities and projects. So typically our
7 jurisdiction will fall in within these areas, so limited
8 to these waters. If there are impacts associated with
9 those Waters of the U.S., our jurisdiction sometimes will
10 extend outside of that to some extent.

11 So now I want to talk about, a little bit,
12 what goes into our decision. So all federal agencies have
13 to comply with these regulations that are listed up here.
14 And that is discussed in disclosing those impacts and
15 considering what is occurring with that action.

16 With this particular project, Federal
17 Highways Administration is the federal agent. And so
18 they're designated that because they have authority over
19 the entire project. And as part of their decision
20 process, they've already developed documentation and
21 worked on some of these issues. And so the Corps, since
22 we have just a little sliver within that overall Federal
23 Highways authority, we are using those documents to
24 support our decision. And so we're going to use that
25 information and consider it as part of that. And this is

1 pretty typical for -- for the Corps, where we will meet
2 with other federal agencies on these projects.

3 Just want to touch this topic real quick
4 regarding NEPA. That's the National Environmental Policy
5 Act. So Federal Highways has developed a environmental
6 impact statement, as many of you are aware, for this
7 project. And again, that's covering the entire alignment.
8 The Corps intends to adopt this documentation to use in
9 our analysis of our decision and to comply with NEPA.
10 Currently, this documentation is being litigated in the
11 courts. And basically, we intend to proceed with this 404
12 permit decision. Once the courts have made a decision on
13 that, those cases, we will review that Federal Highways,
14 determine what impact, if any, that has on our permit, and
15 we will proceed with -- with whenever's directed in those
16 court rulings as applicable.

17 We also have additional requirements to meet
18 beyond those -- those ones that are common to all federal
19 agencies. And this requires that we conduct a public
20 interest review of the proposed action in Waters of the
21 U.S. and ensure that action complies with the 404(b)(1)
22 guidelines.

23 So first off, the Corps must conduct a
24 public interest review. And that's basically making a
25 determination on whether or not the proposed action in

1 waters is contrary to public interest. And we do that by
2 weighing the proposed action against these factors. And
3 these are codified regulations. But we have to consider
4 both the beneficial and the detrimental impacts to those
5 resources or those factors. If there's negative impacts
6 or positive impacts, we need to weigh that. And
7 essentially, if it's something that we can permit, we need
8 to balance out those impacts. We can consider mitigation
9 and special conditions to ensure that happens. If there
10 is a lot of negative impacts associated with all those
11 factors, we probably need to reevaluate what we're looking
12 at.

13 We also need to make sure that the action
14 complies with the 404(b)(1) guidelines. And these are
15 developed. And they're also in regulations of the
16 Environmental Protection Agency, or the EPA.

17 And these basically say that we cannot issue
18 a permit unless the following items are satisfied. So the
19 activity must be the least environmentally damaging
20 practicable alternative, or LEDPA. So whatever the actual
21 Corps is going to permit, there can't be any alternatives
22 out there that are practicable and cause less
23 environmental -- yeah -- cause less environmental damage.

24 An alternative can be considered practicable
25 if it achieves the purpose and need of the project while

1 considering cost, logistics, and technology. The activity
2 also cannot violate any other environmental laws and
3 cannot cause any significant environmental degradation.
4 All adverse impacts with that proposed action must be
5 minimized, and we must have enough information to make a
6 reasonable judgment about the activity's impacts.

7 And this is kind of important in answer to
8 one of the questions that's pretty common is why is the
9 Corps considering a permit application when the project's
10 already in construction? Well, they're able to be under
11 construction per other government authority outside of the
12 Corps' jurisdiction. And we require a high level of
13 detail about the impacts to Waters of the U.S. This
14 project, as ADOT would probably describe here, is being
15 built on a compressed timeline. So certain areas of the
16 project, including Waters of the U.S., are still currently
17 being designed. We cannot consider a permit until there's
18 a high level of detail about the impacts available, which
19 was accomplished late last year.

20 So after we review facts of the project and
21 run through our analysis, we have three decisions that
22 we -- well, we have one decision that we will make, but it
23 can go in three different ways. And so the first one is
24 that we can deny the permit, which means that no work is
25 authorized in Waters of the U.S. So ADOT would have to

1 determine how to proceed with that project, whether they
2 can it or spend a bunch of money to avoid Waters of the
3 U.S. We can issue a permit and say, "Here's your permit.
4 Go do the work. Have a nice day." Third option is that
5 we can issue a permit with special conditions. And that's
6 where the Corps says, "Hey, we have concern about these
7 areas or these resources. We think that you need to be
8 careful or maybe avoid them, and we're only going to issue
9 a permit if you follow these conditions." Typically all
10 Corps permits have special conditions attached to them.

11 So just quickly, just want to go over the
12 permit process and where we are in the overall procedures
13 here. So our first step is we receive a complete
14 application. We issue a public notice making the public
15 aware of that. If a public hearing is requested, we hold
16 that at this time. Next step is that we collect
17 information, develop alternatives, which are kind of
18 already done with the EIS. We develop evaluation factors
19 on how we're going to determine our LEDPA. Next we review
20 that information, review any mitigation plans that are
21 developed, conduct our public interest review of the
22 404(b) guidelines.

23 Because this project's been around for a
24 while, being developed a long time, we're kind of in a
25 mixture of -- of all three of these. But right now we're

1 still collecting information.

2 Finally, after we -- finally, after we do
3 all of that, we either issue a permit for LEDPA or we deny
4 the permit.

5 So, again, I just want to reiterate if you
6 have additional comments tonight, you can mail or e-mail
7 those to me before May 19th. That's all I have as far as
8 permit process and all that.

9 Next we're going to have ADOT come up and
10 provide us some details about the activities proposed in
11 Waters of the U.S.

12 And here you go, Doug.

13 MR. LAMONT: Okay. What you see up on the
14 screen here, we've divided the project in between four
15 distinct segments. We've got the Pecos segment that runs
16 along the I-10 Maricopa interchange that's south of
17 Chandler Boulevard and runs parallel on the Pecos
18 alignment. It then goes in a northwesterly direction
19 through what we call the center segment and then goes up,
20 ultimately, to the north and ties into I-10.

21 What you see on the screen -- if you can't
22 see it very well here, we do have maps in the back of the
23 room that show the same -- the same slides.

24 What you see up on the screen here, these --
25 the blue lines are what have been delineated as Waters of

1 the U.S. As you can see, there's a number of them up and
2 down the Pecos alignment, along the center segment, and
3 then there's two distinct locations in the Salt River
4 segment of the Laveen area conveyance channel as well as
5 the Salt River. What I'm going to present to you -- I'm
6 not going to present every single crossing, but I'm going
7 to give you the example of one along Pecos and one -- one
8 along the center segment and then a couple that we have in
9 the Salt River segment.

10 So along Pecos -- this here is the -- on the
11 very far right -- we are just west of 32nd Street. This
12 just happens to be one of the Waters of the U.S. And what
13 our job is to do is you can see, on the right, we've got a
14 white -- the white represents the freeway. The green
15 represents culverts that we are using to pass the flows.
16 What our job is, our job is to make sure that we are
17 passing the same flows through the corridor as what are
18 experienced today. So we design the culverts to do that.
19 In addition to that, we also make sure that we're not
20 adversely impacting anyone downstream or upstream with --
21 with flooding as we go along.

22 In addition to that, we have first flush
23 basins that will take the -- take the first half-inch off
24 of the freeway into basins. They settle them out before
25 they get discharged and conveyed over to the culverts.

1 This particular location -- this is a
2 section through the center cut or the center segment, as
3 we call it. We've got five multiuse crossings that are
4 proposed for the project. What the crossings allow, they
5 allow equestrian access, pedestrian access, animal --
6 access to animals. In addition, we have -- we -- what you
7 see on the right -- and, again, the white is the freeway.
8 What you see represented here is a bridge structure that
9 spans the Waters of the U.S. So the intention, again, is
10 to take everything and convey the same flows through that
11 are being conveyed today.

12 If you take a -- if you take a section view
13 through this bridge, you'll see something. This is a --
14 this is an engineering drawing. It's a little too
15 engineering-ish. But what you see on the section view --
16 what you see here is the opening. This is the bridge.
17 And this is where the -- where the access would be for the
18 Waters of the U.S. to pass through. You've got
19 16-and-a-half-foot vertical -- vertical clearance that
20 allows equestrians to traverse through the bridge
21 structure.

22 We have also two twin bridges over the Salt
23 River that are approximately 2,700 feet long. And the
24 Waters of the U.S. are depicted in blue, as you see up on
25 the -- up on the screen. You might ask yourself why is

1 the bridge so long if the Waters of the U.S. are so small?
2 We essentially need to design the bridge so it conveys
3 all -- it covers all of the floodplain.

4 In addition, on this location, the City of
5 Phoenix and the Corps of Engineers are -- are working on a
6 project to restore the channel bank along the Salt River,
7 and this project accommodates that.

8 This is the Laveen area conveyance channel
9 just south of Baseline Road. Again, they're designated as
10 the Waters of the U.S. Freeway outlined in white.

11 What's important to note with this, we're --
12 we're also conveying the waters through that channel as
13 well as keeping it active during construction at all
14 times. There's a lot of -- there's water that's
15 continually flowing through there. Our job is to make
16 sure that we don't impact the Waters of the U.S. when
17 we're building our project.

18 So with that, I'm going to turn the floor
19 back over to Colonel Gibbs and...

20 COL. GIBBS: We are actually ahead of the --
21 ahead of time, so that's a good thing. We're back on
22 track.

23 Many new folks have walked through the door
24 since we started, so as I stated earlier, I'm going to
25 reemphasize the process. We now will transition into the

1 public comments and the opportunity to speak in front of
2 the mic.

3 We will be taking oral testimony from the
4 public in the order we have received your speaker cards.
5 However, I would caveat that with there's two separate
6 categories. If a -- an individual is here with three
7 people and they're speaking on behalf of that group, they
8 will be up front. We're trying to put those groups up
9 front. They will be allotted four minutes. If folks are
10 speaking on behalf of themselves as an individual, they
11 will be allotted three minutes.

12 After the groups have spoken, we'll
13 transition to the individual testimony, as I just said.
14 Individuals may speak on their own behalf or on behalf of
15 someone else.

16 As was mentioned earlier, if you'd like to
17 speak, you must fill out a speaker card. You can pick
18 those up at the back table. Give it to one of the Corps
19 or the consulting staff. Our Corps personnel, for the
20 most part, we're all wearing Corps of Engineers shirts.
21 And if one of them sees you walking around with a card
22 looking for someone to give it to, they'll come over and
23 take it.

24 If you're part of a group, please let the
25 staff at the table know so that when you submit your

1 request. Please sign up if you have not already done so.
2 At the present time -- when we started this, I think we
3 had about eight speakers. So I'll kind of -- I'll expand
4 on that in just a second.

5 Clearly this is the mic that you'll speaking
6 in front of. And as you can see -- well, it looks like
7 we've got over ten now. Please know your number. Please
8 know when it's your turn to speak. I will tell you
9 that -- what I would appreciate is as Governor Lewis
10 speaks, number 2 and 3, they're ready to go. You can
11 stand up and be in the middle of the room so that you can
12 step up immediately once the governor's done. And that
13 will be Anthony Villareal.

14 Okay. So just be ready, and that will help
15 us save time. That will allow people to be able to
16 speak -- speak tonight, and we won't run out of time.

17 So as I said, there will be an allotted
18 time. Now, I will tell you, based on the number of
19 speakers that we currently have, if you need to finish a
20 thought and you go past that time a little bit, I will not
21 cut you off. But I do want to emphasize that it's very
22 important that everybody that came here tonight to speak,
23 I want to give them the opportunity to speak. So please
24 keep that in mind. I really dislike interrupting people.
25 It's not comfortable for me. It's not comfortable for the

1 crowd. So I'll do everything I can not to do that, but
2 please keep that in mind as well.

3 And then we do need to adjourn by about
4 9 o'clock. We're going to have about two hours and 15
5 minutes, so I think we're going to be fine. But we really
6 need to close up and clean up by 10 o'clock. That's the
7 agreement that we have. And I know many -- many of you
8 all have to get to work tomorrow as well.

9 And finally, you know, one thing. I've done
10 a few public meetings. And believe me, I do a lot of
11 speaking engagements. I understand sometimes,
12 particularly when there's emotion involved, how hard it is
13 to stick with three or four minutes. It can be
14 challenging. But if I -- if I allow people to talk six or
15 seven minutes and then we start running out of time and
16 someone who's speaking at the end, I have to cut them back
17 to three in order to ensure that we can close up this
18 place on time, and then -- then there ends up being some
19 complaints in that area. So I say all that to say I want
20 to allow you to say what you need to say, but please make
21 your point as succinctly as you can.

22 So when your time is up, please quickly step
23 down, let the next speaker up to the microphone. We have
24 a court reporter that will be recording all of the
25 comments, so, again, please speak clearly and as slowly as

1 you can while you give your comment. That will help the
2 court reporter to -- to ensure they document your full
3 comments.

4 As Jesse stated, we will not respond to
5 comments or questions tonight. I will tell you that after
6 the fact, if we have some time left over, you can come up
7 to us, and if there's easy questions that you're not
8 necessarily concerned with being on the record, we can
9 answer those. We just can't get into back-and-forth as
10 far as answering questions because, in many cases, we'll
11 need to do some research to answer it adequately and, in
12 other cases, we could answer the question, but then some
13 folks will wonder why we didn't answer theirs when we
14 answered others. So they will be in the record. We will
15 answer all comments -- or comment on all the comments,
16 answer all the questions as part of our decision document,
17 which will be available to you once it's completed.

18 So once again, we have a good turnout
19 tonight. It's possible that some people may have a long
20 wait until we get to you so that you can speak. But
21 remember, you can also provide your comments directly to a
22 court reporter outside in the hall. We have an additional
23 court reporter if you're uncomfortable speaking in front
24 of a larger group such as is in this room. And you can
25 also provide written comments as well either here or

1 either through mail or e-mail to the address on Jesse's
2 last slide. And I know you were given a handout that
3 provides that as well that you can take home with you.

4 So to reemphasize, all oral or written
5 testimony will become part of the administrative record
6 for the permit application. Once we have the written
7 transcript of the testimony, copies may be viewed online
8 and at our office here in Phoenix.

9 One more thing that I do want to highlight
10 is we will have a clock here, so if speakers want to peek
11 over and see how much time they have left. And
12 additionally, Bill, you have -- there's colors. And as
13 long as it's green, you're pretty good. When it turns
14 yellow, you've got a minute left. When it turns red,
15 you've got 30 seconds left. You'll hear a buzzer when
16 your time's up, and then you'll see me start getting
17 uncomfortable. Okay?

18 Thank you very much for coming out tonight.

19 And, Governor, we'll start with you whenever
20 you're ready, sir.

21 GOVERNOR LEWIS: Thank you for the
22 opportunity to address the Corps of Engineers on ADOT's
23 application for a Clean Water Act permit for their South
24 Mountain Freeway project. On behalf of the community, I
25 ask that the Corps of Engineers not grant ADOT this permit

1 to build the highway along the Pecos Road alignment.

2 To give you some perspective, we are meeting
3 tonight on community lands that will be most affected if
4 this permit is approved. Once the highway is built, if we
5 were to walk outside of this building, we would hear the
6 noise of that highway. And that highway would cross over
7 30 washes and waterways that flow directly into our lands,
8 and we would see that highway. And most difficult for the
9 community, we would see that highway cutting right through
10 the sacred South Mountain range, one of our most important
11 cultural resources.

12 This is not -- this is because ADOT wants to
13 build this highway directly next to our reservation lands.
14 But to do this, they need a permit from you, the Corps of
15 Engineers, to cross all of those different washes and
16 waterways that are located next to South Mountain and that
17 flow into our lands.

18 We recognize that the Corps of Engineers is
19 not focused on the entire freeway project, but the Corps
20 must consider the direct and indirect impacts resulting
21 from the portions of the project that the Corps does
22 control and regulate, which includes the waterways and
23 washes that the freeway will cross, because the crossings
24 are at the community's doorstep. This means that the
25 Corps must consider the project's impacts on the community

1 and its reservation lands. As I have said, the majority
2 of the 30 jurisdictional waterways that will be impacted
3 and need permit coverage are located directly next to the
4 reservation and run into our lands just yards away from
5 the freeway crossing.

6 But ADOT has not made a critical showing
7 that there are no other locations for this portion of the
8 highway, such as north -- north of South Mountain, that
9 would have fewer impacts on wetlands and waterways and
10 that would not cross through South Mountain. ADOT
11 rejected all but the one alternative in the eastern
12 section of the project that ADOT is asking the Corps to
13 permit. And it is troubling that this is the alternative
14 with the most significant environmental impacts on the
15 community of the South Mountain.

16 In the project's EIS, ADOT rejected the two
17 alternatives located north of South Mountain, which are
18 the U.S. 60 extension and the I-10 spur, with an
19 explanation that included only a few bullet points but did
20 not even get into environmental or water resource impacts.

21 The Corps can only issue a permit for the,
22 quote, least environmentally damaging practicable
23 alternative, unquote, which is known as the LEDPA. ADOT
24 has not shown that building the highway across Pecos Road
25 is the LEDPA. This alignment crosses over 30 washes and

1 waterways, impacts South Mountain, and impacts the
2 environment of the community's reservation. This is --
3 this is not an alignment that the Corps should permit.
4 Issuing a permit for the alignment also is not in the
5 public interest, which is another legal standard that the
6 Corps must meet when issuing Clean Water Act permits.

7 As you will hear from our tribal historic
8 preservation officer, issuing a permit will allow the
9 freeway to cut through the South Mountain, which is sacred
10 to the community. In addition, the freeway could bring
11 contaminated water into our lands and cause flooding.

12 Now, in closing, my own words. I want to
13 say to you, the Army Corps of Engineers, you have an
14 opportunity to set the record straight. You have an
15 opportunity that was a missed opportunity up in North
16 Dakota having to do with the Standing Rock Sioux Tribe.
17 You have an opportunity, at this point, to make a moral
18 decision, to make a decision that would stop literally
19 destruction of our land, of our culture, of our resources,
20 of our spirituality that our elders and our youth here
21 will undoubtedly speak very emotionally to and articulate
22 to more than I can. Please listen and please listen to
23 your hearts. Listen that this is the ultimate decision
24 that will make a -- a very definite effect, a very
25 historic effect on the survival of the Akimel O'odham and

1 Pee-Posh people.

2 (Speaking native language.) Thank you.

3 (Applause)

4 COL. GIBBS: Thank you, Governor.

5 ANTHONY VILLAREAL: Thank you. My name's
6 Anthony Villareal. I'm the council representative here
7 with the Gila River Indian Community of District 6 and
8 also the residents of community District 6.

9 The Gila River Indian Community and the
10 residents of District 6 respectfully opposes the Army
11 Corps of Engineers issuing ADOT a permit for South
12 Mountain Freeway project. The impact to the majority of
13 the waterway crossings that the Corps must permit are
14 located directly north of the community's reservation
15 boundary, at times within a matter of feet of the
16 boundary, and the majority of the impacts requiring permit
17 coverage are to waterways that flow directly onto the
18 community's reservation.

19 The Corps cannot simply rely on the Federal
20 Highway Administration's EIS to grant ADOT a Clean Water
21 Act permit. The Corps must first conduct additional
22 analysis and make additional findings under the Clean
23 Water Act regulations. These Clean Water Act analyses and
24 the Corps determination must consider impacts to the
25 community and to the reservation lands, including impacts

1 to historic and cultural resources such as South Mountain,
2 Moadag Thoag.

3 The majority of the highway that requires
4 permit coverage is located just east of South Mountain,
5 Moadag Thoag, a sacred community and traditional cultural
6 property. If the Corps of Engineers issues a permit, this
7 will allow for ADOT to build the highway directly through
8 the South Mountain range, which is Moadag Thoag, which is
9 referred to in our language.

10 And the -- when I speak to the sacredness of
11 this mountain and as -- as the Akimel O'odham, which I am,
12 we carry respect, and we have certain things that -- that
13 are very important to us. The significance of Moadag
14 Thoag, South Mountain, is -- starts from the beginning,
15 since time immemorial, and where our creation began,
16 certain things that were given to us, the home of Si'ihe,
17 which is our Si'ihe e'es, our Elder Brother. The medicine
18 that is collected there in Moadag Thoag still, to this
19 day, that is used for -- whether it be for blessings, for
20 general use, for offerings. The -- we still carry on our
21 traditions. We still carry our language and the respect
22 for this mountain, the protection of it, as Akimel
23 O'odham.

24 We carry the songs that go to this. And I'm
25 going to share with you all a song here today that's about

1 Moadag Thoag. (Speaking in native language.) This is
2 talking about the mountain and how great it -- largely it
3 is. (Speaking in native language.) Talks about the
4 feeling that I gain from this, being there in Moadag
5 Thoag, the collecting of the flowers, the flowers covering
6 me.

7 (Singing song in native language.)

8 ANTHONY VILLAREAL: Thank you.

9 COL. GIBBS: Thank you, sir.

10 CHARLES GOLDBTOOTH: Good evening. My name
11 is Charles Goldtooth. I'm council representative for
12 District 6, along with my constituent Villareal.

13 My frank concerns are it doesn't matter if
14 the freeway will be located off the Indian community
15 lands. With the roadway being so close to the community
16 boundary and the other waterways being -- cross-flowing
17 directly into the community lands, in some case just a few
18 feet from the crossing location, there will be impacts on
19 the community lands that the law requires the Corps of
20 Engineers to consider when deciding whether to issue a
21 permit.

22 Issuing a permit that allows ADOT to build a
23 highway along the Pecos Road alignment could have
24 significant impacts to our community. The most
25 significant -- significant impacts will be the drainage

1 from aquatic resources located in the community's
2 reservation. These impacts weigh against the Corps
3 issuing ADOT a permit to authorize the impacts just beyond
4 the community's boundary.

5 The freeway will diminish the quality of
6 water entering the community's land. South Mountain storm
7 water runoff, if mixed with the freeway's runoff, can
8 be -- and contaminating -- I'm sorry -- that contains
9 contaminants that enter into the system that flows into
10 our community's lands. The freeway could impact the
11 Pee-Posh wetlands, diminish the water quality of the
12 Pee-Posh wetlands, which are significant to the
13 community's environmental and cultural resources that the
14 community council placed in a conservation easement for
15 wetlands, protection of the enhancement.

16 Increased flooding to -- it also increases
17 the flooding to the Vee Quiva Casino and Komatke area, the
18 area that we are from here in District 6. The freeway
19 could also increase flooding that already occurs in the
20 Komatke area and the Vee Quiva -- and the Vee Quiva
21 Casino. In addition, development -- development of the
22 freeway could change the historical conditions, resulting
23 in a rechannelling of the water or reducing floodwaters
24 into areas of the Gila -- of the reservation not previous
25 flooding.

1 The freeway could change the velocity and
2 the flow of the water entering our community lands. The
3 freeway could change existing drainage patterns in our
4 community lands. The freeway could adversely impact
5 community damage -- drainage project. The freeway could
6 require communities to change, enlarge, or relocate
7 components of the planned Komatke regional flood control
8 project, which will add cost to the community.

9 Any permit issued from the Corps should
10 be -- should require that the potential for drainage and
11 flooding impact on community's lands are avoided to
12 minimize and mitigate. The Corps cannot properly conclude
13 the impacts to these waterways and wetlands that haven't
14 been avoided or minimized to the greatest -- to the
15 greatest intent possible.

16 Federal Highways Administration EIS did not
17 analyze whether alternatives can -- located north of the
18 South Mountain could avoid or impact fewer acres of the
19 free -- waterways. So ADOT has not shown that the impacts
20 to the 30 waterways that flow onto the community's lands
21 cannot be avoided.

22 Again, I ask you, please, you know, consider
23 what we're saying tonight. You know, we are from the
24 community, and it means a lot.

25 Thank you.

1 COL. GIBBS: Thank you, sir.

2 STEVE BRITTLE: My name is Steve Brittle.
3 I'm here for Protecting Arizona's Resources and Children.

4 There will be irreparable harm if this
5 permit is issued and the plan changes the structure when
6 excavation occurs. This permit should not be issued, if
7 at all, until after the Ninth Circuit has ruled. We and
8 the tribe do expect to win in the Ninth Circuit, and when
9 we do, all the previous construction of the freeway would
10 have to be removed. All the damages would have to be
11 mitigated. However, some damages may be irreversible. So
12 waiting a few months would be for a way for the Corps of
13 Engineers and the taxpayers of the United States to avoid
14 unnecessary liability of permanent damage to the nation's
15 aquatic resources.

16 Having participated in proposed permit
17 processes before which seemed to plod on for years, I
18 wonder why this one seems to be so accelerated. When we
19 started our efforts to stop this freeway over a decade
20 ago, we learned that the sand and gravel industries were
21 hoping to excavate and mine the sand and gravel in the
22 area that the Salt River would be across and to sell it
23 for fill along the freeway route, which would be a special
24 economic demand, so that ADOT is able to find any sand and
25 gravel so close by, they wouldn't need to pay to excavate

1 and mine for the bridge.

2 We have seen previous permits where the
3 removal of soils from the riverbanks was not allowed, and
4 we were curious about this proposed permit because it
5 lacks those kinds of details. We would mind -- we would
6 hope the design isn't created with the profits of the sand
7 and gravel companies in mind.

8 One of the claims in our NEPA lawsuit is the
9 freeway project has only completed preliminary designs,
10 around 50 percent level, which violates the requirements
11 of NEPA. Also, since neither the specifics of the plan
12 nor the expected mitigations measures can be expected to
13 be accurate, what will likely be proposed will be likely
14 inadequate and unacceptable.

15 We have also claimed, in the lawsuit, the
16 cumulative impacts were not properly analyzed or
17 addressed. And if the Federal Highway Administration and
18 ADOT had complied with NEPA, we'd have the details for
19 what is being proposed here now. But we don't. Yet the
20 Corps of Engineers is continuing this pattern of vagueness
21 and inadequate analysis in planning by not disclosing what
22 the final damages and mitigations might be. If the Corps
23 of Engineers doesn't know this, then there's no basis for
24 a permit or even for this hearing.

25 In short, the permit, as proposed, is too

1 vague to be valid. It's a moving target. And it's
2 illegal. Specifically, mitigation measures that may be
3 necessary have not yet been identified, and irreparable
4 harm and damages may be more severe than here projected.
5 That's on page 9 of the public notice.

6 The permit notice admits irreparable harm
7 may be a consequence on page 5. The entire Section 404
8 permit process should be halted at this point and then
9 re-noticed when the actual proposed mitigation plans and
10 full portions of the permit are actually disclosed to the
11 public before we're robbed of the chance at a real public
12 hearing.

13 It is also that of a contributor to offer
14 mitigation and/or fees. There is a legal and judiciary
15 notification required for the Corps of Engineers to
16 minimize adverse effects on populations of plants and
17 animals, as well as human uses such as recreation, besides
18 the controlling runoff either onto the Ahwatukee Foothills
19 or Gila River Indian Community side. Despite this, the
20 Corps' assurances, contractors for the freeway
21 construction have already exhibited a failure to take care
22 of the natural resource and seem to be motivated more by
23 speediness than proper care.

24 Then there's the questions. What about the
25 possible hazardous waste materials that will be uncovered

1 and generated? How will they be handled? What are the
2 storage areas the water would settle in before discharge?
3 And what are the plans to treat or pretreat them before
4 discharge into the Waters of the United States?

5 The draft highway maintenance drainage
6 manual from ADOT is from February 2015, and there is no
7 update. It's improper to use a draft document for this
8 permit.

9 Thank you.

10 COL. GIBBS: Thank you, sir.

11 (Applause)

12 BARNABY LEWIS: Good evening. My name is
13 Barnaby Lewis. I am a Gila River Indian Community tribal
14 historic preservation officer. I am here tonight to make
15 you aware of the great impacts that will occur to South
16 Mountain if the Army Corps issues ADOT permit to build the
17 freeway project along the Pecos Road alignment.

18 South Mountain is one of the community's
19 most important cultural resources. It is a traditional
20 cultural property that is protected under federal law and
21 is a prominent part of our reservation's landscape. It is
22 central to the community's tradition and spiritual
23 understanding of respect for natural resources and the
24 ecosystem.

25 The importance of South Mountain to our

1 tribal members and our ancestors cannot be overstated. It
2 is a location that community elders regularly speak about
3 as part of the community's oral traditions, and it is
4 mentioned in our stories and songs. The waterways and
5 washes of the project will be impacted.

6 And ADOT is asking the Corps to permit
7 located directly next to South Mountain. If you issue
8 this permit, ADOT will put the freeway right through South
9 Mountain, forever altering the mountain range's culture
10 significant landscape. Also, the freeway will run near or
11 right through where community members still conduct
12 traditional religious activities and where trails and
13 shrines are located.

14 Back in 2007, the community council passed a
15 resolution that said that South Mountain range is a sacred
16 place, and the community strongly opposed any alteration
17 of South Mountain for any purpose because this would be a
18 violation of the cultural and religious beliefs of the
19 Gila River Indian Community, and that would be a negative
20 effect on the continuing life ways of the people of Gila
21 River Indian Community. One such important is a tribal
22 culture community's opposition should be respected.

23 On behalf of the community, I respectfully
24 ask that the Corps of Engineers deny the permit so ADOT
25 can locate this freeway somewhere else, in a -- in a

1 location that will not impact our cultural resources and
2 will not change forever the landscape and view of South
3 Mountain, as we have been and experienced by the people of
4 the community.

5 Thank you.

6 COL. GIBBS: Thank you, sir.

7 (Applause)

8 SEAVER FIELDS: Good evening. My name is
9 Seaver Fields. I am the project coordinator and flood
10 control engineering supervisor for the Gila River Indian
11 Community's Department of Land Use, Planning, and Zoning.
12 My testimony is from the perspective of identifying and
13 working to mitigate flooding issues impacting the
14 reservation from on-site and off-site development.

15 As you are aware, most types of development
16 upstream, the watershed usually has some form of impacts
17 to existing development downstream. Mankind can only
18 attempt to resolve these impacts with engineering methods
19 and regulation, which is what currently brings us together
20 this evening. But flood impacts are still anticipated.
21 It's just in the manner of how the impacts will change
22 conditions.

23 The development of the freeway is
24 particularly concerning as it is occurring upstream of the
25 reservation boundaries. The community has outlined its

1 position related to flood impacts. But allow me to
2 elaborate a little further without going into technical
3 detail as to why this freeway could cause adverse impacts
4 to the reservation.

5 As the Corps is aware, we have requested and
6 received some of the information that we need from ADOT to
7 analyze impacts on the community. A brief technical
8 review has revealed there are possible impacts from
9 drainage by development of the freeway. Impacts include
10 increased peat discharge, increased velocity, and
11 increased water surface elevation along certain segments
12 of the Pecos Road alignment. Additional impacts include
13 comingle of off-site drainage with on-site water quality
14 basins, introducing a possible water quality issue
15 draining into the reservation.

16 We will provide additional and more detailed
17 comments once we have the opportunity to review the full
18 set of drainage data that we have requested, including
19 information on the alignment that continues from Pecos
20 Road and cuts through South Mountain, passing 51st Avenue.
21 This segment is very crucial, from a flood control
22 perspective, as there is a mountain watershed just
23 northeast that currently introduces broad, shallow
24 sheetflow entering the reservation, particularly into the
25 Komatke area where we are currently gathered.

1 Introduction of the freeway creates an obstruction to flow
2 and could concentrate these drainage patterns to a point
3 of possibly increasing discharge of volumes entering the
4 reservation.

5 U.S. Army Corps of Engineers is aware of
6 current impact of flooding to the Komatke area from our
7 December 2016 request for funding, under the Section 205
8 U.S. Army Corps authority. Water does not adhere to
9 political boundaries unless the boundary is a physical
10 barrier that changes its direction. In this case, the
11 freeway parallels the community's boundary and is a
12 physical barrier. Although our funding request is a
13 separate item from this freeway development, they are
14 intrinsically linked by sharing the watershed and its
15 ephemeral drainage patterns, which include Waters of the
16 U.S.

17 In closing, if development of the freeway
18 persists, I am hopeful the U.S. Army Corps and ADOT
19 consider proper flood mitigation for the environment and
20 the people of the Gila River Indian Community located
21 downstream.

22 Thank you.

23 COL. GIBBS: Thank you.

24 (Applause)

25 COL. GIBBS: Ma'am, before you start, we're

1 going to give you four minutes.

2 Okay. There you go. Thank you.

3 ELIZABETH GOFF: Hi. My name is Elizabeth
4 Goff, and I'm here to speak tonight on behalf the PMPC,
5 the Phoenix Mountain Preservation Council. It's a
6 nonprofit organization, and we have been working for over
7 40 years to protect and preserve our mountain parks.

8 South Mountain preserve is a centerpiece of
9 the Phoenix Mountain preserve system. Development of the
10 South Mountain Freeway, which is to be facilitated, in
11 part, by the issuance of the proposed 404 permit, would
12 cut through the southwestern end of the South Mountain
13 preserve, resulting in substantial direct, indirect, and
14 cumulative impacts to the environment and the recreational
15 purposes, uses, and values of the preserve. More
16 directly, the issuance of the permit will impact multiple
17 natural washes throughout the area, disrupting wildlife
18 corridors throughout the South Mountain preserve.

19 Mitigation of the crossings of the Salt
20 River must consider access to recreational areas upstream
21 and downstream, including Tres Rios and the Rio Salado
22 Oeste Project.

23 It is also unclear how the impacts of this
24 project will be mitigated, particularly since the Corps
25 acknowledges, in the notice, that, quote, it is still

1 reviewing and evaluating the applicant's mitigation
2 proposal, unquote. And because much of the important
3 specifics of mitigation have been left for the design and
4 construction phases of the project, which continues to
5 suffer under a lack of transparency, on behalf of PNPC and
6 those who value the South Mountain preserve and its
7 surrounding environment, we request the Army Corps deny
8 the permit since it is not in the public interest and
9 because there are less environmentally harmful yet
10 feasible alternatives and have -- that have not been
11 adequately explored by ADOT, as required by law.

12 A supplemental environmental impact
13 statement is required. The Army Corps explains, in the
14 public notice, that it did not apply the EPA guidelines
15 during the original NEPA process conducted for this
16 project, including with regard to the evaluation of
17 alternatives under the guidelines. At minimum, the Corps
18 is required to prepare a supplemental EIS for this project
19 that adequately examines all of the direct, indirect, and
20 cumulative impacts of the 404 permit and the project under
21 the underlying cases which examines a full range of
22 alternatives for the 202 alignment as well as properly
23 developed mitigation scenarios.

24 The 404 permit is not in the public
25 interest. The benefits of the project are outweighed by

1 its probable impacts, including cumulative impacts on the
2 public interest as a whole. These detrimental impacts
3 include, among other things, the physical destruction of
4 multiple mountain ridges, including two within the South
5 Mountain preserve, which will impact the significant views
6 and aesthetic values of the preserve, associated harm to
7 cultural resource archaeological sites, and the
8 denigration of South Mountain as a sacred site and
9 traditional cultural property for nearby Native American
10 communities, loss of historic recreational trails and
11 trail -- trails and trail connectivity, destruction of
12 recreational values, harm to wildlife and biological
13 resources, destruction of ecosystems, increased air
14 pollution.

15 The Corps has failed to adequately disclose
16 mitigation plans for the project. The proposed
17 alternative is not the least environmentally damaging
18 practical alternative.

19 Thank you.

20 COL. GIBBS: Thank you, ma'am.

21 DALE GUTENSON: Good evening. My name is
22 Dale Gutenson. I'm the director of the community's Casino
23 Expansion Owner's Team, a group the community put together
24 to develop the casinos.

25 You gave me the opportunity, a few months

1 ago, to register a specific concern about a threat to one
2 of the community's properties. That's the Vee Quiva
3 Casino. I'd just like to make that same statement, the
4 same -- register the same concern in this public forum.

5 As we all know, the -- the west side of
6 South Mountain drains through the community's lands on its
7 way to the Gila River, specifically through the Vee Quiva
8 site and the adjoining lands.

9 When that casino was developed, the
10 community put a tremendous amount of effort and
11 engineering for us into protecting the site. It was a
12 very challenging situation because there were waters
13 flowing off the South Mountain and getting redirected into
14 channel through -- which I'm not sure if they're Waters of
15 the U.S. or not, but it certainly aggregates into Waters
16 of the U.S. That was all based on the condition that
17 exists now. This freeway would totally change that
18 drainage pattern. So it could have an adverse impact.

19 The request, at that time, was that, in any
20 event, the community would be given the opportunity to
21 review and approve any of those plans since they could
22 have such a potential impact on that specific property.

23 And I think the comments I'm making pertain
24 to the adjoining lands. But from my perspective, I'm just
25 trying to register the specific concern about the Vee

1 Quiva property.

2 Thank you.

3 COL. GIBBS: Thank you, sir.

4 TIFFANY SPARGUE: Hi. My name is Tiffany
5 Spargue, and I'm here with the Grand Canyon of Arizona
6 Chapter Sierra Club. We have more than 60,000 members
7 here in Arizona, so please accept these comment on their
8 behalf.

9 So as others have said, the proposed freeway
10 would increase runoff into the Salt and Gila rivers and
11 would forever impair an already impaired section of the
12 Salt River, as listed under Section 303(d) of the Clean
13 Water Act. To contribute to further impairment of this
14 breach of water is contrary to the Clean Water Act.
15 Likewise, the proposed action would degrade several
16 ephemeral washes that drain into the Gila River from South
17 Mountain, and the western section of the project would
18 cross a number of jurisdictional waters.

19 Information that ADOT has provided to the
20 public indicates that although increased pollution will
21 occur to these already impaired waters of the Waters of
22 the U.S., a thorough analysis has not been completed on
23 the types of contamination or the levels of impairment.
24 ADOT has stated that it will implement measures to reduce
25 water quality impacts, however, all mention of these

1 measures have been very vague, so we are unable to
2 determine if they will well mitigate these impacts.

3 As others have stated, such vagueness
4 permeates all potential impacts and mitigation measures
5 that ADOT has put forth, which makes providing
6 substantiative comments difficult, and it also prevents
7 the Army Corps of Engineers from making an informed
8 decision.

9 So in summary, ADOT has failed to minimize
10 and avoid adverse impacts of this project to our limited
11 and precious aquatic and other natural resources of the
12 Phoenix area, and it has not adequately addressed how
13 negative impacts to these jurisdictional waters and other
14 natural resources will be properly mitigated. ADOT has
15 also failed to address the cumulative and negative impacts
16 of this project on jurisdictional waters. So we encourage
17 the Army Corps of Engineers to deny approval of this 404
18 permit.

19 Thank you.

20 COL. GIBBS: Thank you, ma'am.

21 (Applause)

22 KAYLA DEVAULT: My name is Kayla Devault.
23 I'm an ASU grad student with -- in engineering, and I'm
24 also eligible for a studies candidate. I'm here as a
25 consultant, although I've worked extensively as an

1 engineer for Fort Defiance Agency in Ahwatukee as a civil
2 engineer. I'm also a youth member at of EPA Youth
3 Perspectives on Climate group, so I know the importance of
4 public comments to capture the essence of the community.

5 First of all, I would just like to say that
6 of course I have a problem with the way that jurisdiction
7 works and the concept of Waters of the U.S.A. falling on
8 tribal lands under Army Corps jurisdiction. I think that
9 tribes are slowly gaining more decision-making in -- on
10 their lands, but water and energy still have a long way to
11 go. Of course we have to rely on the Army Corps to
12 protect any cultural resources or any waterways that are
13 affected by projects from outside communities. And here
14 in Phoenix, of course we have the Gila River, the Salt
15 River, which it's not my community, so I don't want to
16 speak to that, but as you will hear -- continue to hear
17 tonight, it's very important for the desert people here
18 that live here, that have been here since precolonial era,
19 and who deserve to have any and all waterways preserved in
20 a pristine and natural state pre-colonization.

21 So protection of the waterways, as I
22 mentioned, falls on federal jurisdiction. And I wish we
23 could work forward instead of having to fight these
24 battles for it to change the way that that -- that
25 operates, as in New Zealand, where they have recently

1 protected the waterways important to traditional people
2 that live there.

3 You want to talk about the impacts of this
4 project. The majority of the waterways that will be
5 affected is discharging into the Gila River Indian
6 Community, of course. And I'm especially concerned with
7 the central section that crosses through the sacred
8 mountain, South Mountain. As you have heard reiterated,
9 it has religious importance, and we need keep that to as
10 pristine as possible. You can clearly illustrate how
11 these waterways discharge across into the community.

12 And I think that also brings up the
13 question, how can you look at how waterways who are free
14 and ever-changing, how they could be restricted by
15 bridges? I know from experience that this doesn't work,
16 especially in an area that's sandy and prevalent to
17 erosion and constantly having culverts getting blown out
18 on the Navajo reservation. So how can you continue to
19 constrict these waterways and consider that a solution?

20 And also, define water quality, because
21 permanent irreversible damage to these waterways is
22 important to these people. That would be, in my opinion,
23 water quality as well. And that is not captured by the
24 current chemical standards, sediment standards, under the
25 paradigms that we use currently to mediate waterways on

1 tribal lands.

2 I also do not see justifiable need for this
3 project. And if you want a practicable solution, you
4 shouldn't have started wasting money by constructing
5 before these permits have been issued and before there was
6 an approved consultation and consent by these tribes.

7 Yet again, this is a repeat of history,
8 unresolved conflict with tribal nations, and we need to
9 stop the assault on our nations. And my question to you
10 is would you destroy something such as Mecca that is
11 important to the Muslim community? Because the way I view
12 it, this is important to the communities that have
13 longevity in this area. And we should keep that in
14 consideration, how to protect its resources as well.

15 And with that, I ask you to please deny,
16 with prejudice, this project.

17 Thank you.

18 COL. GIBBS: Thank you.

19 (Applause)

20 COL. GIBBS: Before the next speaker, I'm
21 told that not everyone can read the names on the screen in
22 the back, so I'll start -- that -- that was Kayla Devault.

23 Next will be in Napoleon Marrietta.

24 NAPOLEON MARRIETTA: Excuse me. I just
25 wanted to ask to speak after. There are a view elders in

1 the room to speak. So I just want to, with respect, speak
2 afterward and probably go last. I just want to make sure
3 that's okay.

4 COL. GIBBS: Okay. You're Napoleon?

5 NAPOLEON MARRIETTA: Yeah. Yeah.

6 COL. GIBBS: Are you ready right now? Why
7 don't you go ahead and go right now. You're on the list.

8 NAPOLEON MARRIETTA: All right. So I'm a
9 history student that graduates tomorrow actually. So --
10 sorry. I'm completely blank right now.

11 I can only say that the mountain is
12 important to us, and it is important to all of us in the
13 community, because my mother has grown up here. My mother
14 is from here, Komatke. And when I heard about this --
15 when I heard about this project going on years ago, first
16 was ADOT that was proposing the South Mountain Freeway.
17 My mom would tell me stories of how it is all going to be
18 desecrated if it goes through. And we're -- things are
19 being in the works of desecration now.

20 The thing that I have had a problem with is
21 that the importance of the future generations that -- the
22 future generation that is after us, what is the importance
23 of -- of them in our communities? And when I heard about
24 this hearing with regards to water and with regards to
25 protection of it, we also know that water is very sacred

1 to us as well, as opposed to, you know, what is going on
2 in Standing Rock as well. So it's important that we all
3 recognize that whether it is -- it's a freeway or
4 contaminant to water, everything that we hold dear in this
5 area is very sacred to us. And as Governor Lewis said,
6 that we don't -- what we have to say is we said no to the
7 freeway, and we're going to say no to the permit as well.

8 So I could talk about all the logistics and
9 engineering stuff, but I'm pretty sure that they've
10 addressed that. So I just wanted to say thank you.

11 COL. GIBBS: Thank you.

12 (Applause)

13 COL. GIBBS: Next will be Lorraine Yaramata.

14 Oh. I'm sorry. Jana Sunn.

15 JANA SUNN: How is everyone?

16 As a Pee-Posh woman raised traditionally to
17 protect and defend the water, I urge the U.S. -- United
18 States Army Corps of Engineers to deny the permit which
19 will divert the natural runoff and cause tragic and
20 unforeseen consequences to our community and to future
21 generations.

22 Recently, I was asked to make a cradle from
23 the willow for a newborn child. We can no longer utilize
24 the plants and medicinal plants along the riverway due to
25 the toxins in the water. This is questionable runoff

1 which is no longer safe. This will affect the current
2 generations. How many years has the water been tested,
3 and what is the toxicity level of each test? Are people
4 still -- still living the traditional way. The
5 desecration and abuse of our sacred mountain needs to
6 stop. Our people still hunt and live off the game. Where
7 is the borderland steady? What effects of contamination
8 will it have on our allotments, the Maricopa sedimentary
9 allotments directly south of the freeway?

10 Protect the health, safety, and general
11 wellbeing, future as against noxious fumes and toxic
12 water, not -- not to continue and contaminate our aquifers
13 and from the pollution of the highway, allow the runoff
14 onto the lands. This is their freeway, which would only
15 desecrate the South Mountain Regional Park. Sign off on a
16 hundred-year guarantee that the runoff will not cross our
17 boundary.

18 Everyone always assumes the runoff should be
19 directed onto indigenous lands. Gila River was not taken
20 into consideration. Two distinct tribes live there. The
21 potential undesirable impacts require a case-by-case
22 consideration. Under federal law, no standard contained
23 in the preceding section shall affect the applicable
24 federal law on regulations such as the Clean Water Act of
25 1977, the Clean Air Act of 1970, the Safe Drinking Water

1 Act of 1974. Environmental concerns would be the
2 wetlands, cultural values, recreation, fish and wildlife,
3 flood hazards, land use, the water supply, and quality,
4 safety and welfare of the people.

5 Please protect our indigenous ways from this
6 multicultural world by denying the permit.

7 Thank you.

8 COL. GIBBS: Thank you, ma'am.

9 (Applause)

10 COL. GIBBS: Lorraine Yaramata.

11 LORRAINE YARAMATA: My home was built just
12 recently on the --

13 COL. GIBBS: Ma'am, could you step -- could
14 you step a little closer.

15 Thank you.

16 LORRAINE YARAMATA: My home was just
17 recently built right off the arroyo where the freeway's
18 going to be going through the boundary right there.
19 And -- alongside of homes being built in the same area
20 there. And it angers me because we have to listen to all
21 the loud noises, the traffic and the sirens from the
22 freeway, and all the debris is going to be flying off of
23 the freeway and stuff. Strangers walking up to our homes.
24 We have school buses that come straight to our home to
25 pick up our children. I see this to be a big threat to

1 our community, my grandchildren, and their children.

2 If this freeway should go through, there
3 will be no peaceful time to sit outside and enjoy the
4 morning sunrise or the evening sunrise that we enjoy every
5 evening and every morning. Our wildlife animals that live
6 around the area of our homes with my grandchildren, which
7 we watch every day, the wildlife will run to look for
8 secure areas to build, 'cause we have a lot of wildlife
9 animals that live there.

10 And it upsets me, being an elder from the
11 Maricopa Pee-Posh tribe, that I was not aware of this
12 freeway to be built on this second route. It's just so
13 close to our home. And I ask that you look at another
14 resource route. But I already see, just driving along the
15 other roads, that they're cleaning out the land by the
16 boundary. Families that have lived off the boundaries
17 have already sold their land and have already moved out.

18 And my grandchildren think their homes are
19 going to be built. As a grandmother, I tell my children
20 what is going on by the surrounding areas within our
21 community. And if you were Native American, you would
22 know and understand how we feel about our community.

23 I was always told, by my great --
24 great-grandparents that this day will come, that there
25 will be moves around the areas and a structure going

1 around our communities, which is happening right now.

2 I'm very proud to be who I am. I'm Maricopa
3 Pee-Posh from District 7, born and raised there. And
4 that's my home, and I'm proud to be a member of my
5 community here in this community.

6 Thank you.

7 COL. GIBBS: Thank you, ma'am.

8 (Applause)

9 COL. GIBBS: Aaron Sabori.

10 AARON SABORI: Good evening. My name is
11 Aaron Sabori. I live right down the road here, 51st
12 Avenue and St. John's.

13 What I want you to remember is simply this.
14 Water has memory. When it comes off that mountain, it
15 remembers where it goes. It remembers looking for that
16 river over here. This is what my grandfather taught me
17 when I was a young man. About seven or eight years ago,
18 they built -- added onto 51st here. They've added
19 cul-de-sacs and whatnot.

20 Well, my mom's house is over there. It was
21 built in 1963. And seven or eight years ago was the first
22 time it's ever flooded.

23 It flooded inside her house to about 10
24 inches. It flooded on my yard to about 8 inches. And it
25 was going to go -- the wash that's behind my house, that's

1 where the water was going. It was remembering where it
2 was going.

3 When this water ended, it left a residue
4 there. And this residue was good enough that you could
5 peel it like paint. This residue was black. Now that's
6 just from just very -- this little bit of work that's been
7 done to keep this road. What's going to happen if the
8 freeway comes? How much disaster will come?

9 We can talk about the regulations. We can
10 talk about all these things. But we have to remember
11 that. This is something that I truly believe. As farmers
12 in this desert, we knew about these things. Water has a
13 memory. It's going to remember a way to get back to that
14 river. And there's washes all along in this community,
15 behind people's homes like mine. And when that water does
16 do that, what is it going to mean for us? It's going to
17 bring a poison that we're not going to be able to deal
18 with.

19 In 1968, my grandfather told me that this
20 stuff was going to happen. That was very hard to believe
21 at that time. But guess what. It is. And it's something
22 that we're not prepared for. Denying it helps us. Other
23 than that, it's -- it's a very fearful situation, because
24 we don't plan on moving. We plan on living here.
25 Grandkids are going to be here. We're all going to be

1 here.

2 So once again, all I want you to remember,
3 simply -- and it may be just the way we see it, but it's
4 been true, that water does have memory. It knows where
5 it's going to go no matter what we do to it. And what is
6 inside that water, it's going to end up somewhere, here,
7 on its way to that river over there.

8 That's all I want to tell you.

9 COL. GIBBS: Thank you.

10 (Applause)

11 COL. GIBBS: Mr. Bruce Lindquist, sir.

12 BRUCE LINDQUIST: Yes. My name is Bruce
13 Lindquist, and I live in the Laveen area, and I'm a
14 candidate for legislative District 27, 2018. I'm with the
15 GOP organization. And all of the land north of the
16 southern boundary of Maricopa County is in legislative
17 District 27. Precincts include the Pee-Posh, the Komatke,
18 and the Lone Butte. We have the casinos, the freeways
19 going down through there.

20 And I'm here to say that I have studied the
21 water. I've lived in Laveen for over 40 years. In August
22 and September 2014, the rain gods dumped a lot of water on
23 the north side of South Mountain Park. City of Phoenix
24 Flood Control quickly built a retention basin at 27th
25 Avenue and South Mountain Road -- it's about a half a mile

1 north of Baseline -- to garner all of that water that came
2 down.

3 I guess my question is what levels of flood
4 intensity have you designed to?

5 And then I have a question for the gentleman
6 from ADOT that says they've got pits that they're going to
7 collect the water off of the freeway, let it settle out,
8 and then let that water go into the natural drainage.
9 That's what happens currently right now in the Laveen
10 conveyance channel. Laveen conveyance channel was built
11 to take the irrigation waters through. We're talking
12 about natural waters that flow through here. The dirt and
13 the grime off of eight lanes of freeway is going to cause
14 a horrendous condition down the road. I think it needs to
15 be filtered to some level of tertiary treatment to equal
16 the same level with the water that the rains come from.

17 And secondly, I have a question as to what
18 happen -- what's ADOT going to do in a few years? They
19 just spent millions of dollars cutting down I don't know
20 how many million yards of dirt on I-17 at milepost 281 on
21 the south side of the 17 as you come out of Camp Verde and
22 go up the hill. What happens if they find arsenic in the
23 site of the South Mountain area they're going to cut? Is
24 there a plan to deal with that? And what happens when all
25 the waters start to deteriorate all of that cut that

1 occurs?

2 And I don't believe that, according to the
3 mountain preserve, that the City of Phoenix has a right to
4 transfer title, as they did in February 2017, to ADOT of
5 those lands. They need the vote with all of the people in
6 the City of Phoenix.

7 With that, I thank you.

8 COL. GIBBS: Thank you, sir.

9 (Appause)

10 COL. GIBBS: Tupac Enrique, sir.

11 TUPAC ENRIQUE: Yes, sir.

12 (Speaking in native language.)

13 I'd like to greet, first of all, the elders
14 and the members of the Gila River Community and our hosts
15 of this meeting. And I would like to mention that
16 (speaking in native language.)

17 Since June the 3rd, 2011, before the Arizona
18 Department of Transportation, when they were submitting
19 public comments regarding the plan that led us to this
20 point, to discuss the issue of the extension of the 202
21 freeway.

22 Let me state once again, as we did back in
23 2011, that we fully -- that we stand at full commitment
24 and agreement of solidarity, the position of the
25 community, the Gila River community, the O'odham people

1 throughout the territory in opposition to the freeway and
2 for their calling here once again here tonight in
3 opposition to this project as you propose.

4 If I could make a very quick question to the
5 members of the Army Corps of Engineers. If you would
6 simply answer me one simple question at this moment so I
7 can proceed with my comments.

8 The question is this, sir. Are you familiar
9 with -- have you read the United Nations Declaration on
10 the Rights of Indigenous Peoples that was adopted by the
11 United Nations General Assembly on September of 2007?
12 Have you read it? Are you familiar with it?

13 COL. GIBBS: Probably at some point, but --
14 does anyone --

15 TUPAC ENRIQUE: I would like to ask --

16 COL. GIBBS: I can't confirm, sir. I
17 don't --

18 TUPAC ENRIQUE: You have not. Are you
19 familiar with it?

20 COL. GIBBS: Sir, please continue with your
21 comment.

22 TUPAC ENRIQUE: This is something --

23 COL. GIBBS: I am not familiar with it.

24 TUPAC ENRIQUE: Thank you for your answer.

25 Thank you for your answer.

1 I would like to inform you, a little bit,
2 the information about the declaration. It's significant
3 and is also relevant because this community, the Gila
4 River community, adopted a resolution adopting -- taking
5 that -- taking that declaration of the United Nation as
6 part of tribal law. It was adopted by a resolution that
7 was passed here on Gila River.

8 And these documents are written documents
9 that will be submitted by e-mail.

10 It was submitted -- it was adopted by the
11 Gila River community on formal resolution on May 21st,
12 2008.

13 What I'm saying, simply, sir, that the
14 United Nations Declaration of the Rights of Indigenous
15 Peoples is the law of the land by the lawgivers, by the
16 law upholders. We're speaking of things that are all
17 legal. We're speaking about the rule of law, not the law
18 of the rulers. That's a clarification.

19 In that declaration, the United Nations
20 Declaration of the Rights of Indigenous Peoples, which is
21 part of the status of international law, Article 18,
22 "Indigenous peoples have the right to participate in
23 decision-making in matters which would affect their
24 rights, through representatives chosen by themselves in
25 accordance with their own procedures, as well as to

1 maintain and develop their own indigenous decision-making
2 institutions."

3 Specifically, sir, members of the Army Corps
4 of Engineers, members of the community, no one here
5 tonight has spoken in favor of this project. No one has
6 given their consent. Therefore, I would submit that this
7 project is in violation of Article 32 of the United
8 Nations Declaration of the Rights of Indigenous Peoples,
9 states, "Indigenous peoples have the right to determine
10 and develop priorities and strategies for the development
11 or use of their lands or territories and other resources.
12 States shall consult -- consult and cooperate in good
13 faith with the indigenous peoples and with -- through
14 their own representative institutions in order to obtain
15 their free prior -- and informed consent prior to the
16 approval of any project affecting their lands and
17 territories or other resources, in -- in particular in
18 connection with the development, utilization, or
19 exploitation of mineral, water, or other resources."

20 Sir, we will be submitting, for the
21 knowledge and the hope that participants in this assembly
22 and the members of the Corps, the information regarding to
23 application of the United Nations Declaration of the
24 Rights of Indigenous Peoples as a standard for evaluation
25 and also a criteria to determine the legality of such a

1 project before the road's approval.

2 Thank you so much.

3 COL. GIBBS: Thank you.

4 (Applause)

5 COL. GIBBS: Next Mike Tashquinth.

6 MIKE TASHQUINTH: Good evening. My name is
7 Tashquinth. I am an elder from District 6. I welcome the
8 Army Corps of Engineers to the land and the home of the
9 still free and wild Akimel O'odham and Pee-Posh. This is
10 the west end. In 2012, in a community meeting, I made a
11 motion. And in that motion, I asked that that freeway not
12 be built on our northern border or through Moadag Thoag.
13 That is our holy mountain. That belongs to us. I grew up
14 there, and I pray. I leave my prayers and my offerings up
15 there. I sing my songs. I go up there to pray because
16 that is what our tradition tells us to do. That is the
17 home of our Creator. And I go up there to pray, just as
18 many of my community members do.

19 I ask you, the Army Corps of Engineers, not
20 to give that permit to this ADOT. They've lied to you.
21 They're not telling you the whole truth. The
22 environmental impact study that they go by does nothing
23 for us. It guarantees them everything, but when you go
24 and look back on it, it has nothing to do with us.
25 Everything that my people are coming here to tell you,

1 they are speaking from their hearts. They are trying to
2 tell you what's going on.

3 This is our land. We have been here for
4 thousands and thousands of years. We have never fought
5 against the United States. We have never signed a treaty
6 with the United States. Our young men have served
7 valiantly with the Army and the Marines, the Navy, and the
8 Air Force.

9 I ask you to please honor us as human
10 beings, as people of the Earth, we, the Akimel O'odham and
11 Pee-Posh. I ask you as warriors, as protectors and
12 defenders, to protect and defend us and not give them that
13 permit. Don't let them have it.

14 (Applause)

15 MIKE TASHQUINTH: Help take care of us and
16 protect us. You, the Army Corps of Engineers, you took a
17 vow. You made an oath. Stand by the oath. Stand by that
18 vow. Protect us and defend us. I ask that you do this,
19 please, and take care of us.

20 Thank you.

21 COL. GIBBS: Thank you, sir.

22 (Applause)

23 COL. GIBBS: Mr. Fred Ringlero.

24 FRED RINGLERO, JR.: Good evening. My name
25 is Fred Ringlero, Jr. I'm a member of the Gila River

1 Indian Community. I live here in District 6. I've been
2 living here since 1972. I was around when the district
3 took the first vote to deny the freeway coming on the
4 reservation in the early '80s, keep it off the
5 reservation. I'm also in agreement with the community
6 today in regards to the mountain and also the freeway
7 issue.

8 But at a time, as a young person, I worked
9 with the Land Use, Planning, and Zoning Department. There
10 was an issue that popped up with the City of Phoenix and
11 ADOT. And that was concerning building a road. I was
12 there. I seen the contractors deny to fund to the Indians
13 because we didn't know what we were doing.

14 We went out there and proved to them. Their
15 culverts that they put in were at vertical range that it
16 was -- the velocity was going to be too high, and
17 therefore, Kinder Morgan, El Paso, City of Phoenix, Gila
18 River Indian Community, and the DQ, ADOT all got involved
19 to try and figure out what was going to happen.

20 What happened was they ended up lowering --
21 in different areas along that segment, lowering the Kinder
22 Morgan and El Paso gas line. And we also take a look at
23 other things and in that area. That's where ADOT came up
24 with an agreement in the later '80s, DQ to do -- clean-up
25 the water before it came onto the reservation there at the

1 Wild Horse Pass area.

2 There is a standard of quality that has to
3 be issued. And I don't -- I don't know if it's being
4 followed or if anybody's checking up on it. City of
5 Phoenix dumped some water into the Gila drainage at the
6 same area, and they denied doing the same quality effort
7 that DQ honored with the -- with the tribe.

8 So therefore, I think there's some things
9 that need to be really looked at, and I -- I would be
10 against issuing a permit at this time so that a lot of
11 those things can be taken a look at. And also, I really,
12 strongly recommend that Gila River Indian Community,
13 community members, and some technical people from the
14 community be on some kind of inspection program there with
15 you guys so that the contractors and ADOT will understand
16 what's going on. I've worked with some of those
17 contractors, and they don't care. They'll do what they
18 need to do in order to get the project done.

19 Thank you.

20 COL. GIBBS: Thank you, sir.

21 (Applause)

22 COL. GIBBS: Lori Thomas-Riddle.

23 LORI THOMAS-RIDDLE: Hi. My name is Lori
24 Thomas-Riddle. I live -- I live here in the community.
25 In fact, I live down the road at a toxic Superfund site I

1 grew up on.

2 First of all, I want to say there was a
3 missed opportunity for a lot of our kids to come. I had a
4 group of kids that were supposed to come. They wanted to
5 hold up their posters. And because of what was posted
6 about no banners and no posters -- they didn't want to
7 speak. They wanted to speak visually to you guys. So
8 there is a demographic that's missing here tonight.

9 In the past, there has been some broken
10 promises in regards to agreements. And one of the
11 examples I want to mention is the I-10 freeway. We
12 were -- we were told that we could have frontage roads,
13 and that never came. It still, to this day, never came.

14 Also, like on my contaminated site, my
15 grandfather's contaminated site, we were told that land
16 would be looked at once every year. Never once have I
17 seen anybody come and assess it on an annual basis.

18 Sorry. Excuse me. My eyes are bad, so I'm
19 trying to read my writing.

20 Part of the PARC, Protecting Children
21 Arizona's lawsuit, my organization, Gila River Alliance
22 for a Clean Environment is part of that lawsuit that's
23 going through the courts now. We're basing it on racial
24 discrimination and religious discrimination, because
25 they're not acknowledging our religion, as O'odham people,

1 to pray in the way that we usually do.

2 Our people have gone to the mountain to
3 collect things, to hunt, to -- to intertwine with nature,
4 to pray, just like Mike said. You know, people do go up
5 there. And that's being impeded with this freeway. They
6 won't be allowed to cross. The -- the animal crossings
7 aren't going to address the human crossings. We go and
8 get our medicine up there. We go and get our -- our
9 fruits from the cactus. We harvest things.

10 This is an unnecessary freeway. It was
11 planned -- how many years now? Since '85. My daughter
12 was born that year. It was needed at that time, but it
13 wasn't built at that time. Right now we're trying to make
14 sure that the view is still beautiful and don't --
15 aren't -- aren't continuing in our -- in our land and our
16 property.

17 People always ask me what's the worst that
18 could happen? I'll tell you what the worst that could
19 happen is. I saw my daughter, as a child, grow up with
20 nosebleeds every day and pus coming out of her ears and
21 hurting in pain because of the toxic exposure. Right now,
22 as I speak, I have a friend who has a young daughter the
23 same age as mine, in her thirties. She's going through --
24 she's going through emergency surgery because of toxic
25 exposure. That's what the worst that could happen is. My

1 cries for my family's pain have been diminished and just
2 thrown to the side all these years.

3 I'll try to make it quick here.

4 Because of the Water Rights Settlement, the
5 State and the region now are relying upon the future with
6 Waters of the Populous and their dependance on Gila River,
7 since we now control that water. And so the entire state
8 would not benefit -- it would -- it would impact them in a
9 negative way. Dioxane and particulate matter 2.5, that's
10 going to be all around us.

11 I see our reservation villages moving toward
12 the east, where it might be safer for our people. They
13 don't want to breathe that. Dioxane is a cancer-causing
14 agent not a possible cancer-causing agent.

15 COL. GIBBS: Ma'am, can you please conclude.

16 LORI THOMAS-RIDDLE: And consultation is a
17 joke. When people try to come here to speak to our -- our
18 tribal leaders and our tribal members, it's not really
19 communication. There's such a big barrier.

20 And I guess I'll -- I'll end with just
21 saying that this freeway doesn't belong here. Now it
22 doesn't. Maybe years ago it could have done something for
23 the growth of the community or the -- the cities. But
24 reject that permit, please, for the future of our
25 children.

1 COL. GIBBS: Thank you, ma'am.

2 (Applause)

3 COL. GIBBS: Next Reverend Joe Tate, sir.

4 REV. JOE TATE: (Speaking in native
5 language.)

6 And I come from the Gila River Indian
7 Community Sacaton, which is the capital of the Indian
8 reservation. I'm on behalf of the youth, the babies, the
9 elders that weren't able to make it out here today.

10 I come here not to explain to you what I
11 feel but to tell you that you are in control of now. We
12 always talk about these three things; past, present, and
13 future. Well, right now we're in the current time. We're
14 in the present.

15 Water is life. As I came from North Dakota
16 and I spent time up there, many of us have left our jobs
17 and our families to go to something that we truly,
18 strongly believe in. And I leave this question with each
19 and every one of you. Would you leave your job or leave
20 your family for something that belongs in your heart and
21 your mind?

22 One of the major flaws that I see out there
23 is that nobody could understand each other. The
24 protectors, the warriors, the tribal people, DAPL,
25 military, security could not step into other people's

1 shoes. Therefore, understanding may not be alive and
2 well, unfortunately.

3 So today I come before to you that now we
4 are in the present time that you think about what you can
5 do today. As in the Good Book, it says that we are not
6 promised tomorrow. When the Good Lord asked you what did
7 you do that was so great in what you did, what would be on
8 that big screen when the time is running out? Imagine if
9 you could see your life in that time and there was only
10 one minute left in your life. Would you be sitting down
11 typing and writing on a piece of paper? Or would you make
12 a decision that would be everlasting for not only a Native
13 community but for a people, a life.

14 I come up here with my I'ittoi. Maybe you
15 don't understand this. Maybe you understand the cross.
16 But I have these because it is who I am as an individual,
17 that I was born a Native American.

18 There are many people here that are
19 educated, but they're in school right now. There are
20 youths that are resting right now getting ready for school
21 tomorrow, for it is a community. Maybe you cannot
22 understand or step into my shoes, but realize that there
23 is a time ticking in your life, that this is very
24 important to the people. Think about it. If you had
25 20 seconds left, what would you do? Would you say

1 good-bye? Would you hug your loved ones? Or would you
2 sign a paper that would have everlasting impact on the
3 community?

4 I don't want history to repeat itself. I
5 have faith in you guys, even though I see many things that
6 I cannot talk about.

7 I leave you with that. The time is ticking
8 for you as well. Zero. God bless you.

9 COL. GIBBS: Thank you, sir.

10 (Applause)

11 COL. GIBBS: Chris Morago, Gila River
12 Environmental Youth.

13 CHRIS MORAGO: Good evening. My name is
14 Chris Morago. I am a member of Vista Free. I am here
15 representing Gila River Environmental Youth, which is an
16 organization that is coinciding with GRACE, Gila River
17 Alliance for a Clean Environment.

18 As Lori mentioned earlier, we did have a
19 number of youth that wanted to come but felt that they
20 would not be able to -- to be able to speak or express
21 themselves properly. When I came, I saw a public speaking
22 area outside. They would not even be allowed in the
23 building with the signs that they created.

24 Most people have not heard of our group, yet
25 we were in San Francisco for Earth Day. We were also

1 there speaking on EPA to discuss the environmental issue.

2 I stand before you here to discuss the
3 environmental impact of what's going to happen. I drove
4 through a rainstorm when I got here, and I see the water
5 beating off the road. What's going to happen when that
6 water comes off of an eight-lane freeway? Is it going to
7 kill the vegetation around it? Is it going to kill the
8 animals that rely on that water? Is it going to destroy
9 our natural and cultural resources that have been on that
10 mountain for centuries, before anybody was ever here, that
11 have been here since there have been people in this
12 region? What is going to happen to all of that by
13 allowing a freeway to go through?

14 With every freeway comes debris, trash,
15 accidents, chemicals. What is going to happen to all of
16 the stuff when it mixes in with the groundwater, when it
17 comes into the land?

18 They have told you time and time again,
19 speakers have gotten up, educators, as well as tribal
20 members, as well as people that work for the community,
21 telling you that the water drainage is going to be
22 dangerous. It is going to be detrimental to the health of
23 our children.

24 I have a two-and-a-half-year-old grandchild,
25 second generation, that is going to be exposed to stuff

1 that could possibly kill her because of the dangers and
2 the toxins that we have that we've created on our planet.
3 What are we leaving for our children? What are we leaving
4 for our future generations?

5 We need to -- you, the Army Corps of
6 Engineers, have the authority to stop this process, to
7 stop the bleeding, to stop the hemorrhaging of our
8 mountain, to stop the destruction of our natural
9 resources, and to protect not only my granddaughter and my
10 future but your future and all the people that rely on the
11 water that come into Arizona.

12 And not just Arizona. 'Cause this -- Gila
13 River is a tributary to the Colorado River. There are
14 other states that are involved in this. There are
15 millions and millions of people that will be involved by
16 this decision.

17 You, as the Army Corps of Engineers, need to
18 deny this permit for the protection of our future as well
19 as generations to come. Thank you.

20 COL. GIBBS: Thank you, sir.

21 (Applause)

22 COL. GIBBS: Suree Towfighnia. Is that
23 close?

24 SUREE TOWFIGHNIA: Yeah. You did good on
25 the second name.

1 I'm Suree Towfighnia. I come here on behalf
2 of my children. They're Pee-Posh, Persian, Mexican,
3 Polish, German, French, and Spanish.

4 We moved here in 2014 after coming here
5 since 2008, and we've been fighting for water all over the
6 world. As community members, I'm grateful to be standing
7 here on this land that's Pee-Posh and O'odham and many
8 other tribes that have come through here for generations
9 and millennia. It's hard for us, sometimes, to understand
10 that there have been hundreds and thousands of people
11 protecting this water. That's why people here are so
12 passionate about it. So I just want to give thanks and
13 acknowledge.

14 It's very difficult for people to come up
15 here and speak. But I just want to acknowledge everyone
16 that has tonight. It gave me strength to speak. I
17 usually stand behind a camera and just document for people
18 who can't be here, 'cause there's many people who can't
19 come here for many, many reasons.

20 I also want to acknowledge that the tribe
21 waited until January to request this hearing. So I'm
22 grateful to the tribal leaders who finally requested this
23 hearing.

24 'Cause I'm not a scientist. I'm a mother,
25 and I'm a film maker. But I read these documents years

1 ago, when they came out, and the thing I circled right
2 away was diverting water off of the highway. The highway
3 would divert the water that feeds natural watersheds. It
4 would go across Salt River. Even though it's a dry
5 riverbed, we have hopes of bringing back that water so
6 that it can flow to the ocean again. That's the dream
7 that we have for our children.

8 My children are three and seven, and I stand
9 here today on behalf of them, who have to, sadly, go and
10 be water protectors, who have to sit here and watch their
11 water be contaminated right here on this reservation, who
12 have to fight for it. That's why we fight for it. It's
13 because hundreds of years ago relatives of my family
14 fought to protect this water, my husband's family, who I'm
15 grateful to share in this land.

16 We moved here because it's a beautiful place
17 at the base of the Estrella Mountains, and we found out
18 that water, not only this water but other water that's
19 contaminated and toxic, is going to be flowing through
20 canals that my -- my husband's family helped dig. These
21 canals that are all throughout Phoenix, this Maricopa that
22 we call this -- what is it? The county of Maricopa? That
23 name comes from the Pee-Posh. Maricopa is Pee-Posh.
24 That's what it was called. So I honor that all this land
25 that goes all the way to the mountains on both sides is

1 land that's traditionally indigenous. And I'm grateful to
2 the people who stand here.

3 So I urge the Army Corps of Engineers -- I
4 know this is just a show that you guys are putting on.
5 But I hope that for once you can actually make the right
6 decision and reject this permit, because ADOT is failing.
7 It's failing to promote evidence. It's failing to
8 provide -- they've had how many decades to show us an
9 accurate plan of how they're going to divert the water?
10 And we haven't seen it yet. So let's put it -- let's be
11 transparent.

12 These drawings are great. But I've been
13 looking online to find these, and I haven't. There is no
14 evidence that they're going to protect the cultural sacred
15 environmental destruction that's going to happen when they
16 dive into this mountain right here.

17 We just watched the sunset right here.
18 Everyone, I hope, took a minute to stand outside. It's a
19 long way for you guys to come. I saw people saying, "I
20 don't want to go to the west end. Why is it clear over
21 there?"

22 Because that's where the highway's going to
23 come. Right? What's going to happen when those plants
24 aren't being fed the water that, for thousands of years,
25 has been running off that mountain.

1 So I'm going to urge you to do the right
2 thing, like that gentleman said. We live in the
3 present -- I know you're shaking your head, but you also
4 said I could have a couple extra seconds, so I'm just
5 going to take a couple extra seconds. Okay?

6 (Applause)

7 SUREE TOWFIGHNIA: Because my kids aren't
8 here. And they would have spoke. So I just want to urge
9 you, please, let's do the right thing.

10 We've all been referring to Standing Rock.
11 Right here, we can make a difference.

12 And I want all these community members to
13 keep coming. Right?

14 (Applause)

15 SUREE TOWFIGHNIA: Because where are you at
16 all these other things, when we're at our district
17 meetings? Where are you standing up then when it really
18 matters too?

19 So thank you again. I'd like to thank
20 everyone for coming. And I also want to say (speaking in
21 native language). That means water is life in Pee-Posh.

22 COL. GIBBS: Thank you, ma'am.

23 (Applause)

24 COL. GIBBS: Amanda Blackhorse.

25 AMANDA BLACKHORSE: Good evening. (Speaking

1 in native language.) My name is Amanda Blackhorse.

2 I want to thank the Gila River Indian
3 Community for allowing us to come together this evening.
4 I am not from here. I'm from the Navajo nation up north.
5 But I do work in this community. I am a political social
6 worker in this community. I actually work just right up
7 the street from here.

8 And so a big part of what I do, as a social
9 worker, is to be an advocate. Our profession is rooted in
10 advocacy and social justice. And I'm being an advocate
11 today for the people that I serve in this community to say
12 that the freeway should not be built. I think that you
13 can see here tonight that there is an overwhelming
14 opposition to the freeway. What will happen when this
15 freeway is built? We're talking about water, the concern
16 for water, the health issues that will come along with the
17 freeway if it has been built, the social issues, the
18 crime, the pollution, the contamination of water in the
19 community. This will all affect the livelihoods of every
20 single people in the community. We are standing not even
21 one mile away from where it will be built. Just right
22 here.

23 And you can see this is a Boys & Girls Club.
24 There's a health clinic up the street. People live not
25 far from where it will be built. It will affect the

1 health. There's already an enormous health disparity
2 within this community. There's asthma. The -- the health
3 disparity of asthma in this community is extraordinary.
4 It's -- it's huge. So I want to ask you to take that into
5 consideration.

6 And I want you to understand that --
7 Ms. Riddle here said this earlier -- that in the plan,
8 there is a plan to help horses to get through. Right?
9 The concern of animals, which is rightly so. But there is
10 no plan for the way that human beings would get past the
11 freeway. How will the community here connect with the
12 sacred mountain? Please take that into consideration. We
13 need that pathway. It needs to be clear.

14 So please deny the permit. Thank you.

15 COL. GIBBS: Thank you, ma'am.

16 (Applause)

17 COL. GIBBS: Elizabeth Francisco.

18 ELIZABETH FRANCISCO: Hello. My name is
19 Elizabeth.

20 First, I wanted to start off with a poem
21 that I had originally written about the river. It's going
22 to connect.

23 My culture has started to vanish before my
24 eyes could see. Part of me has been banished for I -- all
25 because of my river, the one that I've never seen. My

1 lips begin to shake and quiver. My river ceased to be.

2 So from a personal perspective, it's like
3 I've lost my identity with this river because it's been
4 dammed. And now you want to affect this mountain that's
5 going to affect the generations beyond me.

6 So besides that, there comes the issue with
7 water where the Akimel O'odham -- Akimel O'odham is River
8 People, so it's natural for us to want to protect these
9 water sources.

10 And besides that, growing up, I was labeled
11 as severe asthmatic. I was in and out of the hospital
12 three to four times a month. So when you want to talk
13 about the pollution that this freeway is going to bring
14 for our people, what is it going to do to our kids? And
15 for me, from a personal perspective, I don't want to see
16 these kids have to go through these health problems in the
17 future because you guys had to put a freeway so close to
18 our community. Thank you.

19 COL. GIBBS: Thank you, ma'am.

20 (Applause)

21 COL. GIBBS: Our last speaker, Darius Enos.

22 DARIUS ENOS: Good evening, everyone. My
23 name is Darius Enos, and I am a member of the Gila River
24 Indian Community. I also grew up here in this village.

25 So my concern with the freeway and the

1 permit, I can't really allude to the Water Act, per se,
2 but I do have a concern. It is my understanding that our
3 water -- our drinking water that comes out of our faucets
4 is -- comes from our aquifers. So the runoff from this
5 freeway potentially will go off into the aquifers of
6 our -- our river. We really can't see our river. It
7 still runs. It's underground. So it -- it's a -- it --
8 there's a lot of things that can go into it that can stick
9 there forever, things that can move, that can hide from
10 us. You know, it -- it's -- and it can come out of our
11 sink water. And those things are hard to catch. They --
12 they're tested from different wells. And you can't really
13 determine where exactly these pollutants are unless
14 they're tested all the time in a lot of areas.

15 Besides that, I have to allude to the 2014
16 flood. I was out here at the school a few -- few -- just
17 a little bit -- ways down the road. And I -- I've been to
18 Niagara Falls. And there was this thousand-year flood
19 that happened in 2014. I believe it came twice. And --
20 and it was literally Niagara Falls coming down on South
21 Mountain. I thought it was going to be a quick storm, but
22 the storm lasted hours, and water just kept falling. And
23 I can just image, had there been a freeway infrastructure,
24 it would have been destroyed. And like I said, it's come
25 more than, like, once that year.

1 The -- the thing -- water pattern -- weather
2 patterns are changing in the world. We don't -- we don't
3 know what's going to happen. There are so many pollutants
4 going out, not just in the community but as far as the
5 world, that we should be concerned. The decisions we make
6 in such a small place such as our community do affect the
7 world. That -- like I said, the weather patterns are
8 changing. We determined that the wind so far, now, had --
9 if there's a lot of pollutants, will flush it out.
10 However, the weather patterns are changing. The winds can
11 stay stagnant. There's acid rain -- potential for acid
12 rain.

13 And we -- we are a community with a history
14 of detrimental health effects, diabetes, high rates of
15 obesity. There's a lot of things to consider in our
16 community. We're not just a population. We've been here
17 for thousands of years. And that -- that needs to be
18 considered. We're a volatile community with volatile
19 health concerns.

20 Thank you.

21 COL. GIBBS: Thank you.

22 (Appause)

23 COL. GIBBS: Ladies and gentlemen, before I
24 get to the closing comments, I don't want to forget that
25 there's plenty of food left. So before you leave, you're

1 more than welcome to grab food. Eat it here or on the way
2 home.

3 And I would encourage you to stay for any
4 other conversations. If -- if there is a question our
5 staff can answer that -- that's basic and that doesn't
6 need to be part of the record, by all means, we can do
7 that. And, you know, we -- we typically will gather
8 around the poster boards there in the back -- that are in
9 the back.

10 But on behalf of all of us with the Corps,
11 we'd like to thank you for your participation in this
12 public hearing. On a personal note, I just want to thank
13 you for your passion, your humility, your professionalism
14 in presenting the comments that you have. It was
15 absolutely an honor for us to be here. And we always want
16 to hear what you have to say as we go through this
17 decision-making process. It's important.

18 Again, we will carefully consider all the
19 comments that we receive for the proposed project.

20 One more?

21 All right. I'll save those last three
22 sentences.

23 We've got one more.

24 Okay. We've got an individual who's going
25 to have to write out his comments, and then someone will

1 read them for him. So we're going to take a ten-minute
2 break. Grab some food. If you have to go to the
3 restroom. We'll come back, and then we'll wrap up with
4 that last comment and my closing comments. Thank you.

5 (A recess ensued from 8:15 p.m. to
6 8:33 p.m.)

7 COL. GIBBS: Okay. Ladies and gentlemen, I
8 know I told you before we went on the break that we were
9 going to have someone speak on Antonio Sneed's behalf,
10 however, we're unable to do that. What we're going to do
11 to ensure that it's part of the record is we're going to
12 film the sign language afterwards -- he's going to do it
13 now? Okay.

14 UNIDENTIFIED SPEAKER: So I'm here to
15 introduce Antonio Sneed. He wants to address his comments
16 this evening.

17 And I also want to just let you know that he
18 hiked from the south side of the mountain from South
19 Mountain Park. And he hiked to this side of the mountain
20 today, and he came all this way to express his comments.
21 So he's going to do that in sign by video and then -- go
22 ahead.

23 (Signing.)

24 COL. GIBBS: Thank you, sir. Appreciate it.

25 (Applause)

1 UNIDENTIFIED SPEAKER: He's from the Gila
2 River, and he came from the north side of the mountain.
3 Sorry.

4 (Applause)

5 COL. GIBBS: Okay. We -- we're just about
6 to the end of time. I -- within the next minute, if you
7 want to make comments, you can go to the back, but I
8 believe -- but I think, during the break, if someone else
9 would have had comments, that you would have signed up.

10 So at this point, I'll conclude, and Heather
11 will wave me down if someone else comes down.

12 As I stated earlier, a transcript of
13 tonight's hearing will be available on our website and at
14 our office here in Phoenix. A complete rollup of
15 everything will be -- will come out with the final
16 decision document. I do not have a timeline on that right
17 now, because we're going to do the work, and you'll see
18 the comments there, the transcript, and you'll see the
19 answers to any questions you have, as well as comments
20 that are part of the decision document.

21 I'll just conclude by saying the close of
22 the public comment period is May 19th, so that's a week
23 from this Friday. So it's next Friday. So you've got
24 about ten days left. The comments must be received by
25 May 19th to be considered in the Corps' evaluation for the

1 proposed project.

2 If you need any further information on the
3 proposed project, please visit the information table at
4 the entrance of the auditorium in the back for contact
5 information as well as a link to our website.

6 Thank you all very much for coming out
7 tonight and speaking on behalf of your views. We
8 appreciate it very much. Have a nice evening and have a
9 great rest of your week. Thank you.

10 (Applause)

11 (The meeting concluded at 8:38 p.m.)

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1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)
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7 I, CHARLOTTE LACEY, Certified Reporter No. 50859 for
8 the State of Arizona, do hereby certify that the foregoing
9 printed pages constitute a full, true, and accurate
10 transcript of the proceedings had in the foregoing matter,
11 all done to the best of my skill and ability.
12

13 WITNESS my hand this 11th day of May, 2017.
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18 Charlotte Lacey, RPR
19 Certified Reporter No. 50859
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