

AK-CHIN INDIAN COMMUNITY

Community Government

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September 2, 2010

Jared Blumenfeld
Regional Administrator
U.S. Environmental Protection Agency - Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

RE: Ak-Chin Indian Community's Comments on the Proposed Redesignation of PM_{2.5} and PM₁₀ within Pinal County.

Dear Mr. Blumenfeld:

The Ak-Chin Indian Community ("Community") received the U.S. Environmental Protection Agency's letter dated October 14, 2009, indicating the intent to reevaluate the designation recommendation for Pinal County under the PM_{2.5} and PM₁₀ NAAQS. The Community is located within Pinal County and may be directly affected by any designation promulgated by EPA for Pinal County. The Community receives Clean Air Act funding allowing for the development of our air program. The air program under the direction of our Environmental Department is currently conducting air sampling (PM₁₀, Ozone, and Meteorological data) and developing the necessary regulations ensuring the protection for human health and the environment. The State of Arizona has developed a map indicating its proposed nonattainment redesignation boundary of Pinal County. This Community is a sovereign nation with all the necessary components to self govern. The Community submits this letter as the formal designation recommendation of attainment/unclassifiable for the Ak-Chin Indian Community.

The Ak-Chin Indian Community is formally submitting the following information addressing the factors listed by the U.S. EPA in the federal register notice in support of the Community's request to designate all Community lands within the exterior boundaries of the Community attainment/unclassifiable and establish the lands within the exterior boundary of the reservation as a separate air quality control region. Below are the Community's responses to the U.S. EPA's nine factors for redesignation of air quality standards within Pinal County.

Jurisdictional boundaries

The Community, a federally recognized tribe, is a rural community located on approximately 22,000 acres in the northwest portion of Pinal County with approximately 733 Community members residing on the reservation. The current designation area was developed by the Arizona Department of Environmental Quality and did not include any scientific information from the Community to support the non-attainment designation. The Community was not provided an

opportunity to comment during the designation process nor was scientific evidence from the Community's air monitoring equipment used to determine the boundaries of the nonattainment areas. No evidence has ever indicated that any portion of the Community is in non-attainment or even contributes to the non-attainment status within Pinal County. All the evidence was obtained from monitors north and northwest of the Community. It should be noted that the majority of wind flow is north to northwest through the Community.

Emissions Data and Air Quality Data

The Community currently monitors for PM₁₀, ozone and collects meteorological data at one centrally located station within the Community. The Community's air quality staff consulted extensively with EPA Region IX and Institute for Tribal Environmental Professionals monitoring experts on selection of the monitoring sites. The Community will begin submitting data to the EPA AQS database on a quarterly basis. This data is being used to determine the status of ambient air within the Community compared to the NAAQS. All monitoring data will be collected in accordance with Quality Assurance/Quality Control procedures approved by EPA in the Community's Quality Assurance Project Plan (QAPP). In addition the Community has purchased equipment and will begin monitoring for PM_{2.5}.

The only PM_{2.5} monitor in or near the Community that has documented a violation of the PM_{2.5} standard is located across the street and down wind of a very large high density cattle feeding operation known as "Cow Town". This monitor was originally set up by Pinal County Air Quality Control District as a special purpose monitor and not intended as a Federal Reference Method (FRM) monitor. These PM₁₀ and PM_{2.5} monitors were not located following EPA citing protocol (40 CFR, Part 58) as required by EPA for FRM monitors. Pinal County has conducted speciation analysis on the PM_{2.5} samples and has confirmed that virtually all of the PM_{2.5} collected can be attributed to manure from the feedlot. Any violation of the PM_{2.5} standard at this monitor can be and has been directly attributed to operation of "Cow Town". This monitor has documented violations of the PM_{2.5} standard on a very local scale and is not representative of the PM_{2.5} concentrations within the exterior boundaries of the Community. Sources of PM_{2.5} within the Community do not cause or contribute to violations at the Pinal County "Cow Town" monitor.

The Community has a low population density and a rural, mostly desert or agricultural environment. This Community remains today virtually the same as it was in the 1970's. The prevailing winds within the Community are generally toward the north to northwest away from the violating Pinal County monitor. The monitoring station located within the Community have not documented any exceedances of the PM₁₀ since monitoring data has been available.

Population density and degree of urbanization including commercial development (e.g., shows a significant difference from surrounding areas)

Pinal County is home to more than 350,558 people (Department of Economic Security Population Statistics Unit 2008 data) with more than 107,650 people employed in industrial-related occupations. The Ak-Chin Indian Community with an on-reservation population of 733 is

a rural area of approximately 22,000 acres of which 15,000 is currently dedicated to agricultural production. The Community plans to remain predominately a rural, agricultural economy and does not expect that the Community's population will increase, except by natural growth, in the future. In contrast, the City of Maricopa (along the northern boundary of the Community) has seen an increased population of over 35,000 people since 2000 (Department of Economic Security Population Statistics Unit 2000 data).

Over 90% of agricultural land surrounding the Community has been converted to urban or suburban developments. Metropolitan Statistical Areas (MSA), according to OMB reports, are core areas containing a large population nucleus, together with adjacent communities having a high degree of economic and social integration with that core. In other words, MSAs are generally urban cores and their suburbs. Indian communities are stark exceptions to the presumption of social and economic integration that may seem logical due to physical closeness. One of the most significant economic challenges for Indian Tribes, including those in Arizona, is the lack of economic integration with surrounding cities. In general, Tribes have had few ways to benefit from the growth of surrounding cities. Tribes do not receive revenue sharing from state or other local taxes. Because Tribes are not political subdivisions of the state, they generally provide their own governmental services with their own resources, including development and maintenance of roads. Tribes generally have few retail establishments. A number of reports over the past decade have demonstrated that the already limited amount of tribal dollars flow off of reservations because of the lack of retail stores on tribal land (and tribal members pay city and state retail taxes as a result). Only with the advent of the one casino (Harrah's) has there been some reverse in the tide of this 'trade deficit' within the Community. Very few people commute to work for the Community. Furthermore, even fewer people live within and work off the Community. Most children within the Community attend elementary, middle and high schools within the City of Maricopa. As with many Indian Tribes, the drop out rate is high, due in part, to the lack of social integration between the Community and the surrounding cities.

The Community has taken the opportunity for economic development by opening the one casino during the past 15 years. The casino is the first area of fledgling economic integration by which the Community gains some economic benefits from the surrounding urban areas. For the first time, the Community has resources to provide basic governmental services and to develop much needed infrastructure such as paving of roads. In addition, the Community has committed substantial resources to education providing scholarships to students attending college. However, the Community strategic goal is to use the current gaming revenues to build a sustainable economy. The Community is funding entrepreneurship programs to assist Community members in developing small businesses within the Community. Retail businesses are the major economic developments planned within the Community.

Traffic and Commuting Patterns

The Community is bisected by State Route 347 (SR 347) which is the single largest source of air pollution in the Community. Approximately 5 miles of SR 347 runs through the Community, two lanes in each direction. The Community has no jurisdiction of this route and is maintained by the Arizona Department of Transportation. The second most highly traveled corridor traveling

through the Community is Maricopa Road which stretches easterly and westerly across the Community for approximately 5 miles. Maricopa Road consists of two lanes in each direction with approximately 41,000 vehicles daily. Traffic on Maricopa Road and SR 347 has increased dramatically over the past several years with the huge explosion in population in the City of Maricopa. Several county, tribal and BIA maintained roads account for the remaining arteries for vehicle traffic through the Community. Vehicle ownership within the Community is low with less than two thousand vehicles owned by residents. In contrast, there are several hundred thousand vehicles owned by people who live, work and commute within the City of Maricopa area. Commuting patterns within the Community are virtually non-existent. Tribal government employs approximately 420 people who work throughout the Community. The largest employer within the Community is Harrah's Ak-Chin Casino, with approximately 650 employees of which 30 are Community members. To encourage customers to visit, the Casino runs buses from the near-by urban areas on a regular basis. This bus service reduces the single occupancy vehicle traffic to the Casinos. Emissions of PM_{2.5} from vehicle traffic within the Community have no impact on violations of the NAAQS at the Pinal County "Cow Town" monitor.

Expected growth (including extent, pattern and rate of growth)

The population of the Community is not expected to increase beyond natural growth within this century. There is very little in-migration, limited to Community members who may have moved off Community usually to attend school or for work.

Meteorology (weather/ transport patterns)

The Community's Air Program currently collects a range of meteorological data including temperature, humidity, wind speed and direction and rainfall. Summer temperatures within the Community can reach 120 °f while temperatures can dip into the teens during the winter. Wind speeds can exceed 20 miles per hour during monsoon events. The natural wind patterns through the Community are from the north toward the northwest causing air pollutants from the Community to be transported away from the violating Pinal County monitor. The Community's monitor has documented some impact on PM₁₀ concentrations from the feed lots at "Cow Town" when the wind patterns and speeds meet specific parameters. Although some PM₁₀ impacts have been documented, there has never been a situation where these impacts have caused an exceedance of the PM₁₀ standard.

Geography/topography (e.g., mountain ranges or other air basin ranges)

The Community does not have topographical barriers to air pollution transport. However, air pollution generated in Maricopa has limited impact to the Community due to the prevailing winds flowing to the north or northeast, away from the Community. There are no barriers between the Community and the area where the violating monitor is located but prevailing wind patterns are such that emissions from the Community do not cause or contribute to a violation of the PM_{2.5-10} standards.

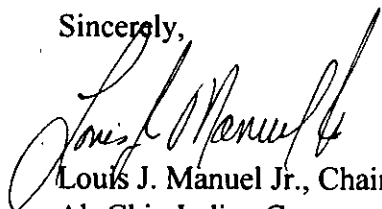
It is also important to realize that Pinal County, like many counties in the west, is very large. The land mass that includes the Community lands and Pinal County is larger than a number of states. This is a very different scenario from many eastern states which contain very large numbers of small counties. EPA has traditionally used county boundaries to establish non-attainment areas but establishing non-attainment areas based on county boundaries in western states doesn't always make sense. In many cases this process has caused multiple legal problems with jurisdiction issues. This is especially true when it comes to Tribal lands. This will be the case with the Community lands and the surrounding jurisdictions. Since the PM_{2.5-10} problems in the State of Arizona are limited to fairly small areas or single stationary sources EPA should not use county boundaries to establish non-attainment areas under the PM_{2.5-10} NAAQS.

Levels of control of emission sources

The Community is currently developing its air regulatory requirements for all activities within the exterior boundaries of the Reservation. Currently the Community has required all construction activities to be consistent with the Clean Air Act (CAA). The Community's Air Quality Program also requires earth moving permits/dust control plans to be submitted for all earth moving operations greater than 1 acre in size. Additionally, the Community's Air Program issues simple burn permits to limit emissions from open burning. The Community's Air Program has also conducted several investigation and enforcement actions under the general Environmental Code for violations of operating requirements. The future air regulatory code will be designed to manage emissions of air pollutants in a manner that will prevent degradation of air quality and potential for violations of the NAAQS.

The Ak-Chin Indian Community will continue to work closely with the Environmental Protection Agency and highly values the relationship that has been developed between the Community and EPA. The Community looks forward to working collaboratively on these and any future issues.

Sincerely,



Louis J. Manuel Jr., Chairman
Ak-Chin Indian Community

cc: Mauve Foley, U.S. EPA Project Officer
Colleen McKaughn, Air Division Deputy Director
Roman Orona, Environmental Protection Director
Yvonne Rodriguez, Environmental Programs Manager