

Condemnation Summit XXVII

May 20, 2022 | Arizona Biltmore



Welcome & Program Introduction

Jennifer Cranston, Gallagher & Kennedy

Danielle Constant, Jennings Strouss



Agenda

Easements in Arizona 9 AM

Morning Networking Break 10:30 AM

Eminent Domain & the Arizona Corporation Commission 10:45 AM

Lunch 11:45 AM

Featured Session: Interview with Arizona Supreme Court Justice Kathryn King 1 PM

Afternoon Networking Break 2 PM

Statewide Transportation Project Update 2:15 PM

Cookie Break 3:45 PM

Condemnation Quiz Show 4 PM

Q&A and Final Remarks 5 PM



EASEMENTS IN ARIZONA

Damian Fellows, City of Tucson

Jeffrey Gross, Berry Riddell, LLC

Beverly Weissenborn, Weissenborn Appraisal

Steven Cole, Southwest Appraisal Associates (SWAA)



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Easements in Arizona

Damian Fellows & Jeffrey Gross

- ▶ “Easement” Defined
- ▶ Compared to Fee Simple
- ▶ Compared to Licenses in Land
- ▶ Distinguished from Leases



Easements Classified

Damian Fellows & Jeffrey Gross

- ▶ Appurtenant vs. In Gross
 - ▶ Servient and Dominant Estates
- ▶ Exclusive vs. Non-Exclusive
- ▶ Perpetual vs. Term



Creation of Easements

Damian Fellows & Jeffrey Gross

- ▶ By Express Grant
- ▶ By Express Dedication
 - ▶ Acceptance by Grantee Required
- ▶ By Common Law Dedication
- ▶ By Implication
- ▶ By Prescription



Location & Dimension of Easements

Damian Fellows & Jeffrey Gross

- ▶ Location and/or Dimension Must Be Adequately Described
- ▶ “Floating” Easements
- ▶ Set and Adjusted by Prescriptive Use or Implication



Easements & Their Valuation

Beverly Weissenborn & Steven Cole

- ▶ What is an easement?
- ▶ Real Property Versus Real Estate
- ▶ Types of Easements
- ▶ Valuing Easements



Steven Cole

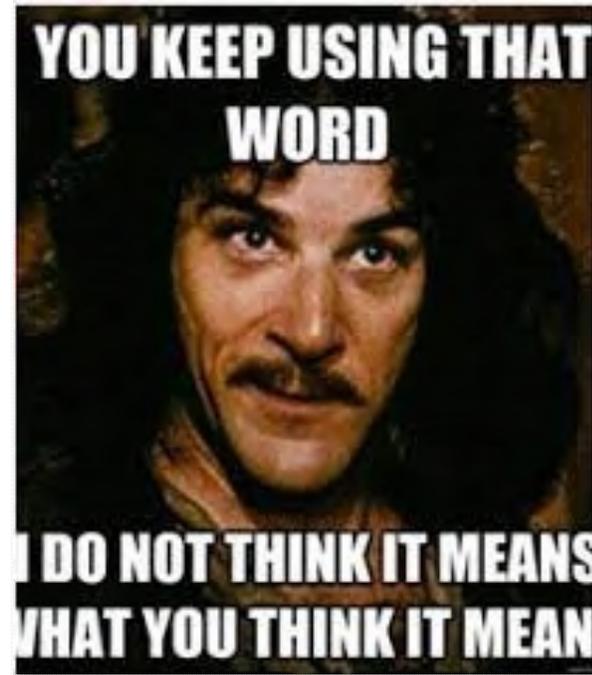


Traffic Enforcement Photo - Speeding

Easement

Beverly Weissenborn & Steven Cole

- ▶ The conveyance of certain property rights, but not ownership to a parcel of real estate.



What's the Difference?

Beverly Weissenborn & Steven Cole

- ▶ Real Property versus Real Estate



Real Estate

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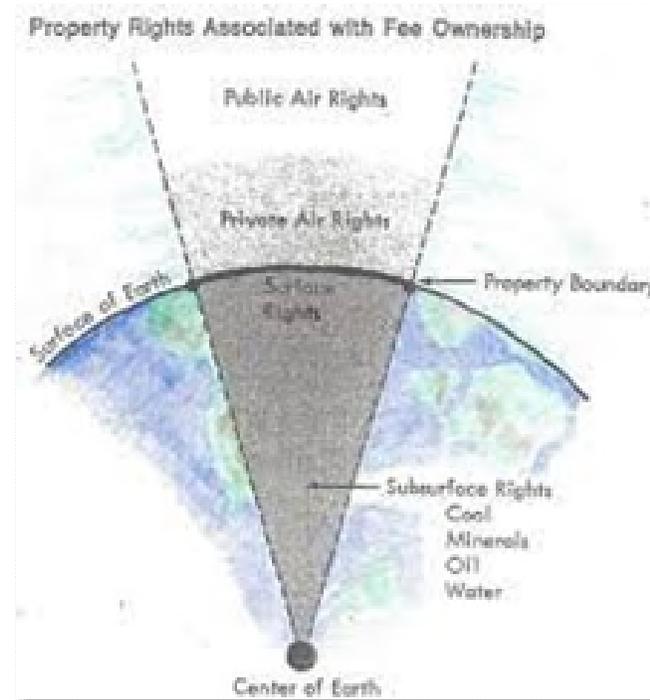
- ▶ The physical land and appurtenances affixed to the land.



Real Property

Beverly Weissenborn & Steven Cole

- ▶ Includes the interests, benefits, and right inherent in the ownership of real estate.



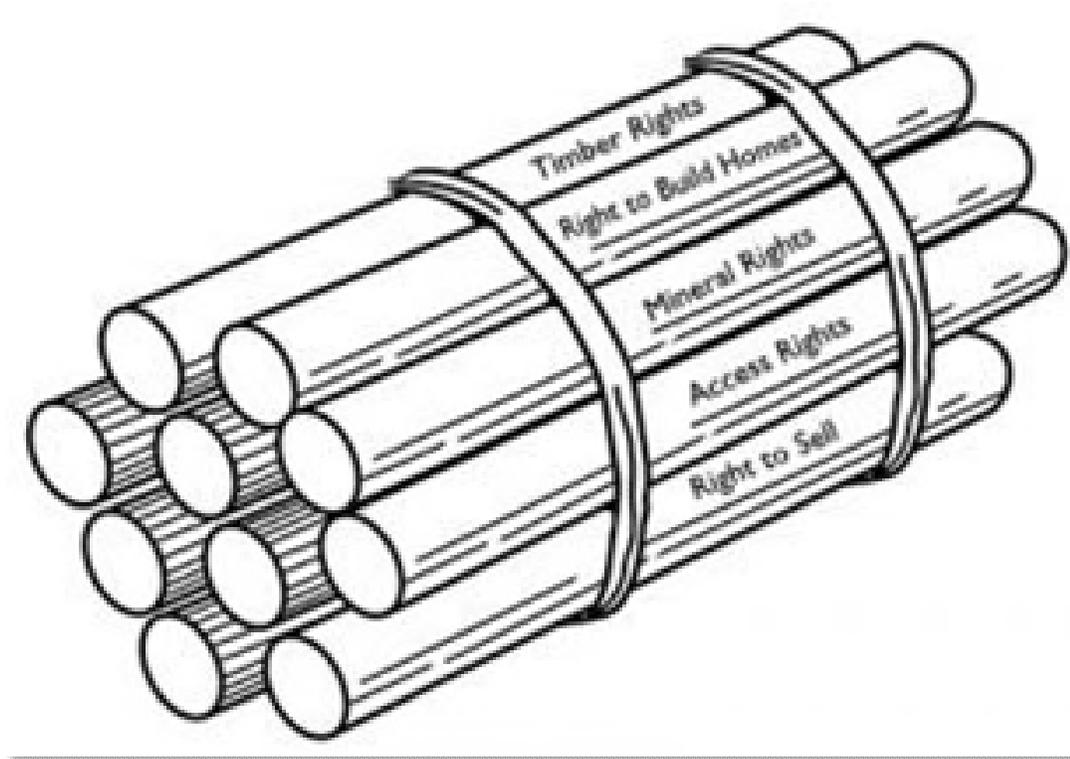
Speaking of Rights

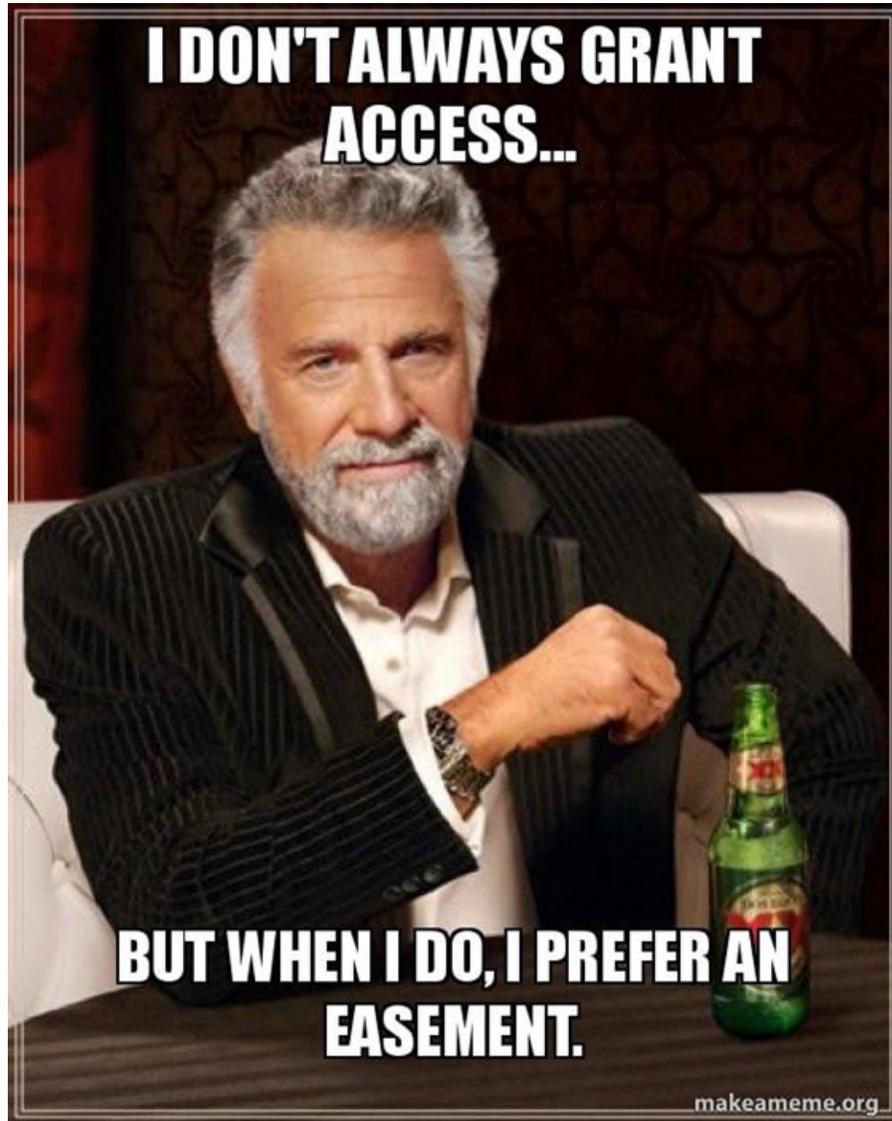
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Rights = Bundle of Sticks

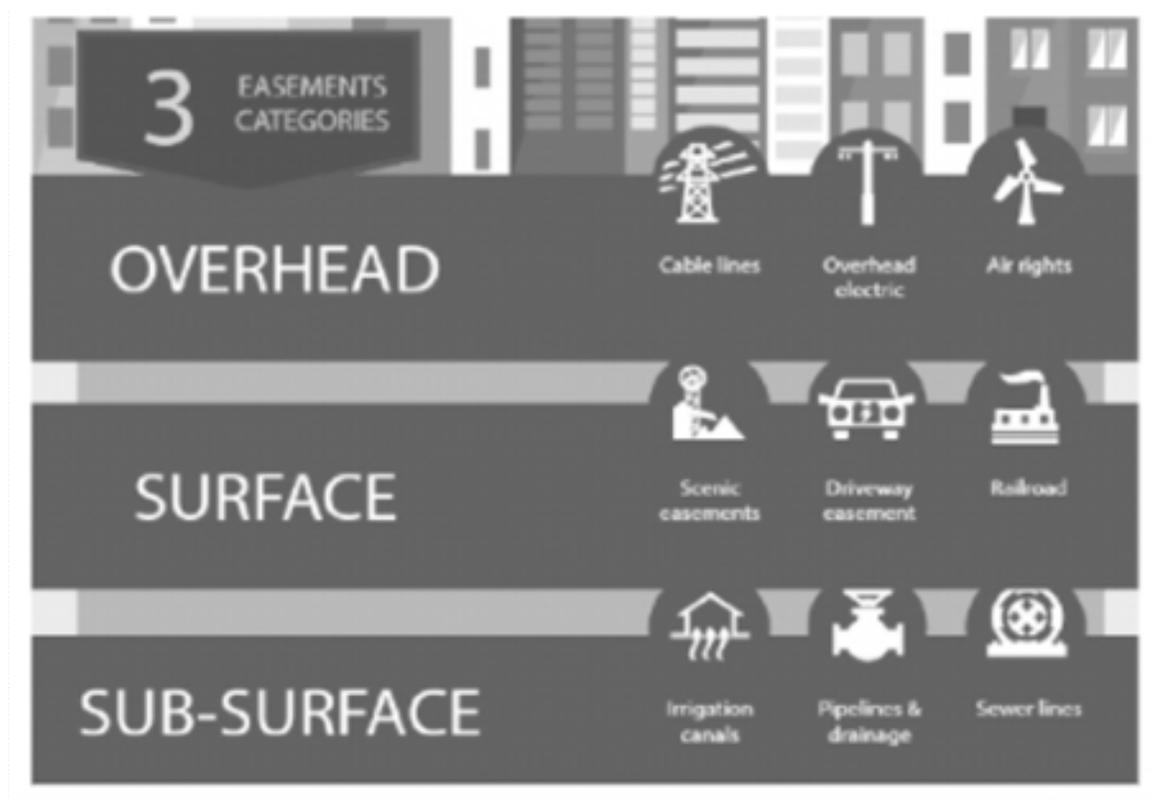
Beverly Weissenborn & Steven Cole





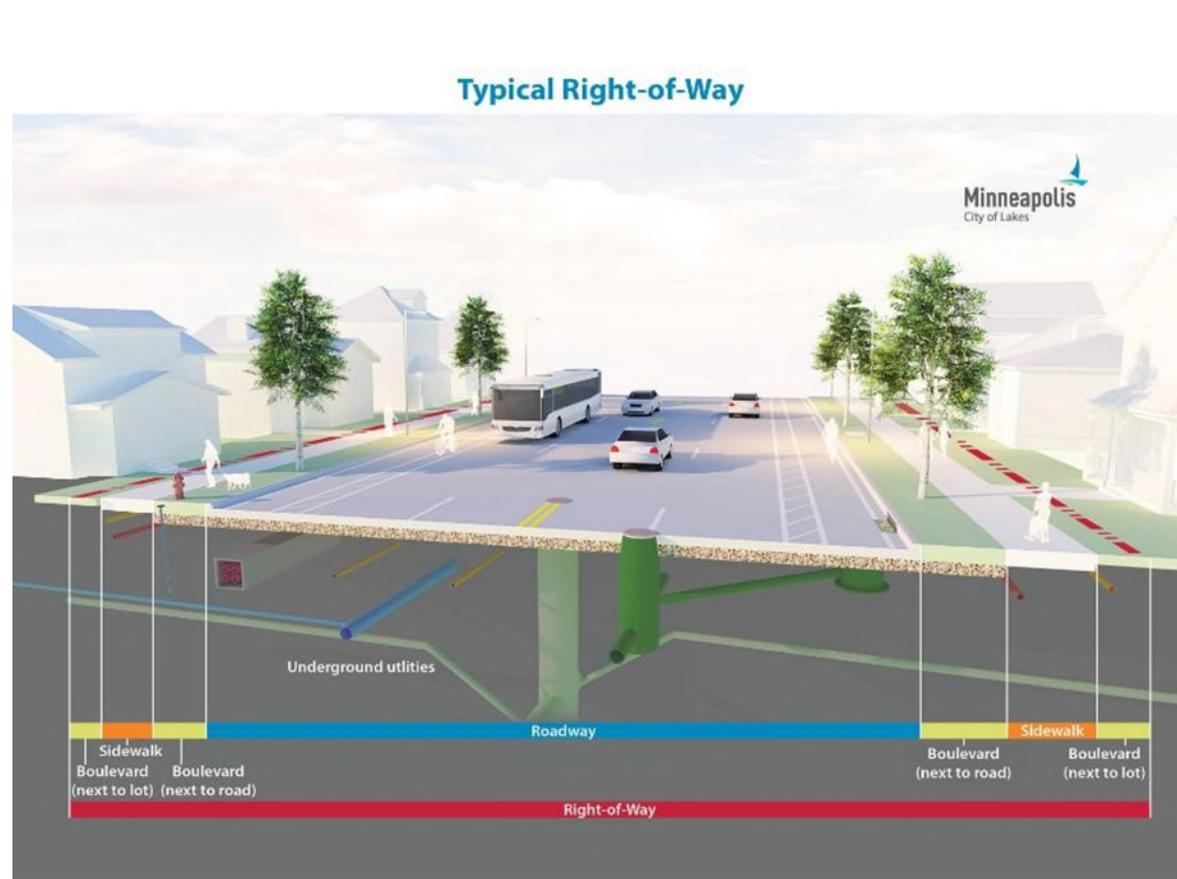
Types of Easements: Physical

Beverly Weissenborn & Steven Cole



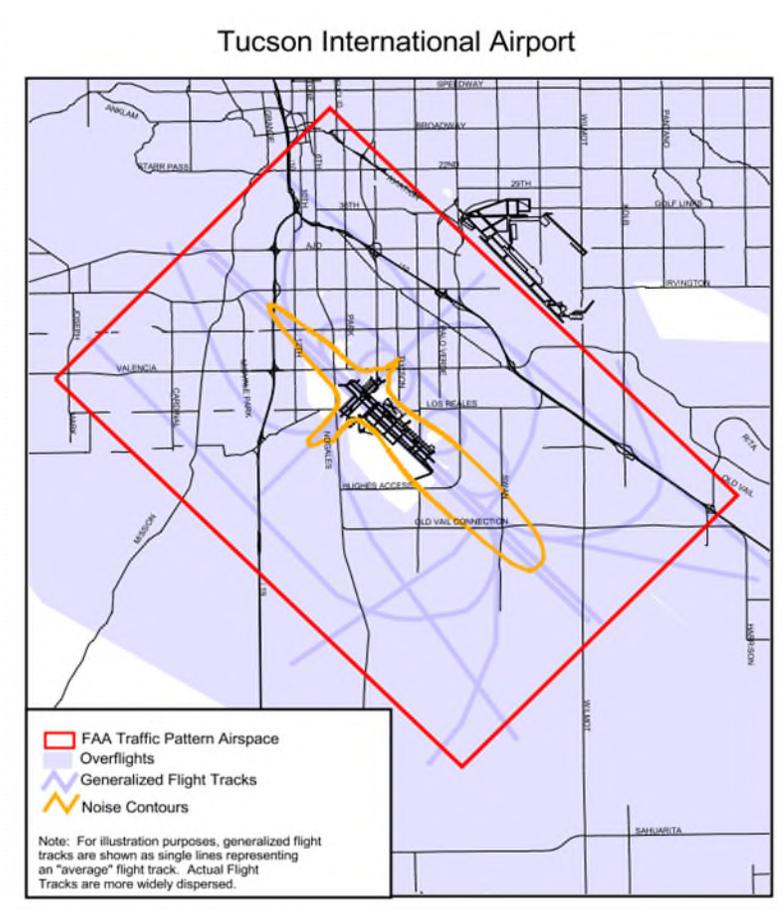
Surface & Subsurface Easements

Beverly Weissenborn & Steven Cole



Avigation Easements

Beverly Weissenborn & Steven Cole



Avigation Definition

Beverly Weissenborn & Steven Cole

- ▶ An avigation easement is a property right acquired from a land owner for the use of airspace above a specified height.



Avigation Deeper Definition

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- ▶ An avigation easement, also called an aviation easement, is an agreement that compels property owners to cede air rights over their property to the government.
- ▶ This agreement restricts owners from building above a specific height and waives their rights to file a suit against owners and pilots of low-flying aircraft and limits the liability of aircraft operators for causing a nuisance.



Complaints Are Against the Law in Some Areas

Beverly Weissenborn & Steven Cole

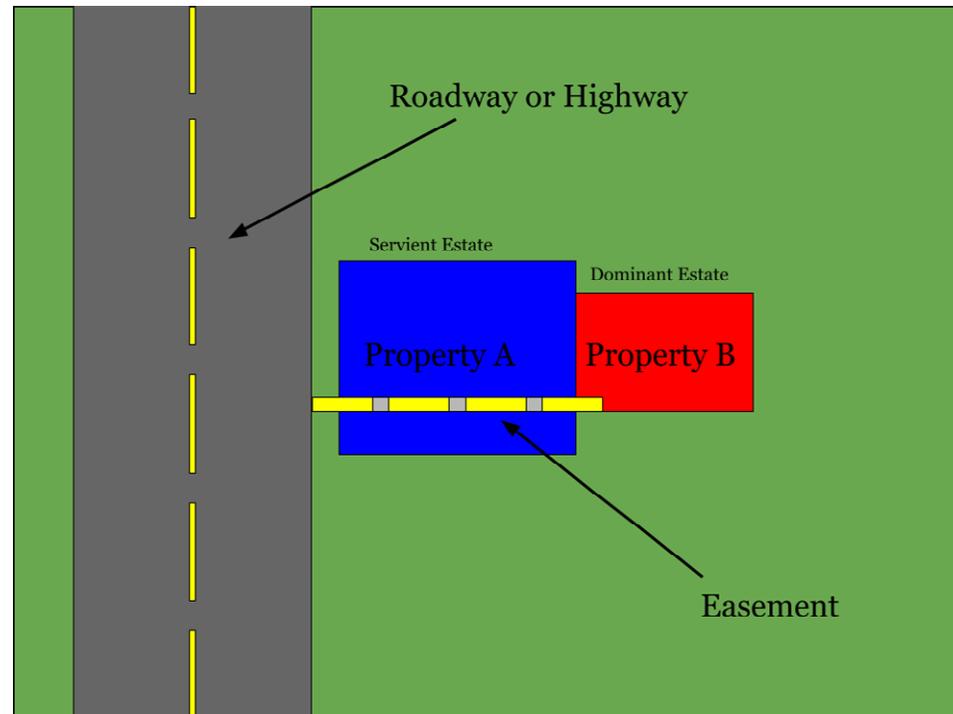
- ▶ According To Some C C & R'S
 - ▶ “Any airport operation noise complaint filed by an owner, tenant, resident or other user of the (property) shall be denied as in violation of this provision.”



Types of Easements: Legal

Beverly Weissenborn & Steven Cole

- ▶ Dominant:
 - ▶ Property benefits from an easement.
- ▶ Servient:
 - ▶ Property burdened by an easement.



Easements Appurtenant

Beverly Weissenborn & Steven Cole

- ▶ Created for the beneficial use of a particular parcel of real property, which is referred to as a “dominant estate” or the “dominant tenement.”
- ▶ The real property that is burdened by the easement is commonly referred to as the “servient estate” or “servient tenement.”



Easement in Gross

Beverly Weissenborn & Steven Cole

An easement in gross is an easement that has no benefited parcel of land. Instead, there is only a parcel that it burdened by the easement and it's usually a person or a party that holds the benefit of the easement. An easement in gross is personal to the party that receives the benefit of easement. An example of an easement in gross is an easement to a utility company to run a power line across a burdened piece of property. The utility company is the benefited party and there isn't necessarily a benefited parcel of land.



Types of Easements: Economic

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- ▶ “Positive”
 - ▶ Contributes to the Value of the Property.
- ▶ “Negative”
 - ▶ Diminishes Value of the Property
- ▶ No Impact on Value



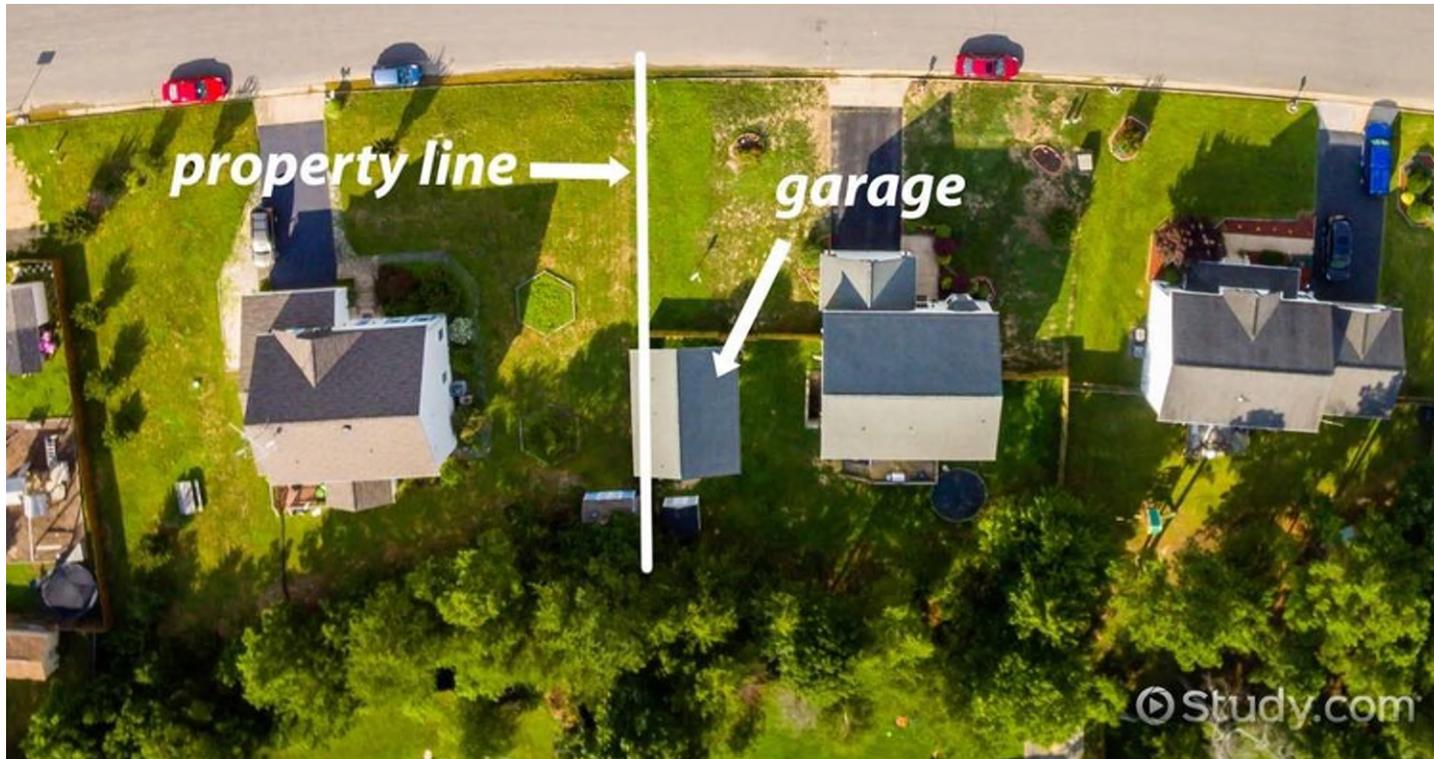
Easements Impact on Value?

Beverly Weissenborn & Steven Cole



Easement by Prescription

Beverly Weissenborn & Steven Cole



Identify Easement Characteristics

Beverly Weissenborn & Steven Cole

- ▶ Recognize and specify the rights conveyed by the easement.
- ▶ How does easement affect the use of the land?
- ▶ Where is it?
- ▶ Can it be removed?
- ▶ How long does it last?



Measurement of Value

Beverly Weissenborn & Steven Cole

- ▶ “The impact on value of an easement is the loss in value to the remainder property after the imposition of the easement.”



Easement Valuation: “Before” & “After” Method

Beverly Weissenborn & Steven Cole

- ▶ “Before” = Value of Property Without Easement
- ▶ “After” = Value of Property With Easement
- ▶ Matched Pairs



Yea, Right!

Beverly Weissenborn & Steven Cole

- ▶ “It is very difficult to measure the value of the easement due to imperfections on the real estate market and due to the fact that easement represents only one of many factors affecting the buyer’s decision.”

From “Easement Valuation” by D. Sherwood. IROW May/ June 2006.

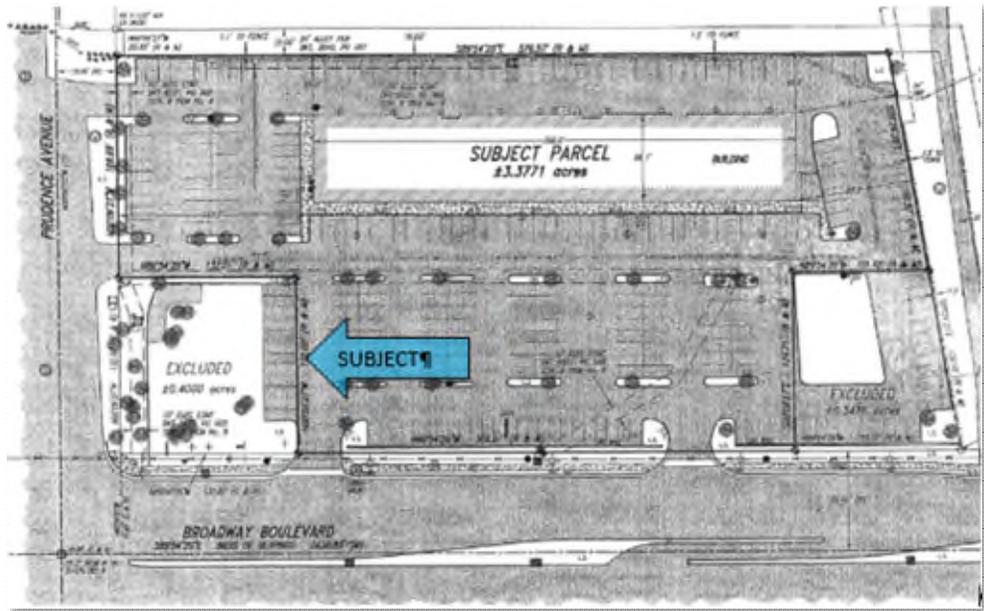


“Highest and Best Use”

Beverly Weissenborn & Steven Cole

- ▶ The most important principle in estimating market value is highest and best use.
- ▶ How does the imposition of the easement impact highest and best use?
- ▶ Different uses, different impacts on value.





▶ Before

▶ After



Impacts on Value

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- ▶ 1" no access easement.
- ▶ Impact on retail pad?
- ▶ Impact IF for office use?



Fish and Wildlife Opinion Tossed

Arizona Daily Star 4/6/2022

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- ▶ In Collins' April 6th ruling, he said the most recent biological opinion had overestimated **how much groundwater pumping the fort would save by buying a conservation easement** on former farmland near Hereford. The purchase of the easement is aimed at ensuring that irrigation and groundwater pumping would never resume on that parcel.
- ▶ While the Fort has over the years dramatically reduced its on-post pumping, environmentalists have targeted groundwater pumping people who live off-post as well as businesses operating in the area that are doing so only because the Fort exists. **The center hopes to force Fort Huachuca to downsize its activities and employment to reduce its environmental impact.**



Donald Sherwood's Easement Valuation Matrix

Percentage of Fee	Comments	Potential Types of Easements
90% - 100%	Severe impact on surface use Conveyance of future uses	Overhead electric Flowage easements Railroad ROW Irrigation canals Access roads
75% - 89%	Major impact on surface use Conveyance of future uses	Pipelines Drainage easements Flowage easements
51% - 74%	Some impact on surface use Conveyance of ingress/egress rights	Pipelines Scenic easements
50%	Balanced use by both owner and easement holder	Water or sewer lines Cable line Telecommunications
26% - 49%	Location along a property line, location across non usable land area	Water or sewer line Cable lines
11% - 25%	Subsurface or air rights that have minimal effect on use and utility Location with a setback	Air rights Water or sewer line
0% - 10%	Nominal effect on use and utility	Small subsurface easement



USPAP (The Law)

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- ▶ “The content of an appraisal report must be appropriate for the intended use of the appraisal and, at a minimum... summarize the information analyzed and the reasoning that supports the analyses, opinions, and conclusions....”

Pages 20-21.



Reasoning

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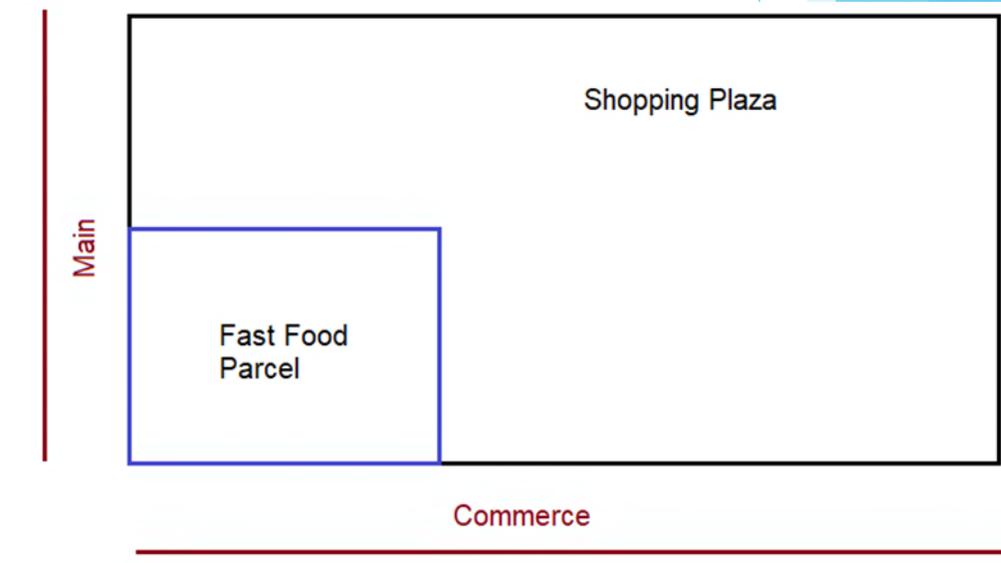


Interactive Scenarios

The background features abstract, overlapping geometric shapes in various shades of blue, ranging from light sky blue to deep navy blue. These shapes are primarily located on the right side of the frame, creating a modern, layered effect against the white background.

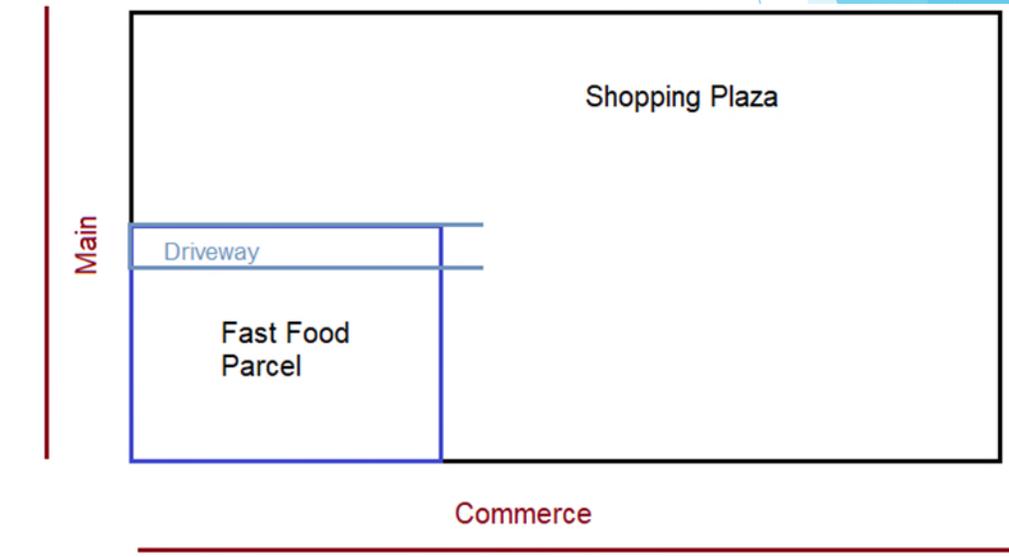
Scenario #1

- ▶ Big City is widening Main Street. Big City's road widening project requires acquisition of a right-of-way in fee as well as additional water and irrigation easements from a parcel located on the corner of Main Street and Commerce Avenue.
- ▶ The corner parcel is owned by Mr. Fast Food and is part of a larger shopping center.



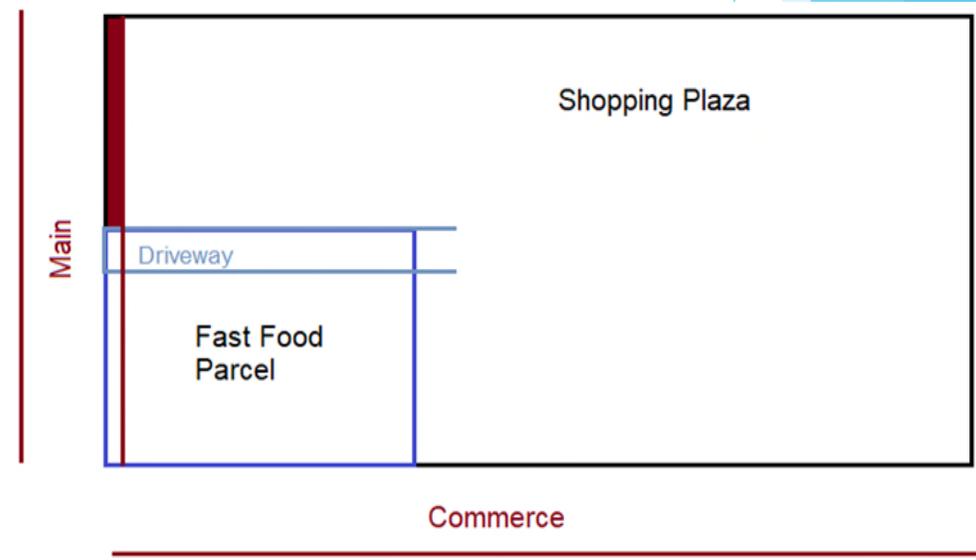
Scenario #1 continued

- ▶ The driveway on Mr. Fast Food's parcel, which provides access to Main Street, is subject to a cross-access easement with the owner of the shopping center.



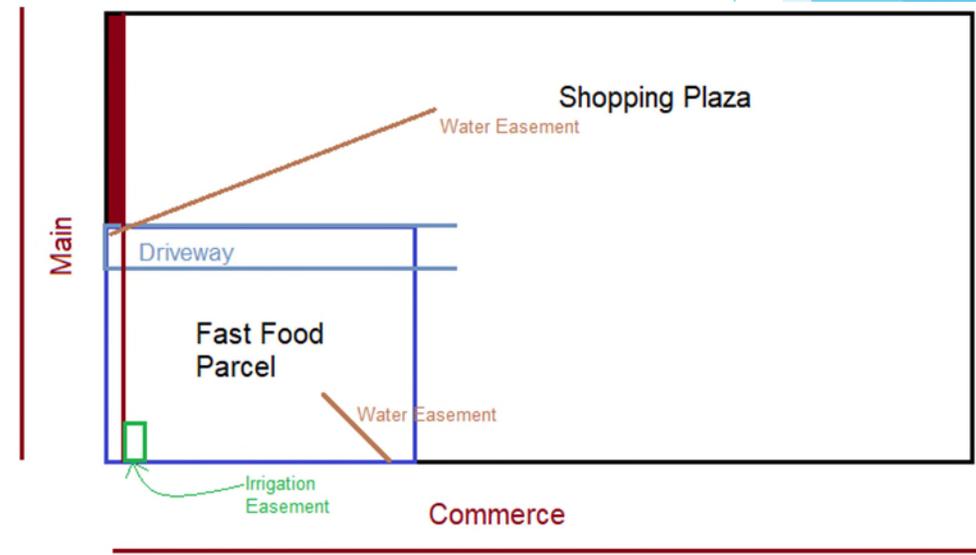
Scenario #1 continued

- ▶ The fee acquisition will take some of the driveway.
- ▶ The Shopping Plaza will not have any fee acquisition along Main because that area needed for the widened Main Street was acquired by Big City at some point in the past.



Scenario #1 continued

- ▶ Big City is also acquiring water and irrigation easements as part of the Project.
- ▶ These easements include legal descriptions, but do not include language defining the scope or limitations imposed by the easement.



Scenario #1 Questions

- ▶ What impact, if any, does the existing cross-access easement have on the valuation of the right-of-way acquisition?
- ▶ What are the legal and valuation implications of the cross-access easement?
- ▶ What are the legal and valuation implications created by the utility easements?
- ▶ Do your answers differ based on whether you are Big City or Mr. Fast Food?

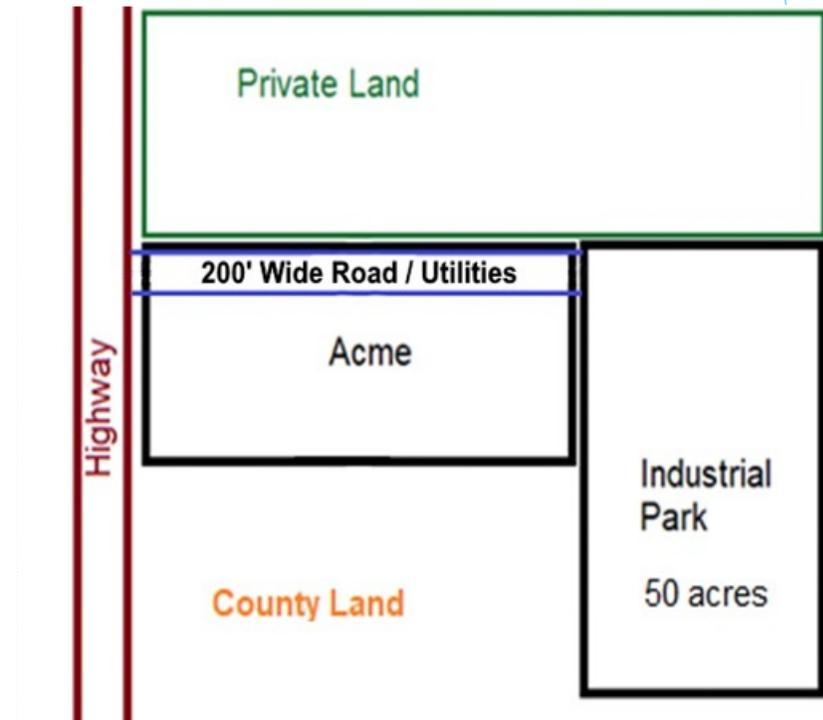


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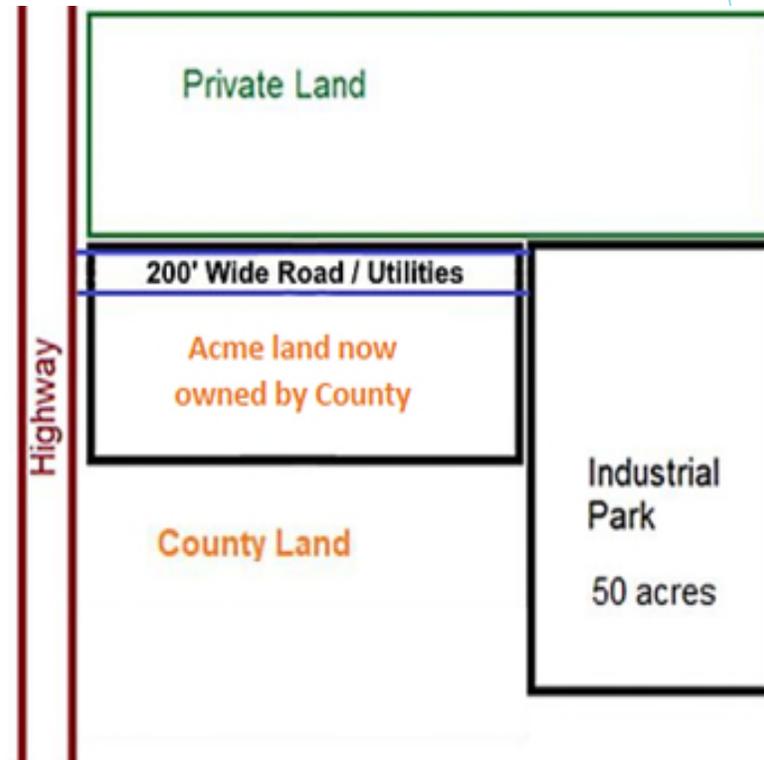
Scenario #2

- ▶ County owns 65 acres of industrial zoned land. There is a 50-acre industrial park adjacent east and 200 acres of privately-owned industrial land to the north.
- ▶ In 1955, the County acquired an easement from Acme and built a public road and installed utilities along the north property boundary across a 200' wide strip of land totaling 24 acres.
- ▶ At some point, long ago, the Acme parcel was conveyed away and eventually acquired by the County.



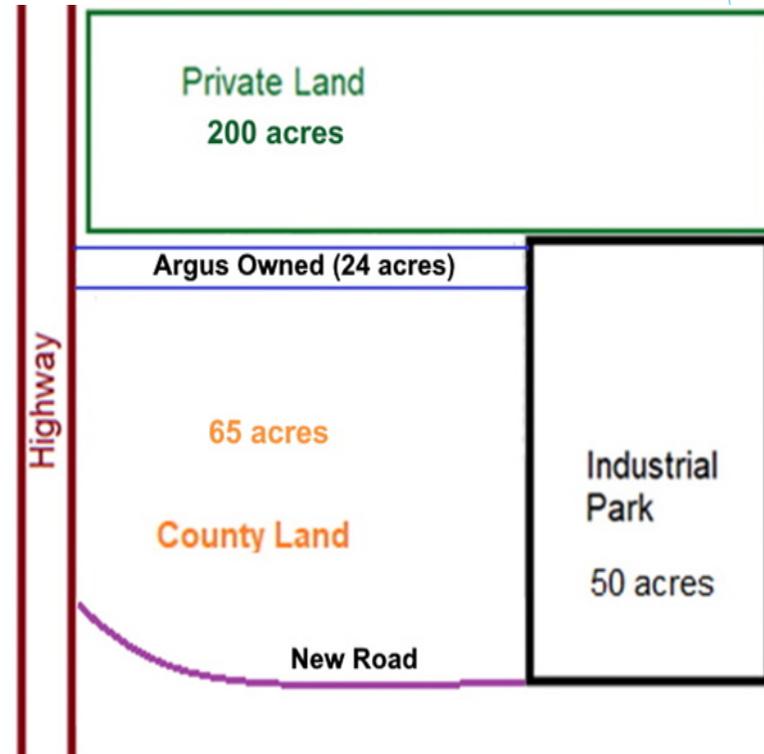
Scenario #2 continued

- ▶ In 2020, the County, together with other public entities, agreed to improve the County-owned property with an Indisputable Public Project.
- ▶ In conjunction with the Project, the County was required to close the original Road and dig it up to make way for the Project.
- ▶ To maintain access to the public and to an existing 50-acre industrial park, a new road was constructed along the south boundary.
- ▶ The existing utilities will remain in place.



Scenario #2 continued

- ▶ During the initial planning Project, a title report was prepared. In the title report, it was discovered that the underlying fee title to the 24-acre Road and Utility corridor was still listed as owned by Acme.
- ▶ For its Indisputable Public Project, the County needs to fully acquire and perfect its title to the Road and Utility corridor. Acme no longer exists, but Argus Company is its successor in interest. Argus has been unresponsive to the County's attempt to purchase the Road and Utility corridor in fee, so the County anticipates filing a condemnation case to acquire the corridor title from Argus Company.



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Scenario #2 Questions

- ▶ Is the Acme/Argus Road and Utility easement still valid?
- ▶ What is the highest and best use of the Argus-owned property?
- ▶ What is the Larger Parcel?
- ▶ How do you go about valuing the Argus-owned property?
- ▶ How do you value the divided interest held by Argus?

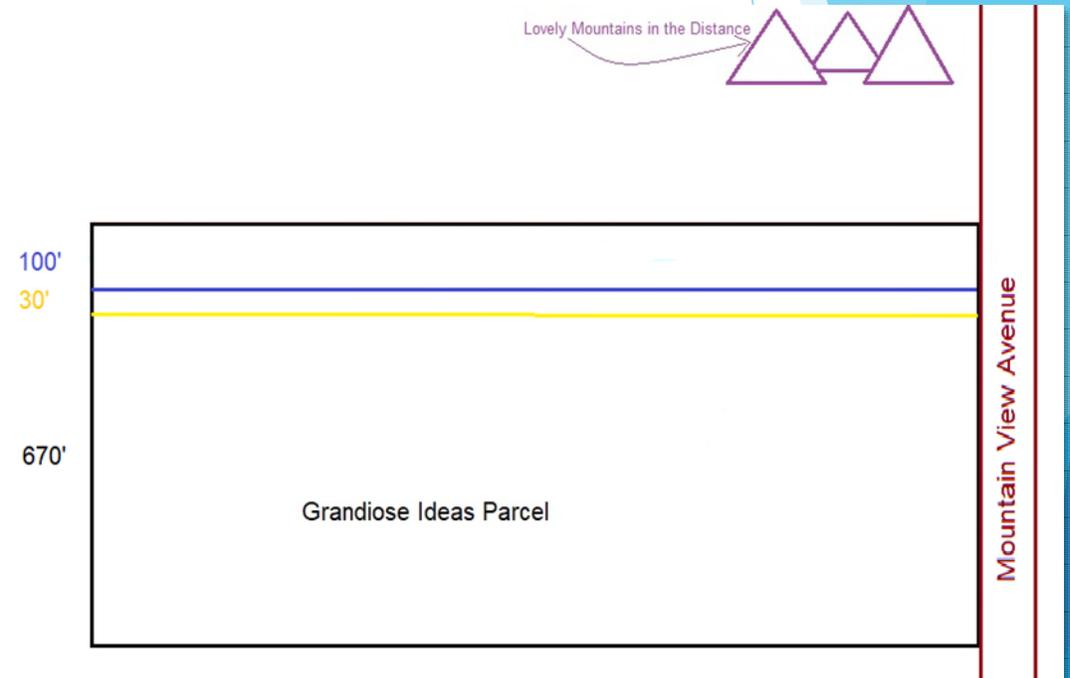


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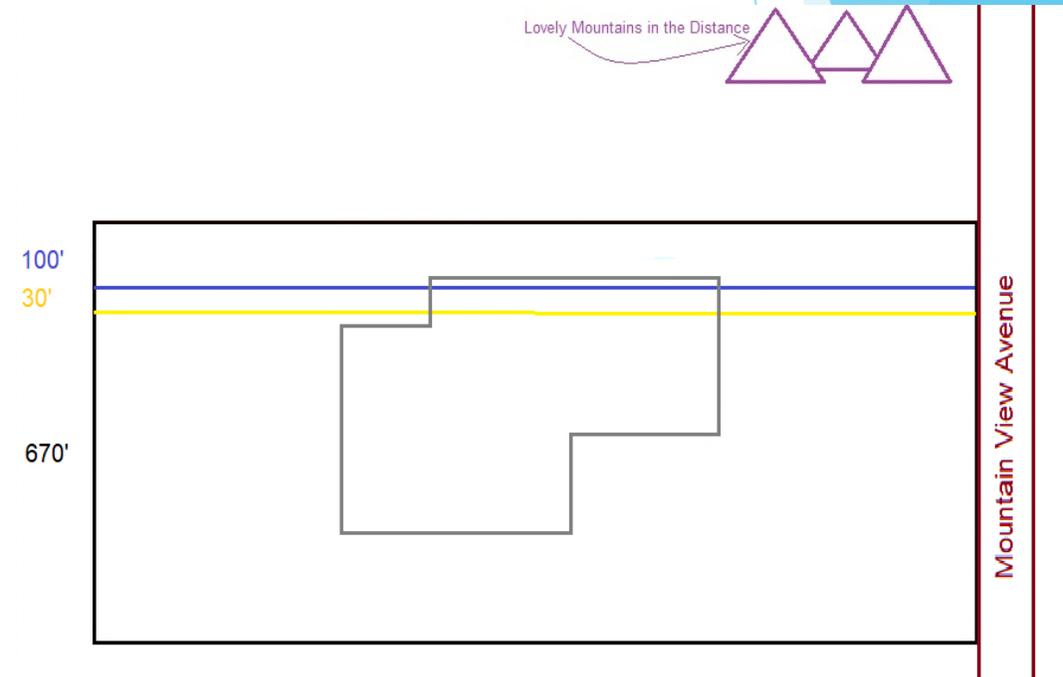
Scenario #3

- ▶ Large Utility is putting in a new 230kv high voltage power line. It needs a 100-foot permanent easement from Grandiose Ideas, LLC, which owns a vacant 10-acre parcel along Mountain View Avenue. 230kv lines are expected to be no less than 175 feet tall.
- ▶ Large Utility also needs a 30-foot temporary construction easement adjacent to the 100-foot easement. The easements will run along the northern boundary of the property.



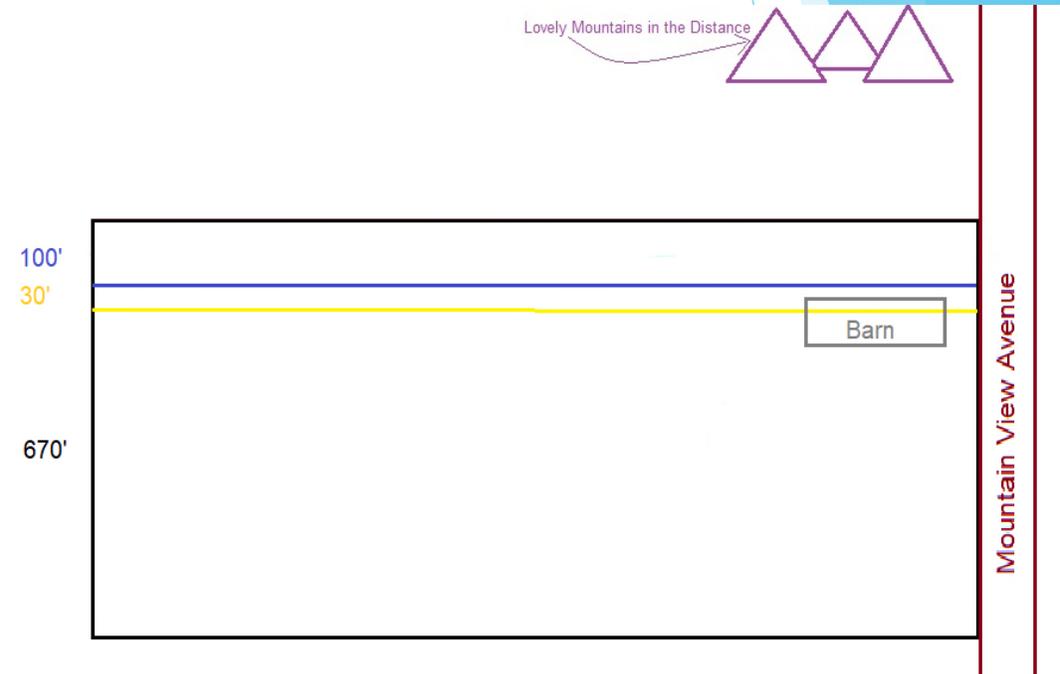
Scenario #3 continued

- ▶ Large Utility has the power of immediate possession.
- ▶ Grandiose has an approved development plan for a three-story luxury multi-family project. But, currently it has a 3-year lease with a farmer for the entire property with 2 years remaining on the lease.



Scenario #3 continued

- ▶ As a result of the easement, Grandiose claims the property is no longer suitable for luxury multi-family because (a) luxury apartment dwellers do not want to live next to large power lines, and (b) the easement reduces the amount of developable land so that the plan is no longer economically viable.
- ▶ As a result of the TCE, Grandiose will have to redo the farming lease to reduce the leased area as the farming equipment was stored in an area covered by the TCE.



Scenario #3 Questions

- ▶ Can Grandiose recover damages for the impact of the TCE on the farming operations?
- ▶ What valuation evidence or facts would prove or disprove severance damages for the taking of the permanent easement?
- ▶ Are there any differences in compensation if Large Utility takes fee title instead of an easement?



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MORNING NETWORKING BREAK

We'll resume at 10:45 a.m.



EMINENT DOMAIN & THE ARIZONA CORPORATION COMMISSION

Patrick Black, Fenmore

Meghan H. Grabel, Osborn Maledon

Use of Eminent Domain by Public Service Corporations

Patrick Black & Meghan H. Grabel

- ▶ Public Service Corporation (“PSC”)
 - ▶ “All corporations other than municipal engaged in furnishing gas, oil, or electricity for light, fuel or power; or in furnishing water for irrigation, fire protection, or other public purposes; or in furnishing, for profit, hot or cold air or steam for heating or cooling purposes; or engaged in collecting, transporting, treating, purifying and disposing of sewage through a system, for profit; or in transmitting messages or furnishing telegraph or telephone service, and all corporations other than municipal, operating as common carriers, shall be deemed public service corporations.”
 - ▶ Article 15, Section 2 of the Arizona Constitution.

Use of Eminent Domain by Public Service Corporations

Patrick Black & Meghan H. Grabel

- ▶ The authority of the government to take or damage privately owned property is referred to as the power of eminent domain, or condemnation.
- ▶ The Arizona Constitution (Article 2 Section 17) authorizes the exercise of eminent domain authority if the taking is for a public use and the property owner is paid just compensation.
- ▶ Statutory Authority - A.R.S. § 12-1111 *et. seq.*
 - ▶ A.R.S. § 12-1112 provides that the taking of private property must be for a public use and that the taking is necessary to such public use.

Use of Eminent Domain by Public Service Corporations

Patrick Black & Meghan H. Grabel

- ▶ The State may also delegate the power of eminent domain to governmental entities which then act as agents of the State.
- ▶ PSC may use condemnation for a use designated by A.R.S. § 12-1111. Examples include:
 - ▶ All public uses authorized by the government of the United States;
 - ▶ Buildings or grounds for any public use of the state and all other public uses authorized by the legislature;
 - ▶ Electric light and power transmission lines, pipelines used for supplying gas, and all transportation, transmission and intercommunication facilities of public service agencies.

Prerequisites for Taking Property by Condemnation

Patrick Black & Meghan H. Grabel

- ▶ Under A.R.S. § 12-1112, before property may be taken, it shall appear that:
 1. The use to which the property is to be applied is a use authorized by law.
 2. The taking is necessary to such use.
 3. If the property is already appropriated to some public use, the public use to which it is to be applied is a more necessary public use.
 - ▶ *Bailey v. City of Mesa*, 206 Ariz. 224, 227 (Ct. App. 2003)
- ▶ Examples of eminent domain:
 - ▶ Siting of electric transmission and distribution lines.
 - ▶ Corridor for natural gas pipelines.
 - ▶ Installation of water distribution and sewer collection mains.

Procedures for Condemnation by PSC

Patrick Black & Meghan H. Grabel

- ▶ A.R.S. §§ 12-1111 through 12-1129 establish the general procedures for a direct condemnation in Arizona.
 - ▶ These procedures include: delivery to the property owner a written offer to purchase A.R.S. § 12-1116(1); an estimate of the just compensation to be paid A.R.S. § 12-1116(1); and one or more appraisals supporting the offered compensation A.R.S. §12-1116(2).
 - ▶ Additionally, a survey of the property and an accurate legal description of the property to be taken must be completed. A.R.S. §12-1115.
- ▶ No right of immediate possession - only at conclusion of jury trial.
 - ▶ State or political subdivision may accelerate obtaining possession (SRP).

Use of Eminent Domain by PSCs

Patrick Black & Meghan H. Grabel

- ▶ Need for Eminent Domain is a Very Rare Occurrence
 - ▶ Property owners generally want utility service to develop property.
- ▶ Siting of Transmission or Distribution Lines
 - ▶ Can be controversial.
- ▶ Small Water and Wastewater Companies
 - ▶ Disputes with landowners.

Private Developers & Energy Infrastructure

Patrick Black & Meghan H. Grabel

- ▶ Merchant power plants and transmission lines:
 - ▶ SunZia Transmission
 - ▶ Southline Transmission
- ▶ Regulatory-driven projects
 - ▶ Ten West - chosen by CAISO to build line deemed necessary in California; will be a utility in California.
- ▶ An entity cannot build (some) projects or transmission lines without receiving a Certificate of Environmental Compatibility (CEC) from the ACC.
 - ▶ Example: Solar facility is not subject to CEC and ACC jurisdiction, but the generation tie line may be within jurisdiction.

Private Developers & Energy Infrastructure continued

Patrick Black & Meghan H. Grabel

- ▶ Arguments in Favor of Developers Having Authority
 - ▶ If line were built by existing utility, instead of third-party developer, condemnation authority is clear.
 - ▶ Standing in the shoes of a utility.
 - ▶ Line siting statutes define a utility as anyone building a project pursuant to an ACC authorized CEC - but the statutes were established in 1971 before merchant transmission lines existed.

Private Developers & Energy Infrastructure continued

Patrick Black & Meghan H. Grabel

- ▶ Arguments Against Developers Having Authority
 - ▶ Not a “public service corporation” as defined in A.R.S. § 12-1111.
 - ▶ Statute uses the phrase “public service agencies.”
 - ▶ Arizona Private Property Rights Protection Act - A.R.S. § 12-1131 et seq.
 - ▶ Restricts broad interpretation of “public use.”
 - ▶ Public use includes “the use of land for the creation or functioning of utilities.”
 - ▶ “Utilities,” in the traditional sense, have a legal responsibility to plan for future growth and install infrastructure to serve their authorized and state-regulated service territories.
 - ▶ A private transmission developer arguably does not dedicate its infrastructure to a public use in that same manner. Rather, the driving motivation is private profit. *See, e.g., Bailey v. Myers*, 206 Ariz. 224 (2003).

Private Developers & Energy Infrastructure continued

Patrick Black & Meghan H. Grabel

- ▶ Distinction for Projects Specifically Commissioned and Funded by a Government Agency
 - ▶ Arizona Attorney General Opinion No. I19-005 (R19-002)
 - ▶ Whether a private developer may use Arizona’s public works eminent domain statutes?
 - ▶ Yes. A private developer can use Arizona’s public works eminent domain statutes, A.R.S. §§ 12-1141 to -1162, if it is necessary to build a transmission line that connects an Arizona substation with a California substation, as long as (1) the private developer qualifies as an “authorized corporation” and (2) the project qualifies as a “public works project.”
 - ▶ Authorized Corporation: (1) a corporation or association, (2) engaged or about to engage in a public works project, (3) for a public use, and (4) the project’s construction and conduct thereafter must be subject to regulation or supervision by a federal agency or a state public body.
 - ▶ Public Works Project: a work or undertaking which is financed in whole or in part by a federal agency ... or by a state public body.

ACC's Role in the Condemnation of PSCs

Patrick Black & Meghan H. Grabel

- ▶ Article 15, Sections 2 and 3 of the Arizona Constitution exclude municipal corporations from the ACC's regulatory authority.
- ▶ Municipal statutes regarding condemnation (Title 9)
 - ▶ A.R.S. § § 9-511, -514 empower municipal corporations to own, operate, and condemn utilities.
 - ▶ A.R.S. § 9-515 enables a municipal corporation to acquire the property and plant of a public utility upon payment of just compensation.
 - ▶ A.R.S. § § 9-515, -518 allow just compensation to be determined by agreement between the municipal corporation and the utility.
 - ▶ A.R.S. § 9-516 prevents ACC from issuing a new CCN to a PSC in the condemned area unless the condemning municipality refuses to serve it.
- ▶ ACC has broad authority under A.R.S. § 40-285(A) to approve the sale or disposition of a PSC's assets.
 - ▶ However, such authority must give way to condemnation by municipal corporations - any other result would create an ACC veto over municipal acquisitions.

ACC's Role in the Condemnation of PSCs

Patrick Black & Meghan H. Grabel

- ▶ Is analysis different for friendly condemnations (in which price is negotiated)?
- ▶ *City of Surprise v. Arizona Corp. Comm'n*, 246 Ariz. 206 (2019)
 - ▶ No, even a so-called “friendly” condemnation is ultimately not voluntary because utility has no choice but to accede to the taking of its assets pursuant to court order.
 - ▶ ACC has no implied powers and its powers do not exceed those to be derived from a strict construction of the Constitution and implementing statutes.
 - ▶ ACC has no authority to regulate a municipal corporation’s utilities.
 - ▶ ACC’s statutory authority to approve the sale or disposition of a public service corporation’s assets did not give the ACC power to require a utility to apply for ACC approval of a municipal corporation's proposed condemnation of utility's assets.
 - ▶ Statutes did not expressly include transfers through condemnation proceedings, condemnations were not included by the statutory phrase “or otherwise dispose of.”

LUNCH

We'll resume at 1:00 p.m.



INTERVIEW WITH ARIZONA SUPREME COURT JUSTICE KATHRYN KING



AFTERNOON NETWORKING BREAK

We'll resume at 2:15 p.m.



STATEWIDE TRANSPORTATION PROJECT UPDATE

Mack Dickerson, Tierra ROW

John Bullen, Maricopa Association of Governments

Markus Coleman, City of Phoenix Light Rail



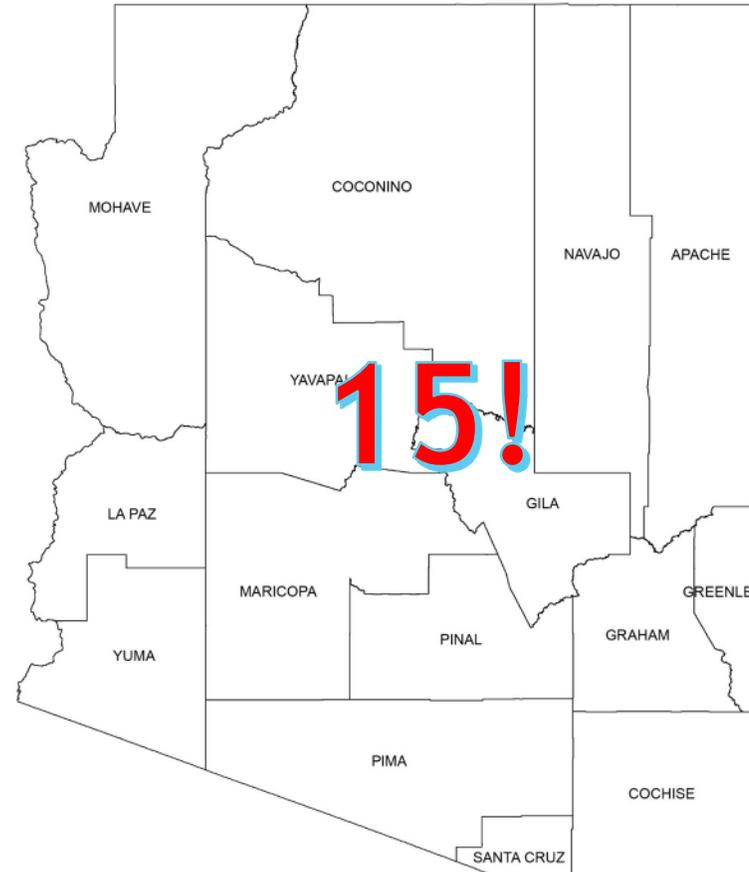
Arizona Project Roundup!

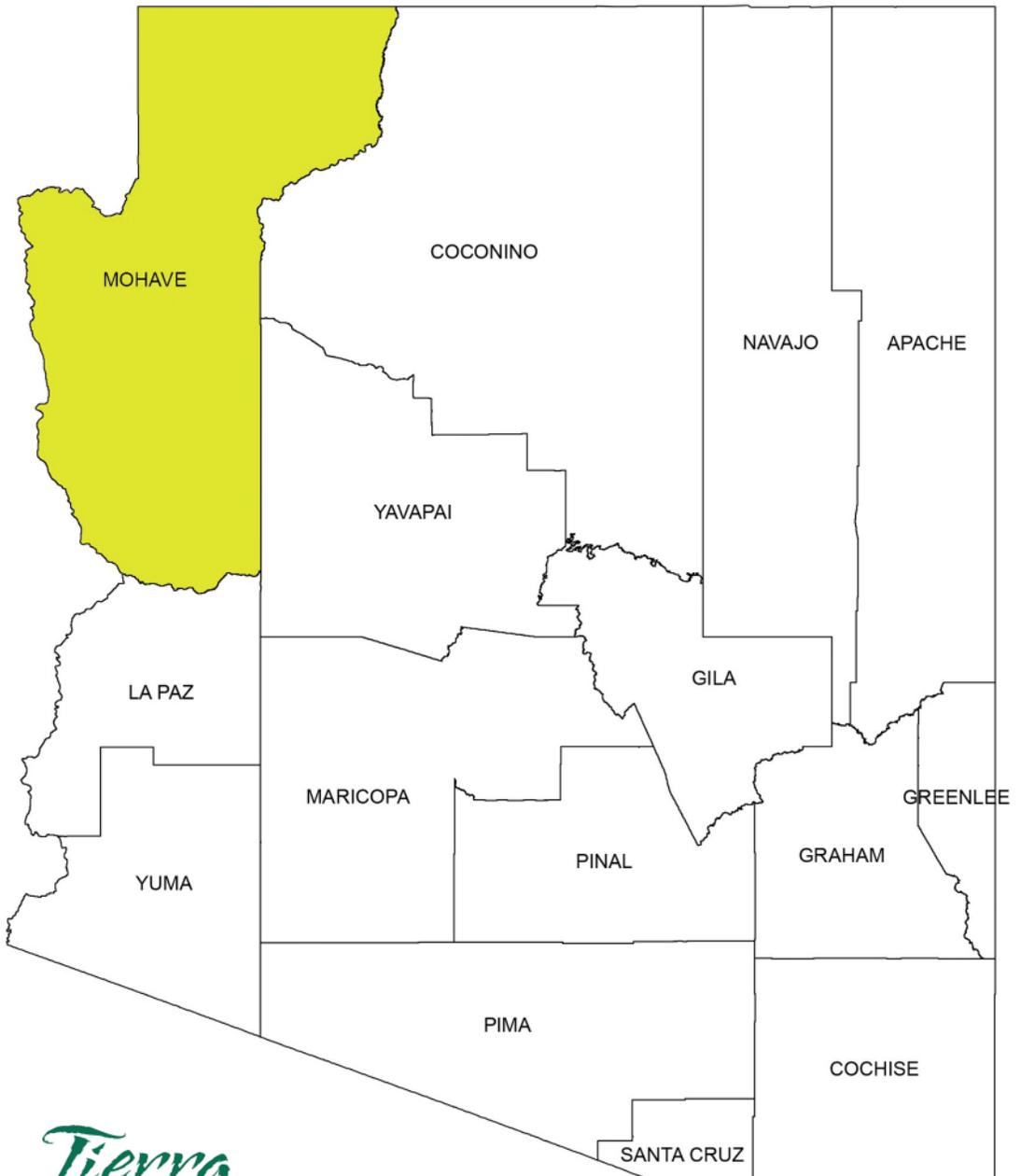
Mack Dickerson, SR/WA, RW-RAC, GRI



Trivia: How many counties are in Arizona?

Mack Dickerson, SR/WA, RW-RAC, GRI

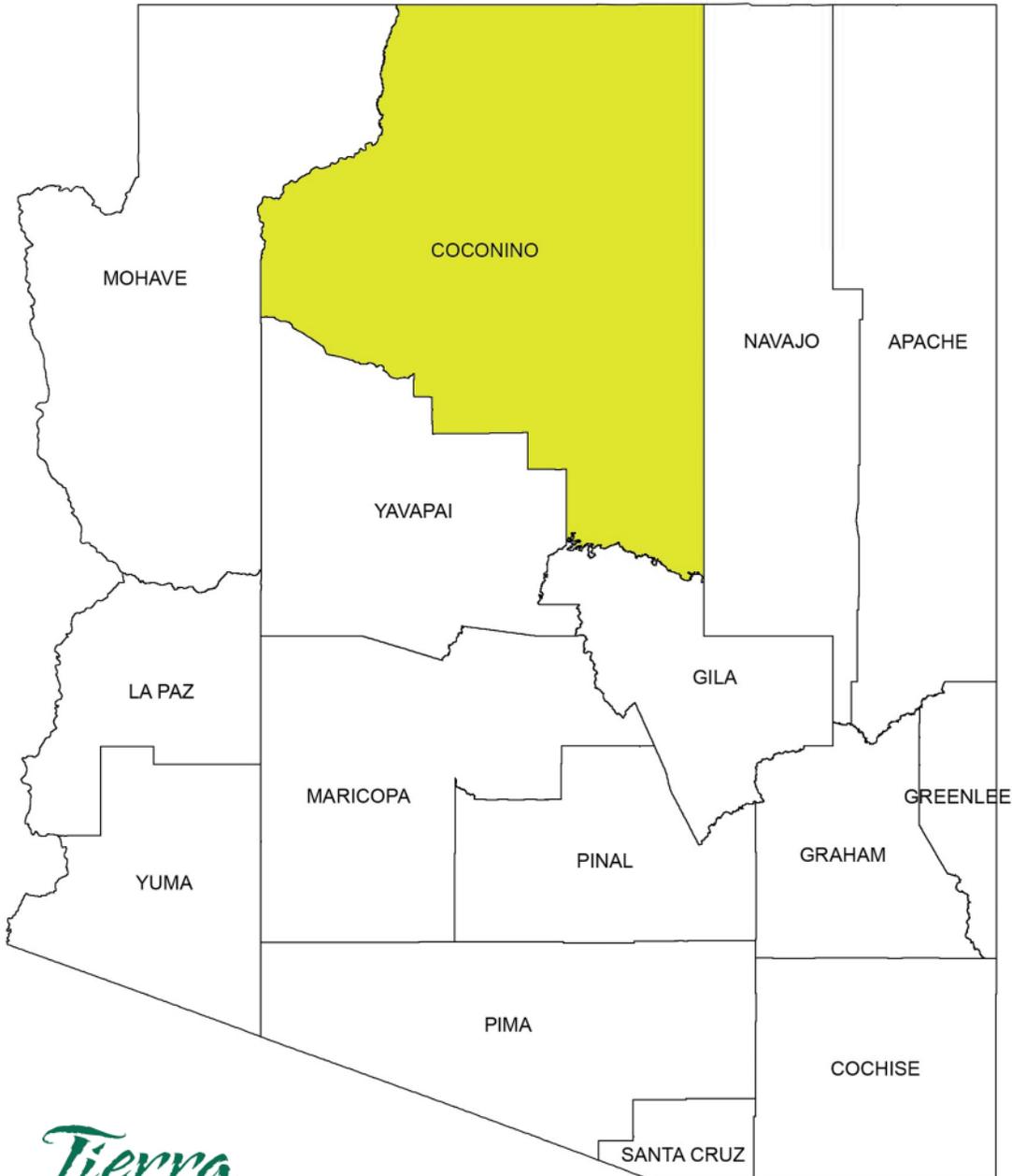




Projects: Mohave County

Mack Dickerson, SR/WA, RW-RAC, GRI

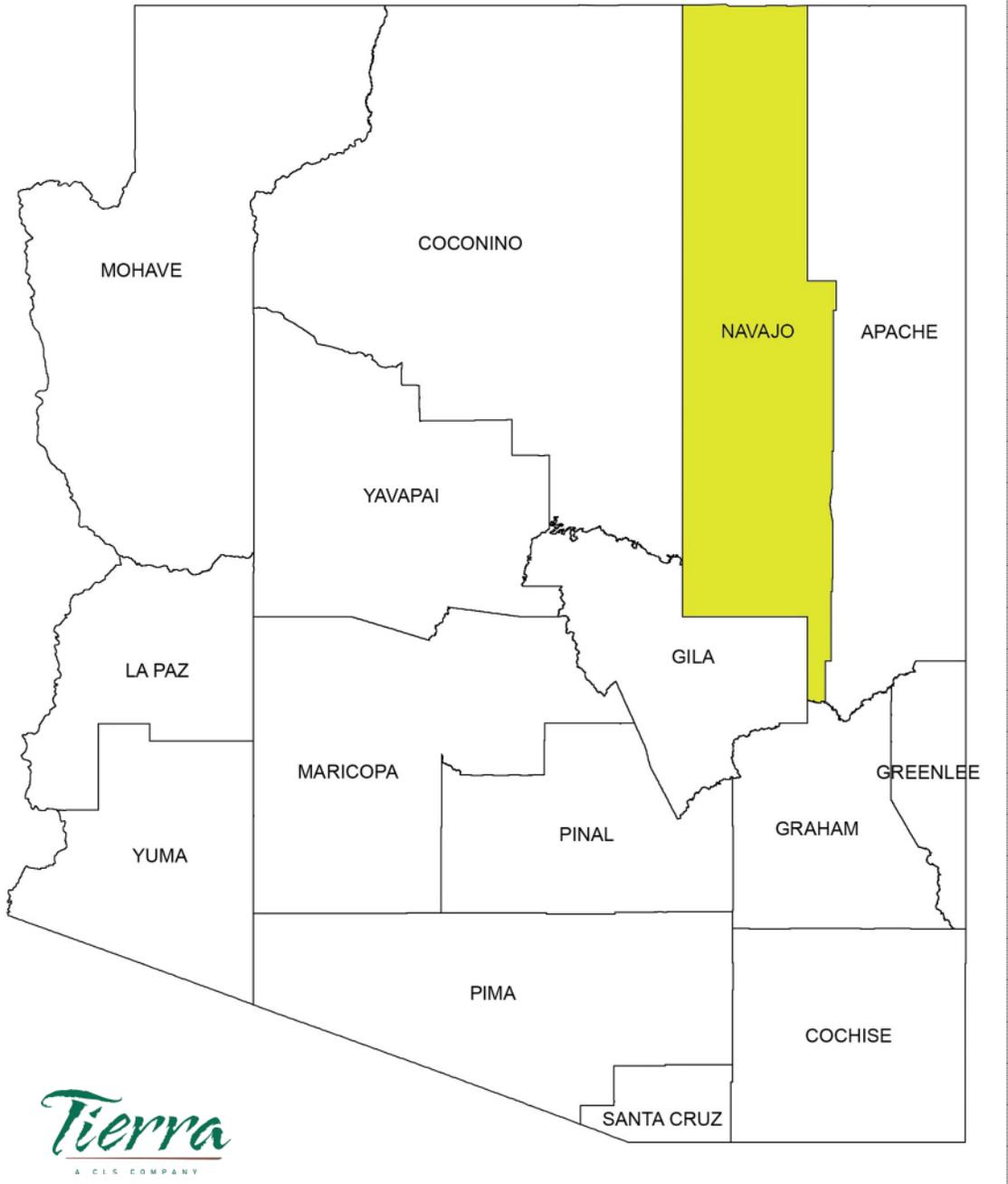
- ▶ 2022/2023
 - ▶ \$6.3M: Mostly pavement preservation and soil stabilization but includes two new roads totaling $\frac{3}{4}$ of a mile. (County)
- ▶ 2021/2022
 - ▶ \$54M for the I-11 East Kingman Connector.
 - ▶ \$30M for Dross Cleanup. (City)



Projects: Coconino County

Mack Dickerson, SR/WA, RW-RAC, GRI

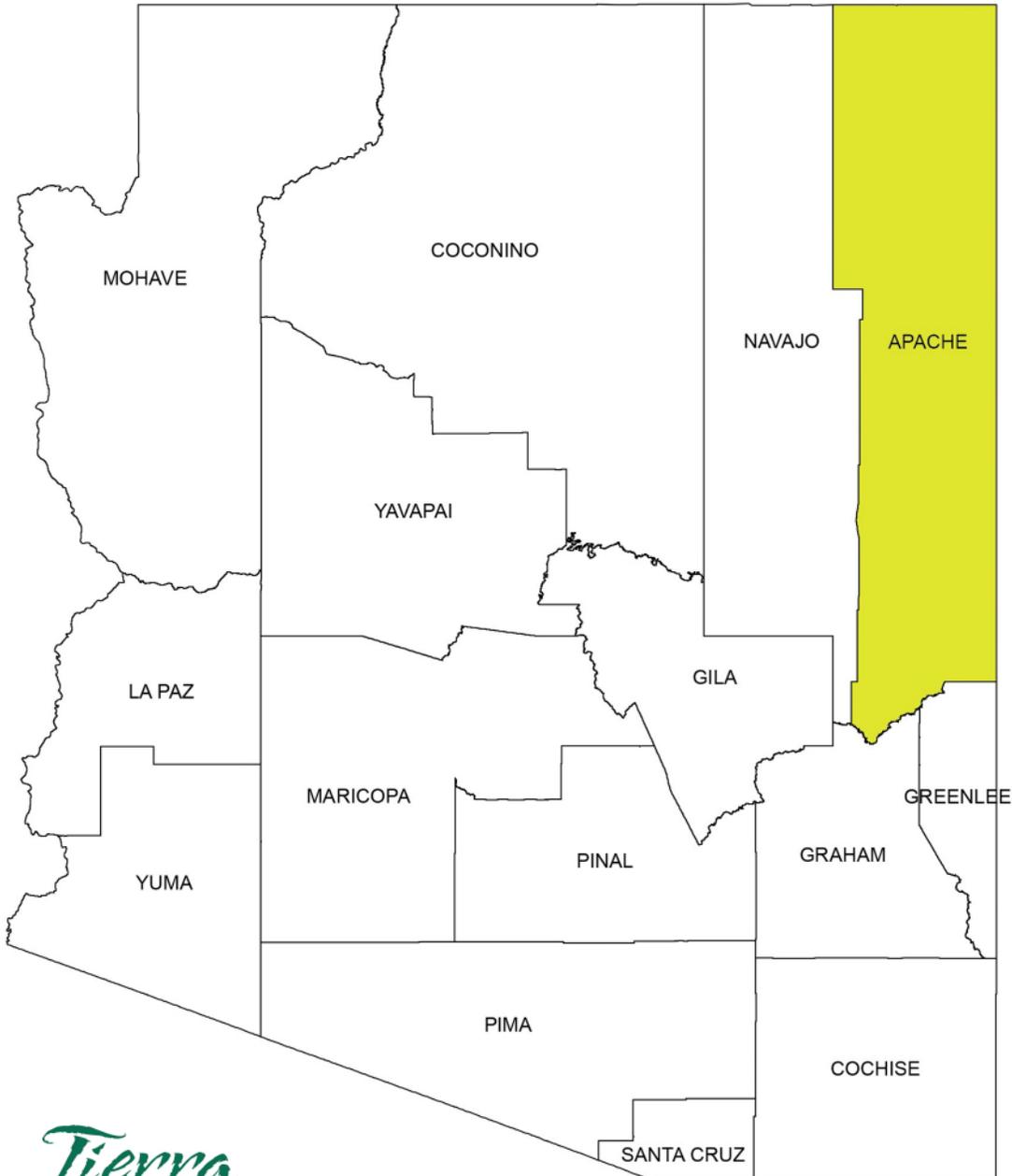
- ▶ 2021/2022
 - ▶ \$3.0M Mostly pavement preservation and soil stabilization projects. (County)
 - ▶ No information available for City.



Projects: Navajo County

Mack Dickerson, SR/WA, RW-RAC, GRI

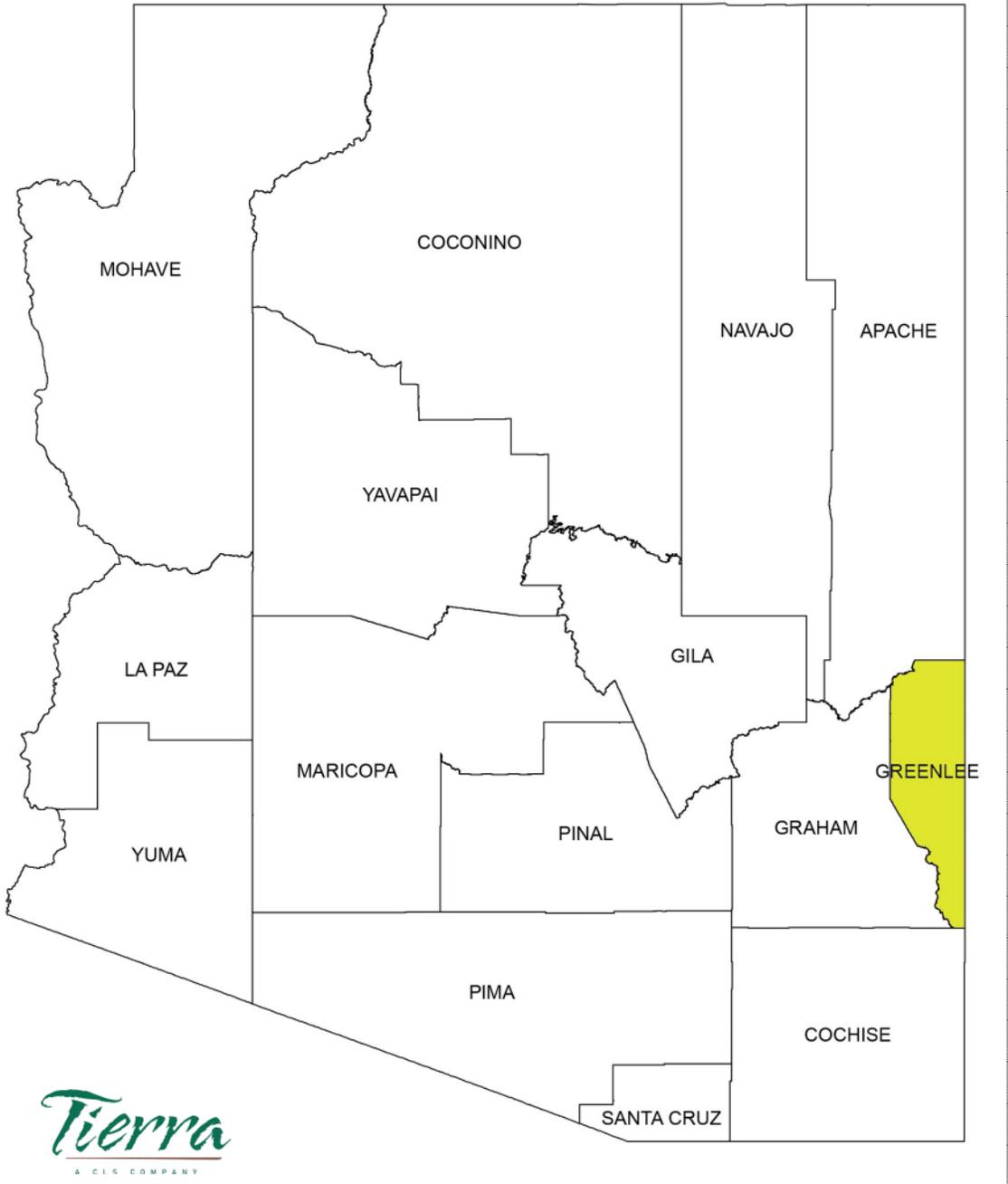
- ▶ 2022
 - ▶ \$1.0M New Health Building in Show Low. (County)
 - ▶ No information available for City.



Projects: Apache County

Mack Dickerson, SR/WA, RW-RAC, GRI

- ▶ 2022
 - ▶ No budget for Capital Improvements approved. (County)
 - ▶ No budget for Capital Improvements approved. (City)



Projects: Greenlee County

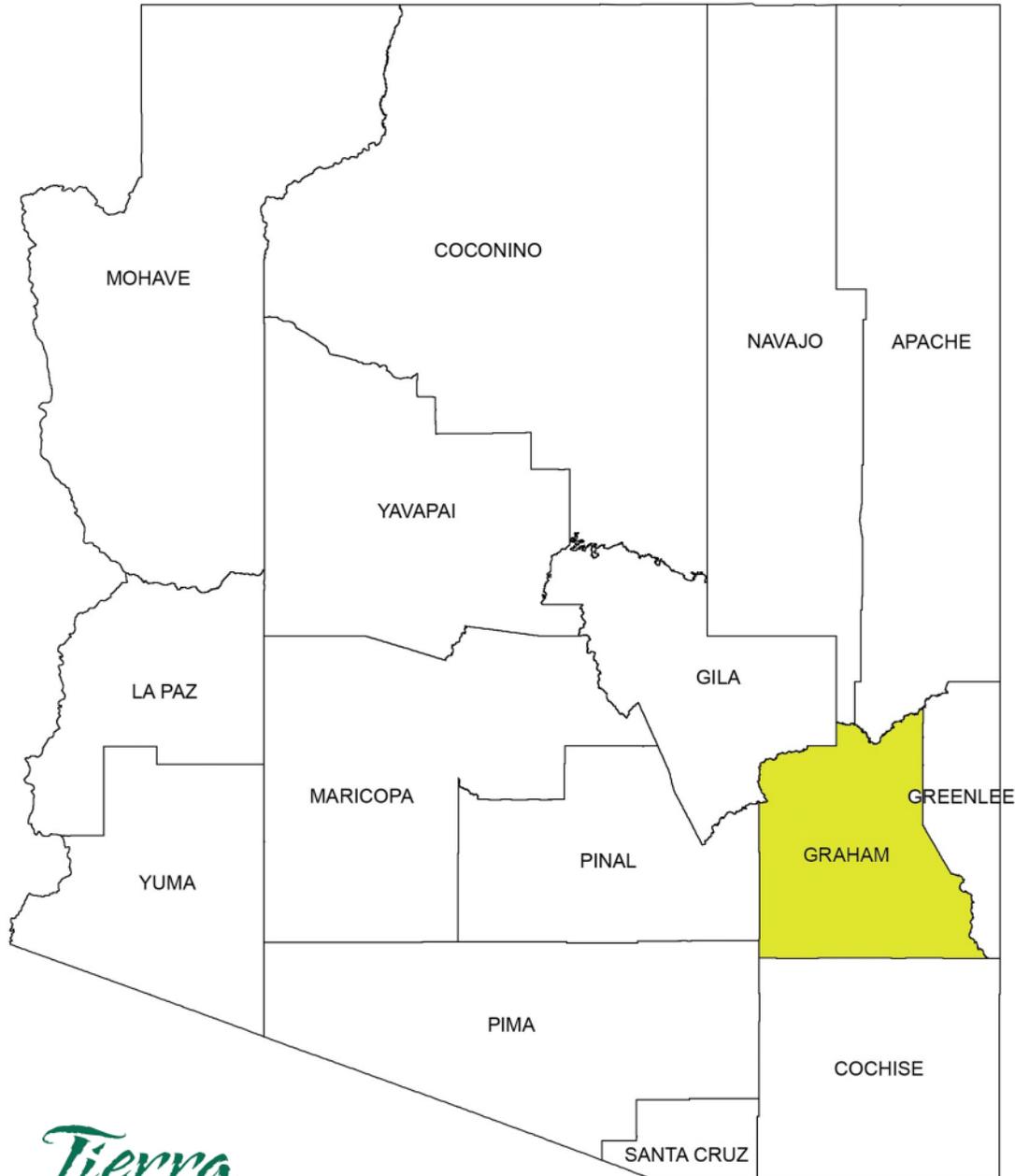
Mack Dickerson, SR/WA, RW-RAC, GRI

- ▶ 2022
 - ▶ \$1.5M Pavement Preservation. (County)
 - ▶ \$3.4M for Wastewater Treatment Plant Upgrade. (City)

Trivia: What is the largest county in Arizona by area?

Mack Dickerson, SR/WA, RW-RAC, GRI

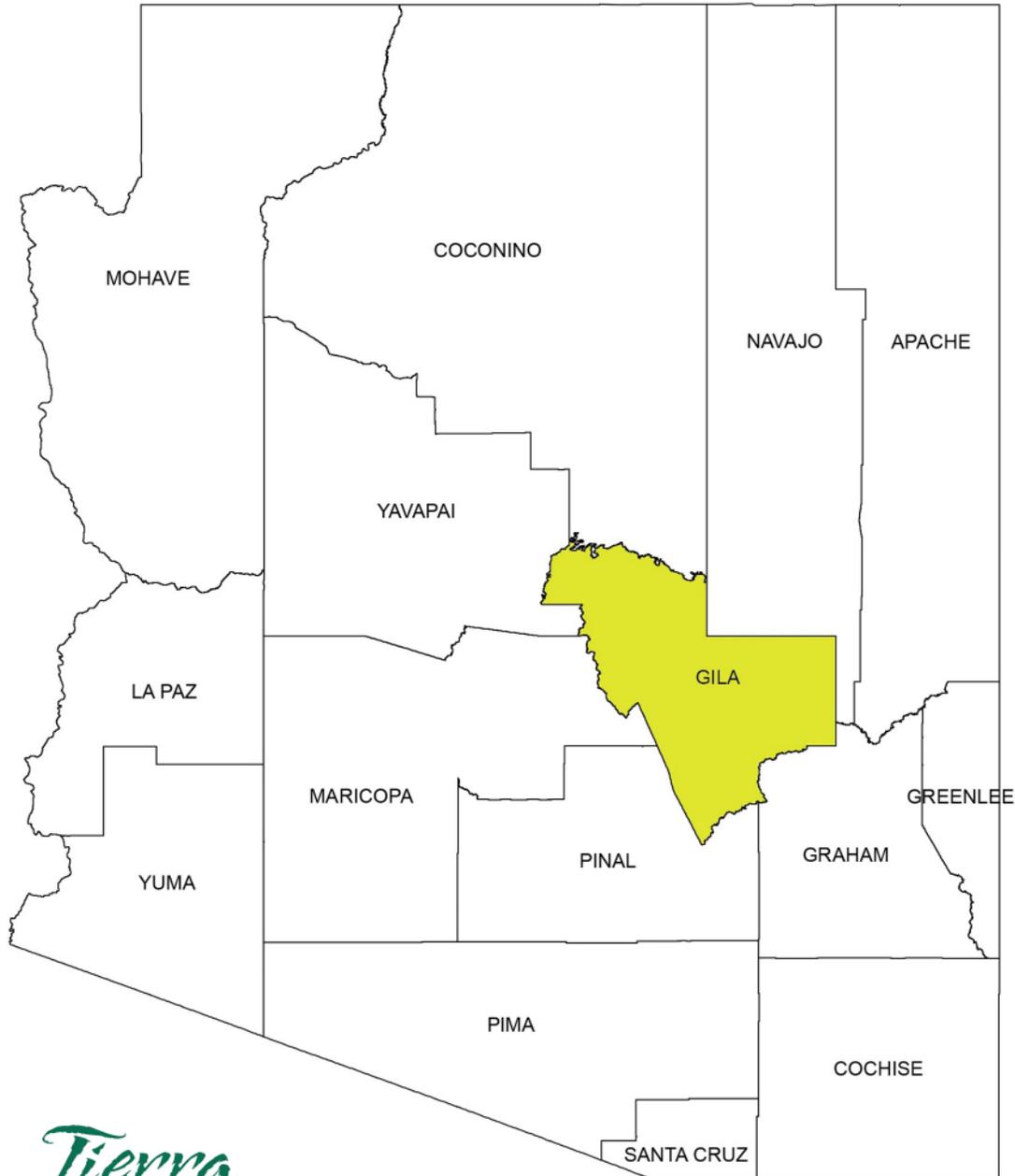




Projects: Graham County

Mack Dickerson, SR/WA, RW-RAC, GRI

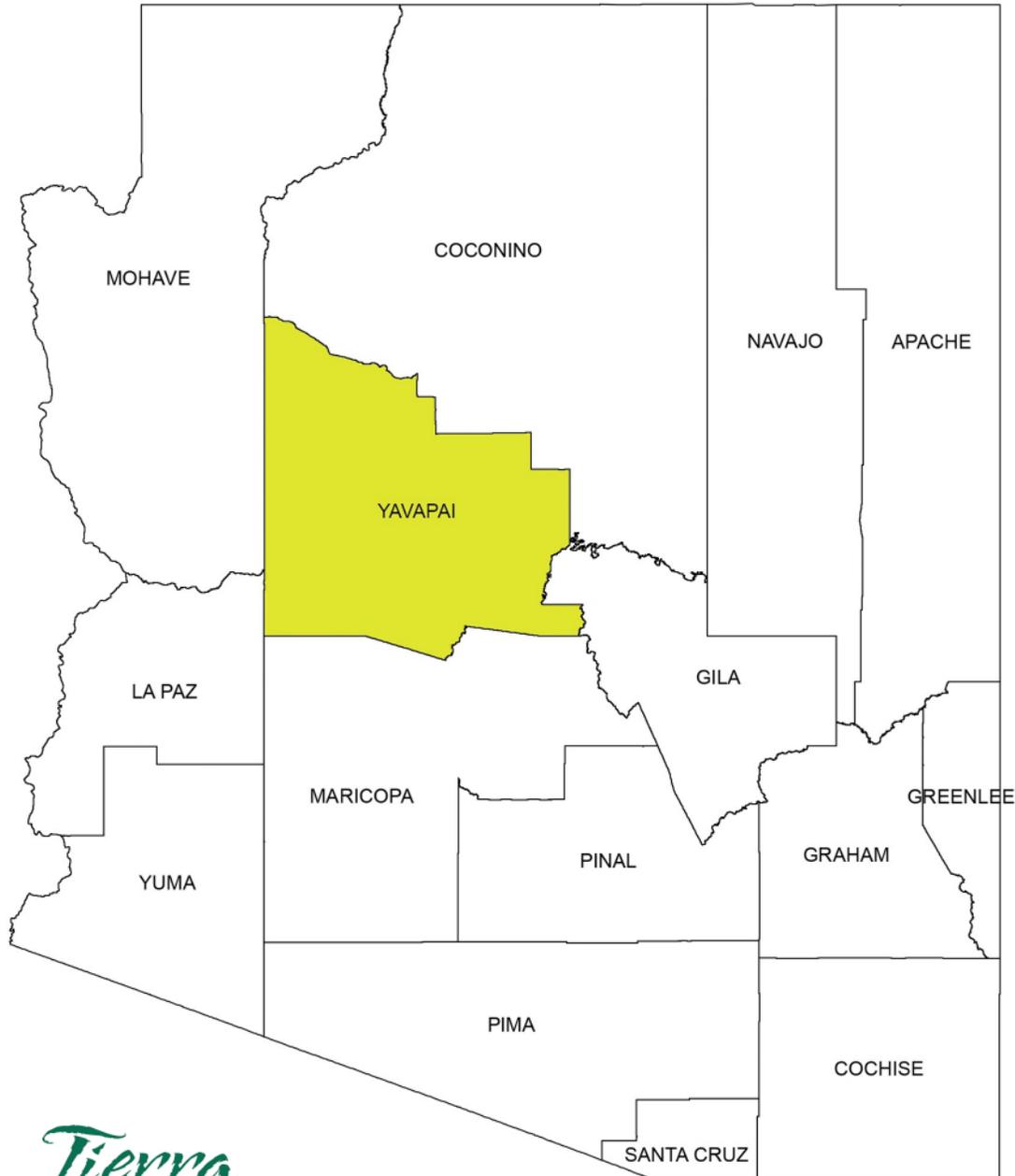
- ▶ 2022
 - ▶ \$14M Culvert project being the largest at \$1.1M. (County)
 - ▶ \$24M for pavement preservation, water and wastewater line extensions and water storage. (City)



Projects: Gila County

Mack Dickerson, SR/WA, RW-RAC, GRI

- ▶ 2022
 - ▶ \$5.4M Public building improvements/bridge replacement and repairs. (County)
 - ▶ \$2.4M for pavement preservation, wastewater treatment plant upgrade. (City)



Projects: Yavapai County

Mack Dickerson, SR/WA, RW-RAC, GRI

- ▶ 2022
 - ▶ **\$5.4M Public building improvements/additions.** (County)
 - ▶ \$35.8M for Water and Wastewater Line Extensions, a new water well (\$16.9M), pavement preservation (\$9.1M). (City)

Trivia: Where did Arizona Supreme Court Chief Justice Robert Brutinel graduate law school?

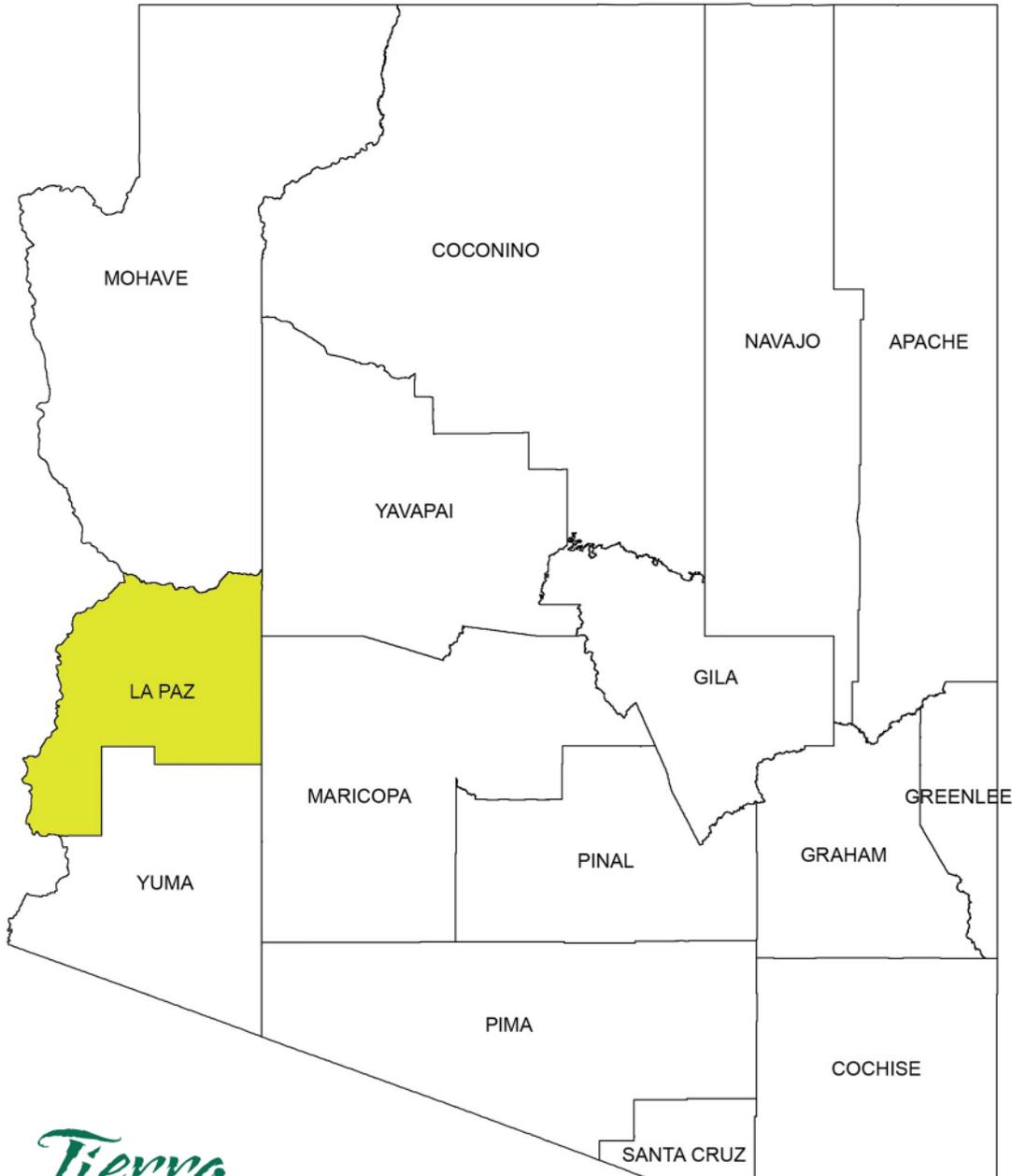
Mack Dickerson, SR/WA, RW-RAC, GRI



Projects: La Paz County

Mack Dickerson, SR/WA, RW-RAC, GRI

- ▶ 2022
 - ▶ \$5.0M Road maintenance and preservation. (County)
 - ▶ No posting of projects or budgets on website since 2014.

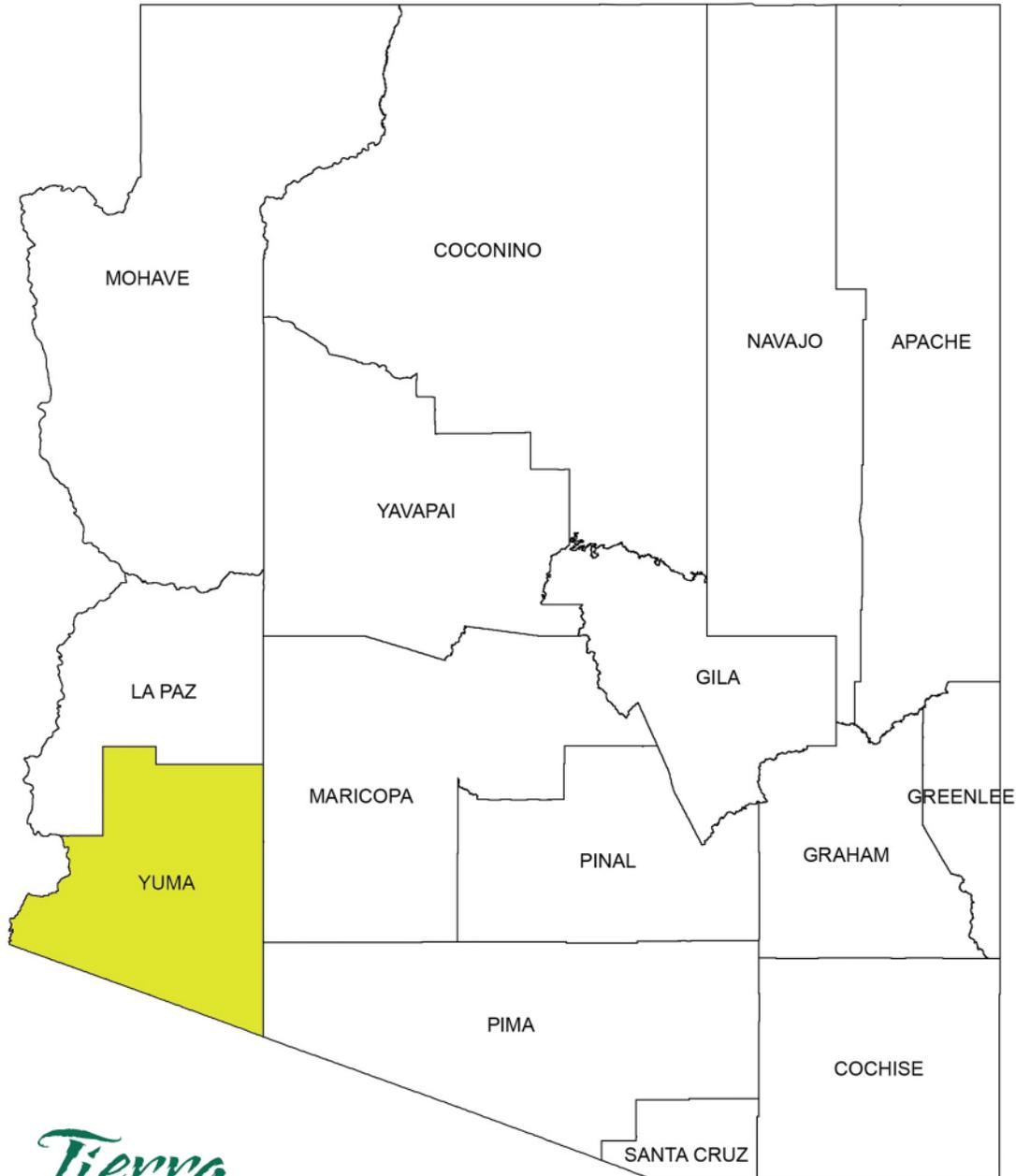


Projects: Yuma County

Mack Dickerson, SR/WA, RW-RAC, GRI

▶ 2022

- ▶ \$100M with approximately \$25M to road improvement projects including road extensions and widenings plus \$20M for broadband project. (County)
- ▶ \$158.3M for Desert Dunes Water Reclamation Plant expansion and 76 other projects including bike lanes and fiber network, one road extension. (City)

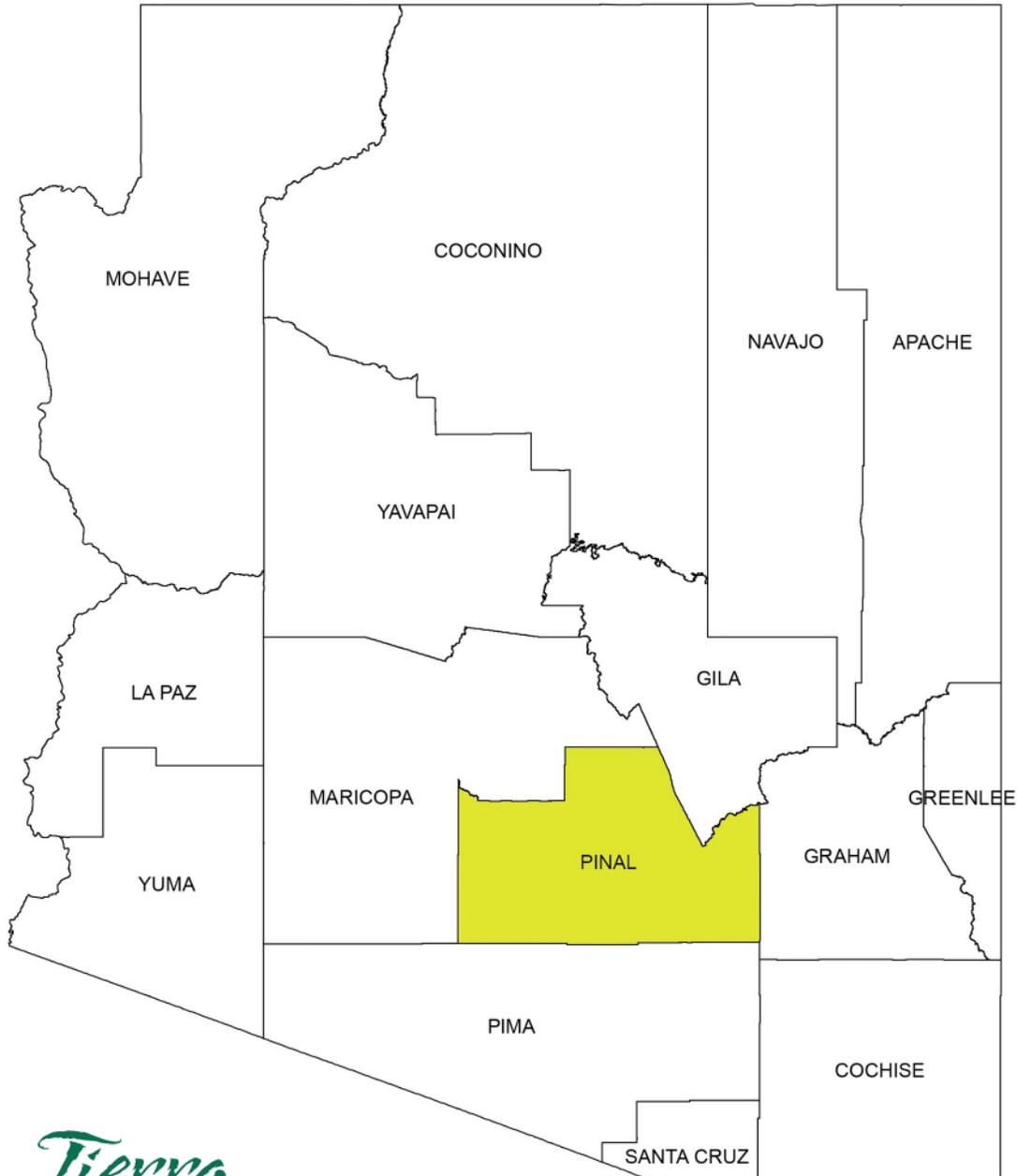


Projects: Pinal County

Mack Dickerson, SR/WA, RW-RAC, GRI

▶ 2022

- ▶ \$21M for road maintenance/preservation and culvert replacements includes 3 road improvement projects with budget of \$10M total. (County)
- ▶ No budgets found but the CIP shows pavement preservation and water system upgrades. (City)

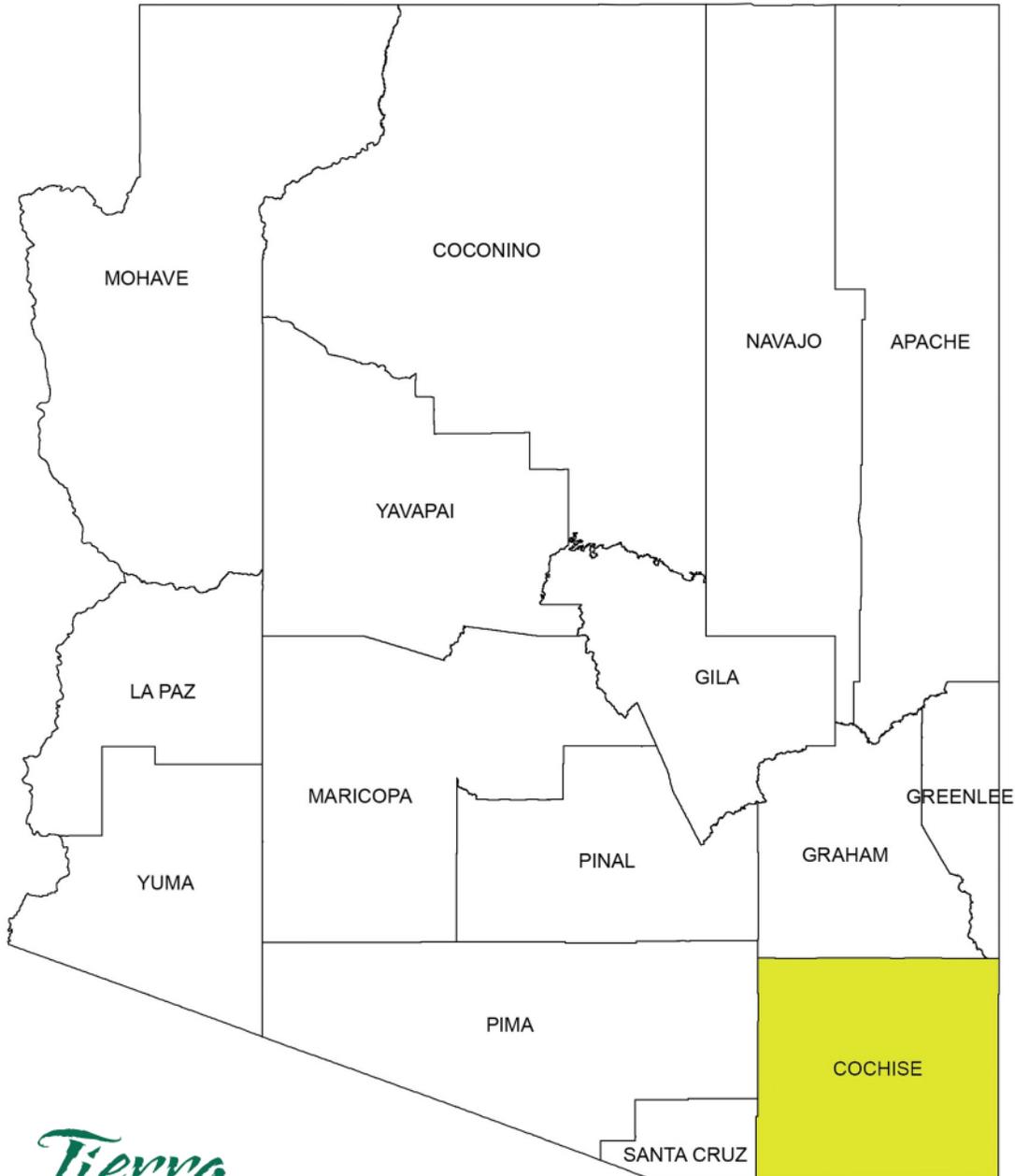


Projects: Cochise County

Mack Dickerson, SR/WA, RW-RAC, GRI

▶ 2022

- ▶ \$15.9M Mostly pavement and building/ facility preservation. (County)
- ▶ \$2.1M for pavement preservation, minor road improvements and water system upgrades. (City)

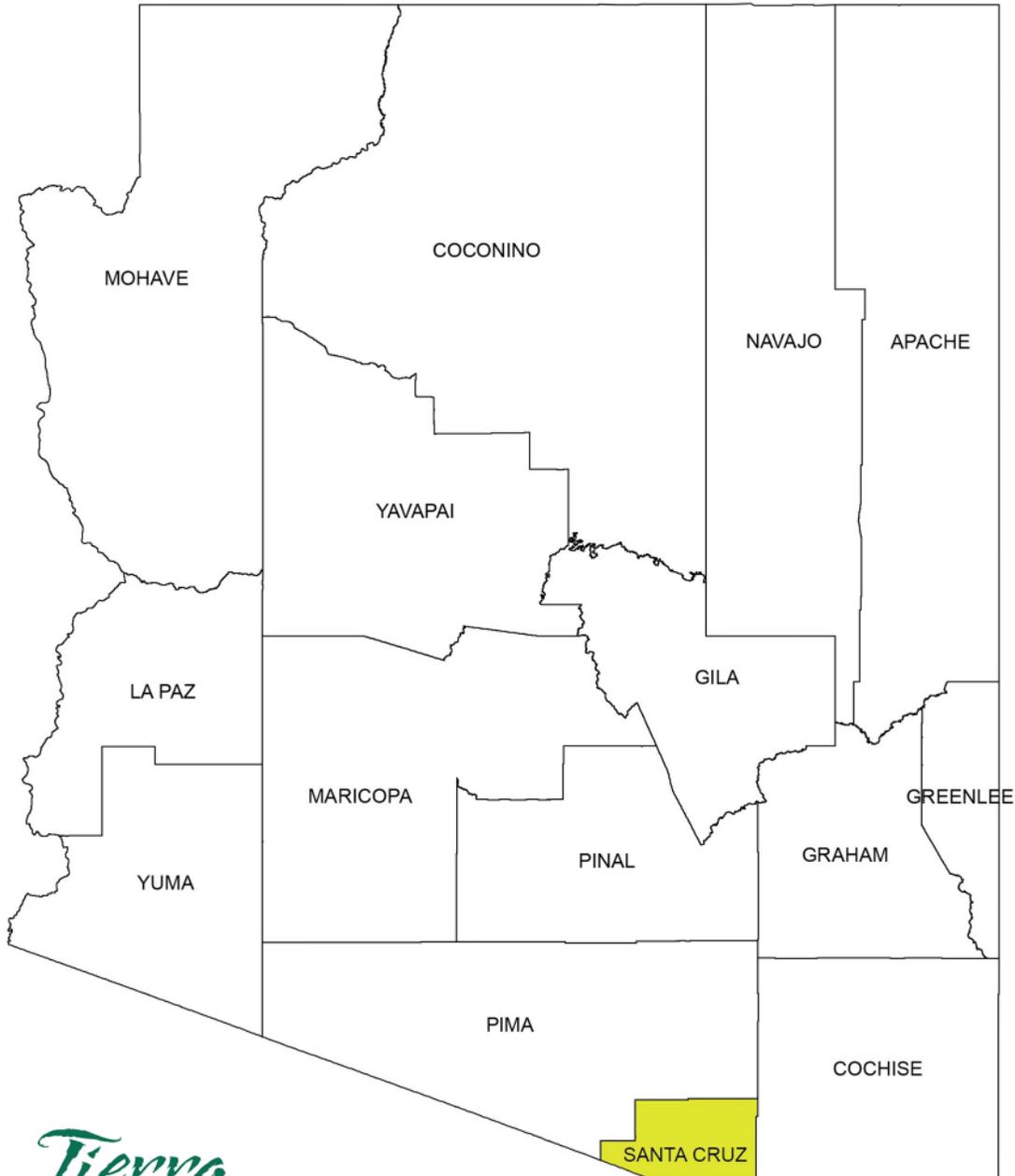


Projects: Santa Cruz County

Mack Dickerson, SR/WA, RW-RAC, GRI

▶ 2022

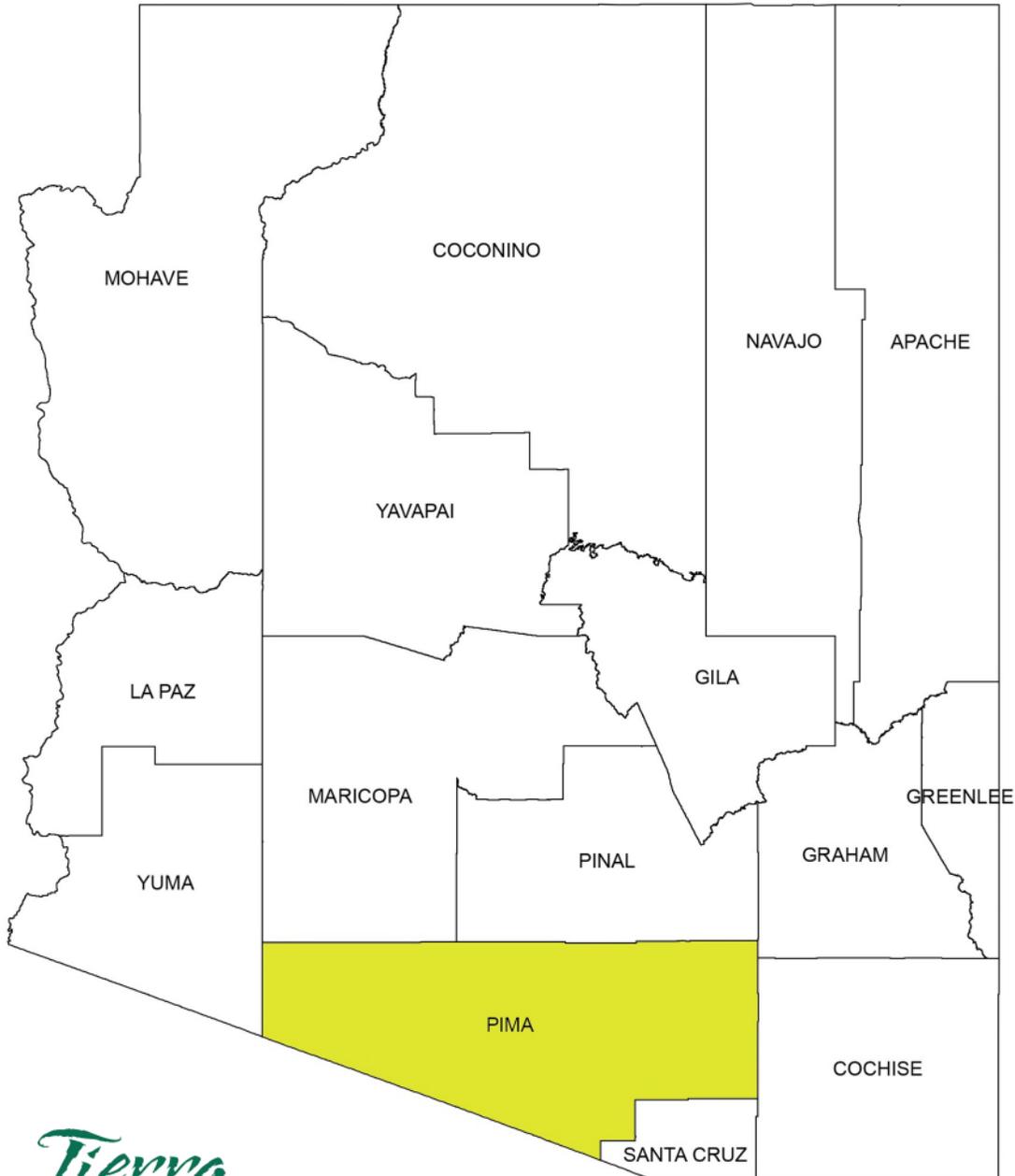
- ▶ No budget online but there have been two facility upgrade RFP's issued. (County)
- ▶ >\$1M for facility upgrades. (City)



Projects: Pima County

Mack Dickerson, SR/WA, RW-RAC, GRI

- ▶ 2022
 - ▶ \$26M Transportation, \$8M for flood control projects, \$29M for wastewater. (County)
- ▶ 2022
 - ▶ \$No Value, 23 projects, 6 in pre-design, 17 in construction. Mostly pavement preservation, bike lanes and HAWKS. (City)
- ▶ 2022-2026
 - ▶ 19 major projects left to start and complete with budgets totaling \$819,589,070. (RTA)



Trivia: What Arizona County was not discussed in this presentation?

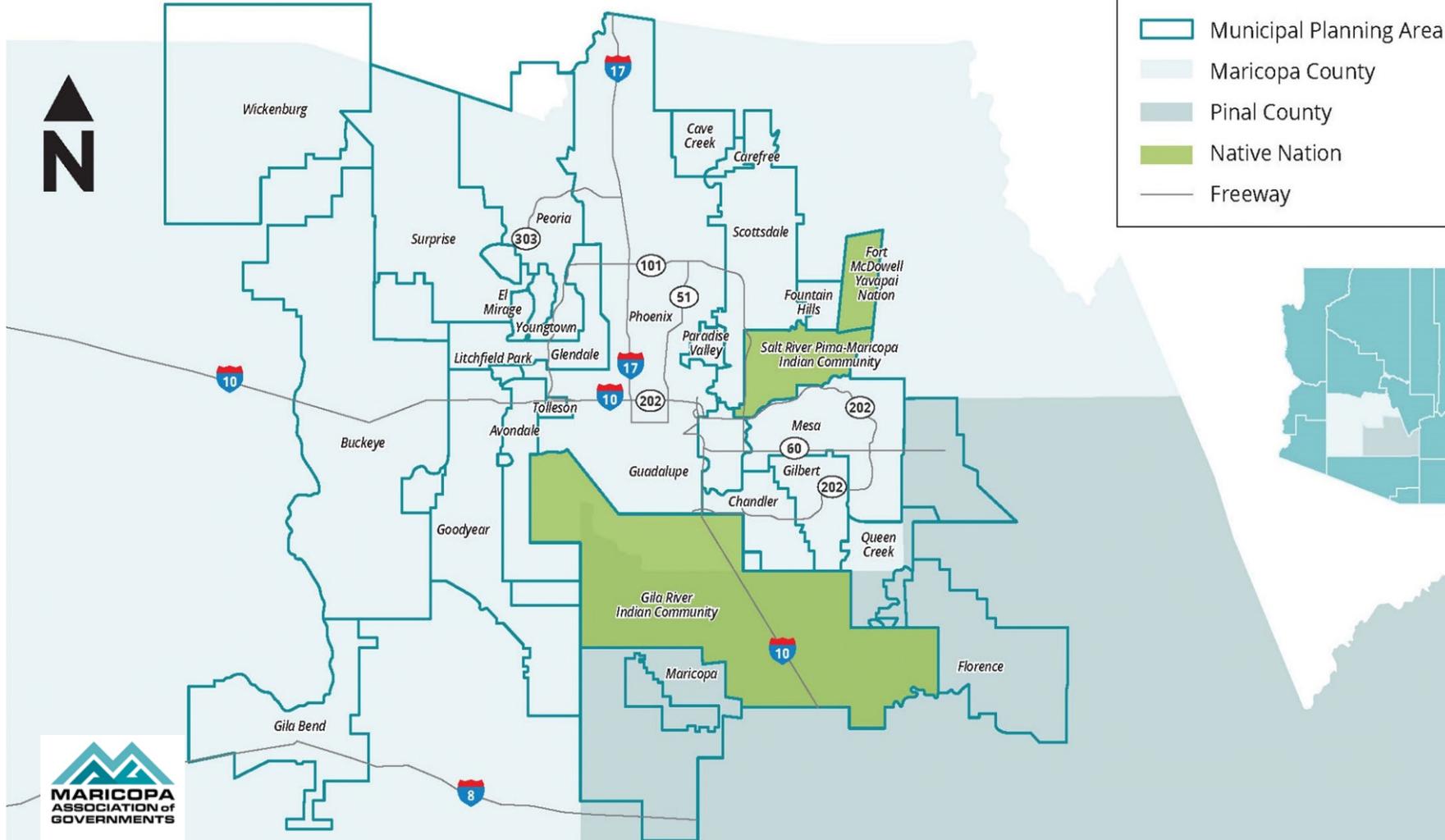
Mack Dickerson, SR/WA, RW-RAC, GRI



Maricopa Association of Governments

John Bullen

Map of MAG Member Agencies



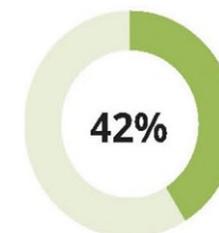
MAG region by the numbers:



Currently
4,735,000
residents



By **2055**, about
7,595,100
residents



are under
the age of
30

Propositions 300 and 400

John Bullen

- ▶ Voters passed Prop 300 in 1985 & Prop 400 in 2004, which have played a large part in shaping the region.



Why it Matters

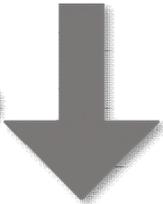
John Bullen

Maricopa County Transportation Existing System Benefit

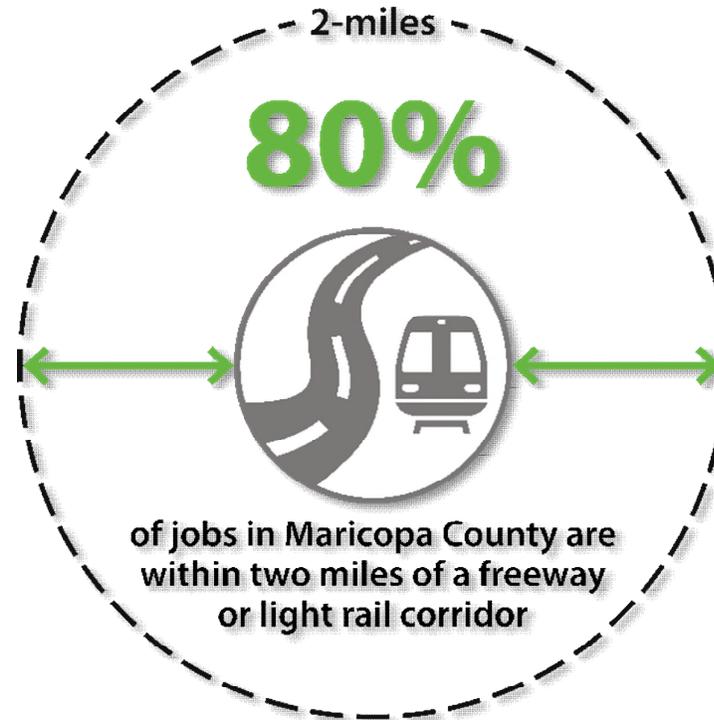
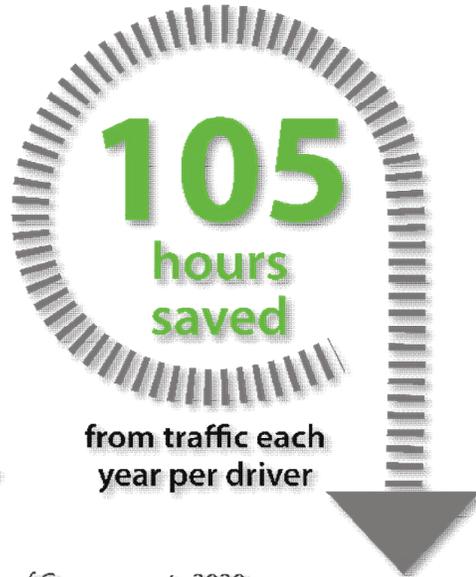
Freeways reduce average travel time by



25%

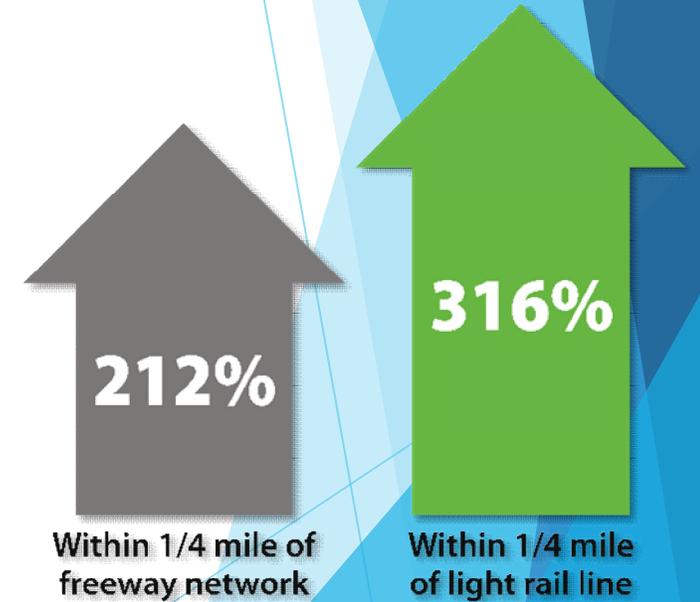


Maricopa Association of Governments 2020



2019 MAG Socioeconomic Projections

2000-2019 Property Value Appreciation in Maricopa County



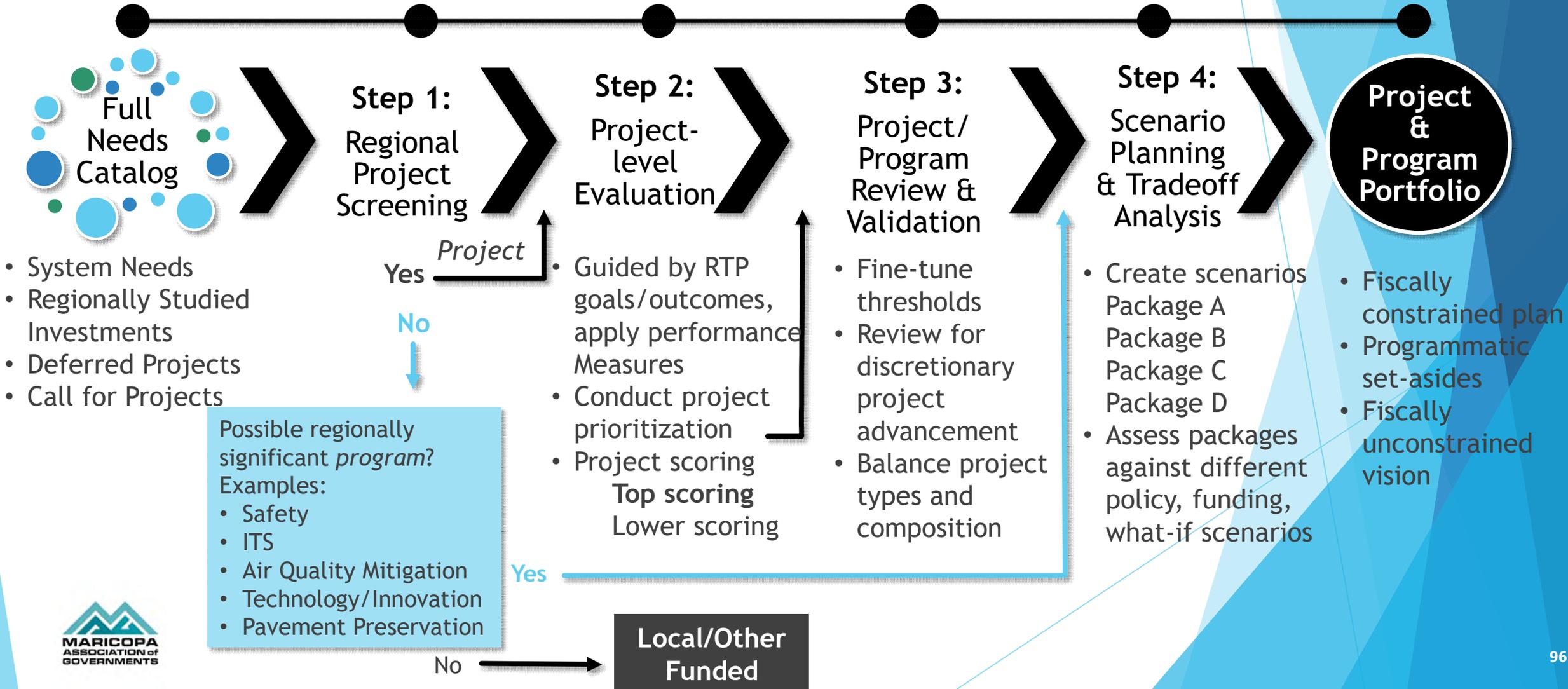
2000 - 2019 Maricopa County Assessor data

Proposition 400 Extension Investment Plan Development

John Bullen

Performance-Based Evaluation Process

John Bullen



Regional Transportation Plan Goals

John Bullen

SAFETY



Provide for the safety and security of pedestrians, bicyclists, riders and drivers.

MOBILITY



Ensure ease of movement for people and goods throughout the region, providing equitable and appropriate access to essential services and destinations.

RESPONSIVENESS



Expand travel choices that accommodate future growth and are flexible in adapting to changing needs and innovations.

LIVABILITY



Invest in a transportation system that supports health and well-being, and sustains the environment.

PRESERVATION



Maintain our region's transportation infrastructure to protect existing investments for the future.

PROSPERITY

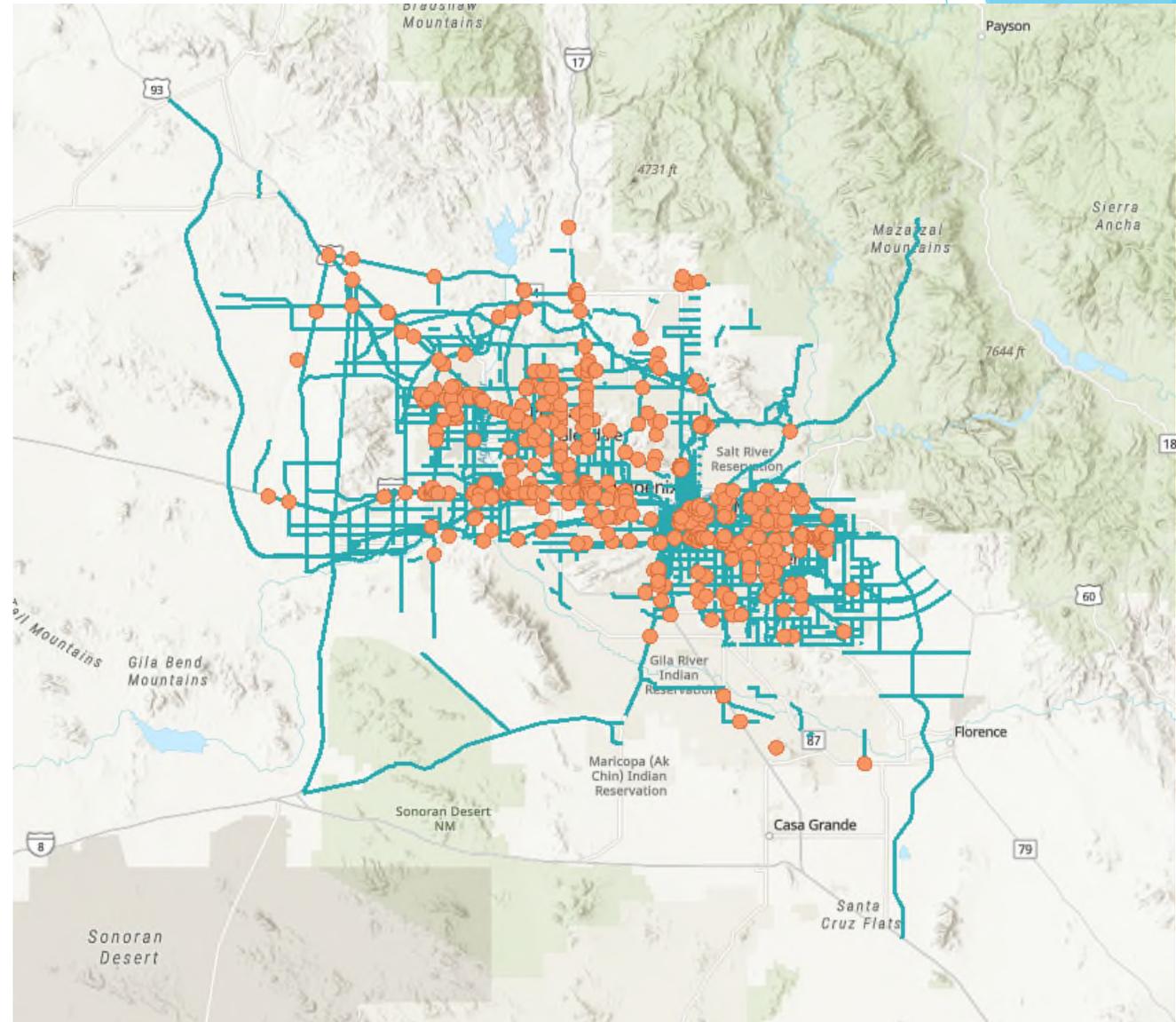


Support economic competitiveness and growth through strategic transportation investments.

Starting Point: Needs Catalog

John Bullen

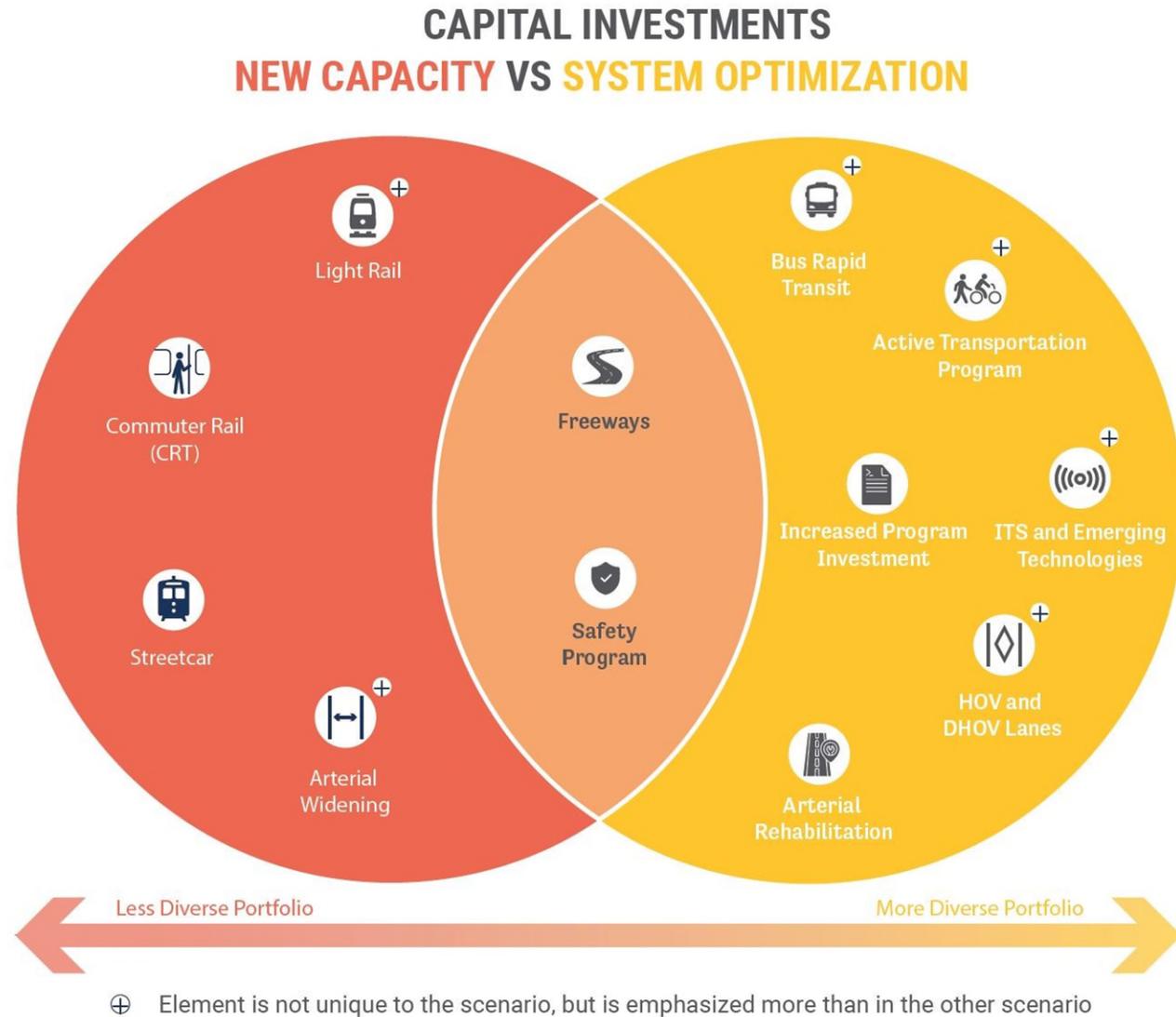
- ▶ Over \$90 billion of needs exist region-wide.



Scenario Planning & Tradeoff Analysis

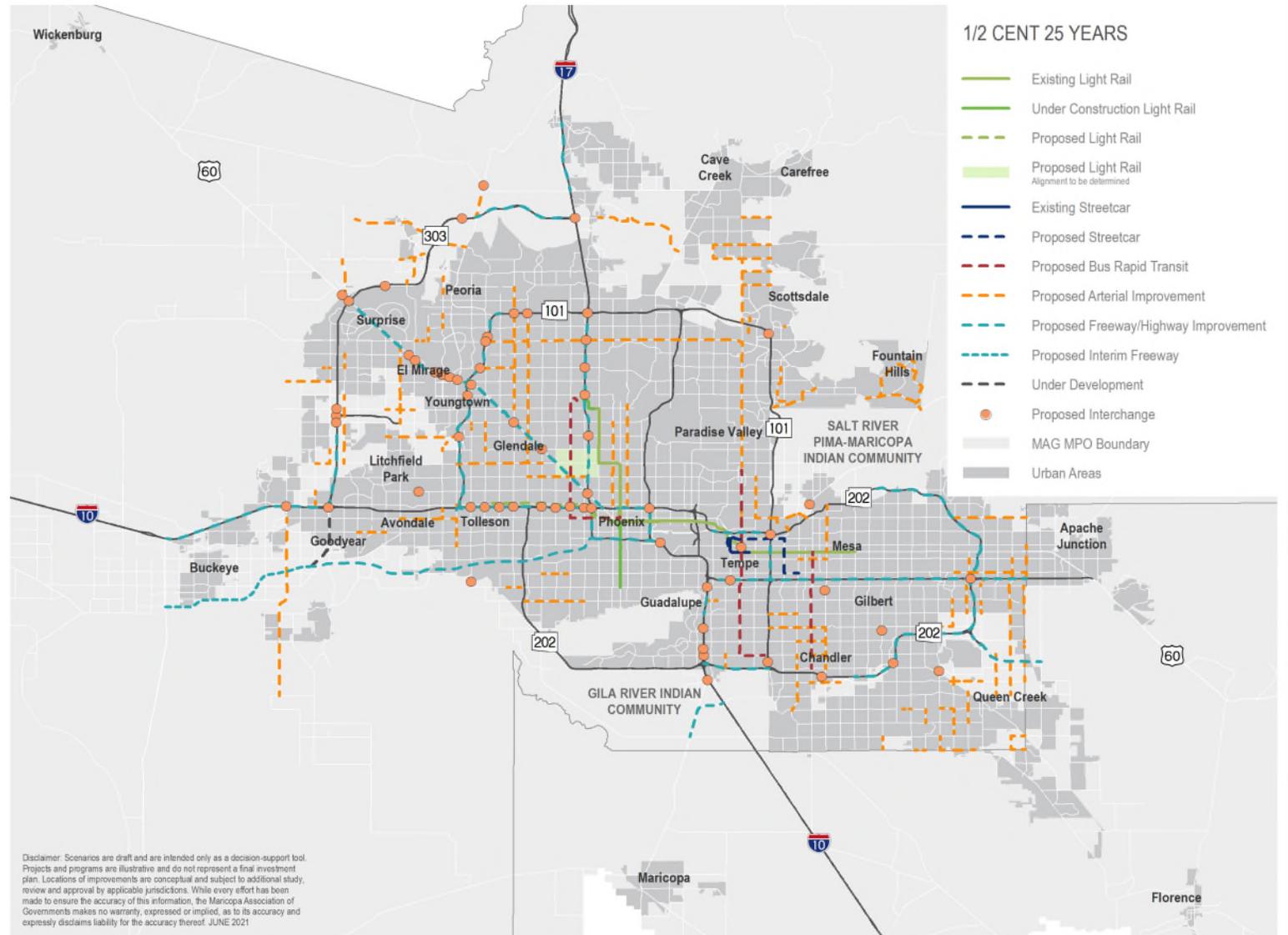
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- ▶ Two Different Concepts
- ▶ Two Different Funding Levels



Investment Plan Projects

John Bullen



Proposed Investment Plan: By the Numbers

John Bullen

 **367** new freeway/
highway lane miles

 **45** new or improved
traffic interchanges

 **11.9** miles of new
light rail

 **186** new HOV
lane miles

 **12** new DHOV or system
interchange DHOV ramps

 **36.8** miles of BRT
(bus rapid transit)

 **1,300** new or improved
arterial lane miles

 **4** new or improved
system interchanges

 **6.9** miles of new
streetcar

Program Investments

Active Transportation	\$1,000,000,000
Air Quality	\$200,000,000
Arterial Intersection	\$500,000,000
Arterial Rehabilitation	\$625,000,000
Arterial Widening	\$375,000,000
Emerging Tech	\$312,500,000
ITS	\$750,000,000
Safety	\$250,000,000
TDM Expansion	\$312,500,000

Transit

Freeway/
Highways

\$36b

Programs

Arterials

Enabling Legislation Introduced

John Bullen

- ▶ Senate Bill 1356 (Pace, R-Mesa)
- ▶ House Bill 2598 (Carroll, R-Sun City West)
(transportation tax; election; Maricopa County)

REFERENCE TITLE: transportation tax; election; Maricopa county

State of Arizona
Senate
Fifty-Fifth Legislature
Second Regular Session
2022

SB 1356

Introduced by
Senator Pace: Representative Carroll

AN ACT

AMENDING SECTIONS 28-6304, 28-6301, 28-6302, 28-6303, 28-6304, 28-6305 AND 28-6306, ARIZONA REVISED STATUTES; REPEALING SECTION 28-6307, ARIZONA REVISED STATUTES; AMENDING SECTION 28-6308, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-6309, 28-6310, 28-6311 AND 28-6312, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-6313 AND 28-6351, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-6352, 28-6353, 28-6354 AND 28-6355, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 17, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-6362; AMENDING SECTIONS 28-6363, 28-6364, 28-6365, 28-6366, 28-6367, 28-6368 AND 42-6106, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6106.01; AMENDING SECTIONS 48-6102 AND 48-6103, ARIZONA REVISED STATUTES; REPEALING SECTIONS 48-6106 AND 48-6121, ARIZONA REVISED STATUTES; RELATING TO TRANSPORTATION PLANNING AND FINANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

- 1 -

REFERENCE TITLE: transportation tax; election; Maricopa county.

Representatives
Fifty-Fifth Legislature
Second Session

HB 2598

Introduced by
Representative Carroll

AN ACT

AS 28-6304, 28-6301, 28-6302, 28-6303, 28-6304, 28-6305 AND 28-6306, ARIZONA REVISED STATUTES; REPEALING SECTION 28-6307, ARIZONA REVISED STATUTES; AMENDING SECTION 28-6308, ARIZONA REVISED STATUTES; AS 28-6309, 28-6310, 28-6311 AND 28-6312, ARIZONA REVISED STATUTES; AS 28-6313 AND 28-6351, ARIZONA REVISED STATUTES; AS 28-6352, 28-6353, 28-6354 AND 28-6355, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 17, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 28-6362; AMENDING SECTIONS 28-6363, 28-6364, 28-6365, 28-6366, 28-6367, 28-6368 AND 42-6106, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6106.01; AMENDING SECTIONS 48-6102 AND 48-6103, ARIZONA REVISED STATUTES; REPEALING SECTIONS 48-6106 AND 48-6121, ARIZONA REVISED STATUTES; RELATING TO TRANSPORTATION PLANNING AND FINANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

- 1 -

Proposition 400: Freeway Projects

John Bullen

INTERSTATE 10 (PAPAGO FREEWAY): SR 85 TO VERRADO WAY

 **TYPE:** Widen/Reconstruction
  **STATUS:** Active
  **PHASE:** Construction
  **PROGRAM:** Proposition 400

- Construction started summer 2021 and will take approximately two years to complete.
- Expands the freeway from two to three general purpose lanes in each direction.
- Reconstructs traffic interchanges at Miller and Watson roads to a diverging diamond interchange (DDI) design.



SCHEDULE	2017	2019-2020	2019	2021-2023	APR-JUN 2023
CURRENT STEP	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
BUDGET (\$2021)	\$2,400,000	\$9,816,278	\$6,100,000	\$117,404,570	

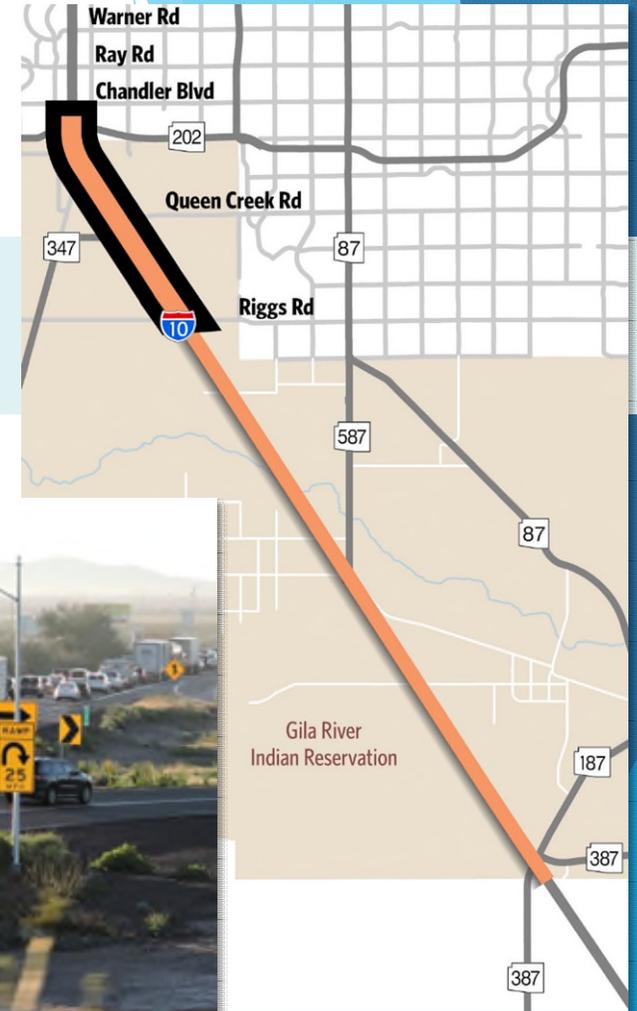


INTERSTATE 10 (MARICOPA FREEWAY): SR 202 (SANTAN) TO SR 387

 **TYPE:** Widen/Reconstruction
  **STATUS:** Active
  **PHASE:** Predesign
  **PROGRAM:** Proposition 400

- Draft Design Concept Report/Environmental Assessment underway and is expected to be finalized by early 2023.
- Includes the addition of one general purpose lane in each direction throughout the entirety of the corridor, and one high occupancy vehicle lane (HOV) between Loop 202 (Santan Freeway) and Riggs Road.
- Includes traffic interchange improvements, including reconstruction at SR 347/Queen Creek Road, SR 587, and SR 387.
- Significant coordination with Gila River Indian Community, Bureau of Indian Affairs (BIA), and Federal Highway Administration (FHWA).

! Project is only partially funded.



SCHEDULE	2019-2022	2022-2023	2023	2025-2027	JAN-MAR 2027
CURRENT STEP	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
BUDGET (\$2021)	\$6,830,000	\$52,116,600	\$21,928,200	\$733,371,500	

LOOP 101 (AGUA FRIA FREEWAY): 75TH AVE. TO I-17 (BLACK CANYON FREEWAY)

 **TYPE:** Widen
  **STATUS:** Active
  **PHASE:** Design
  **PROGRAM:** Proposition 400

- Expands the freeway from three to four general purpose lanes in each direction.
- Improves the interchange at 75th Avenue, providing three eastbound turn lanes.
- Project is scheduled to start construction summer 2023; MAG is identifying opportunities to advance construction to summer 2022.



	SCHEDULE	2020-2021	2021-2022	2022	2024-2026	OCT-DEC 2026
	CURRENT STEP	PREDESIGN	 DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
	BUDGET (\$2021)	\$3,233,968	\$16,673,361	\$1,599,000	\$112,929,900	

LOOP 303 (ESTRELLA FREEWAY) AT 43RD AND 51ST AVENUES

 **TYPE:** Traffic Interchange
  **STATUS:** Active
  **PHASE:** Design
  **PROGRAM:** Proposition 400

- Project constructs new traffic interchanges at 51st and 43rd avenues.
- Extends the Loop 303 through the new traffic interchanges.
- Construction is expected to begin fall 2022 and be completed summer 2023.
- Project will support the new development, including the Taiwanese Semiconductor Manufacturing Company facility.



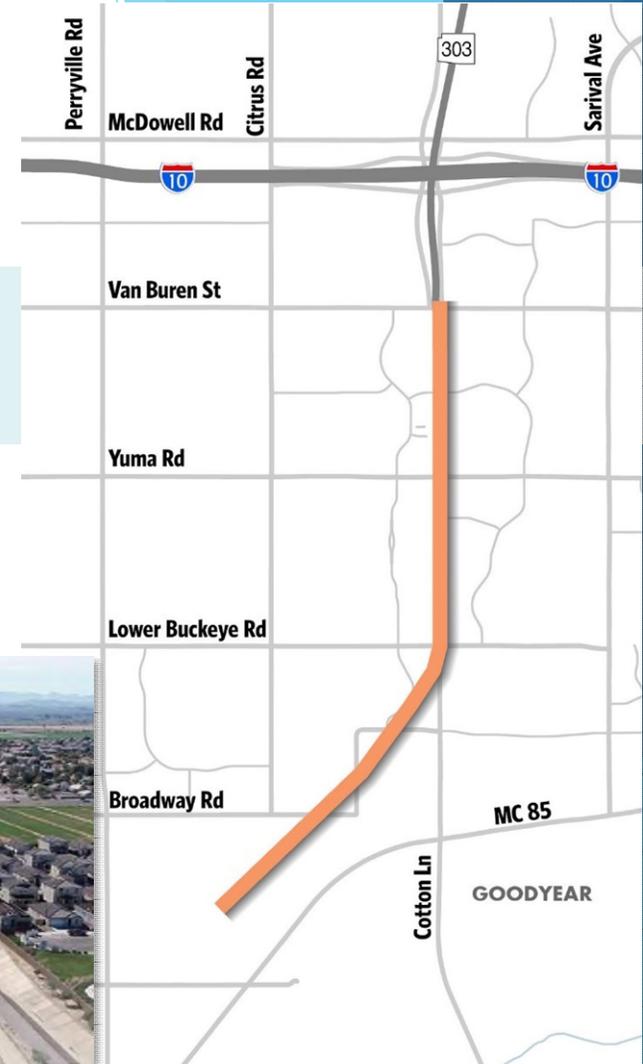
	SCHEDULE	2021-2022	2022	2022-2023	SEPT 2023
CURRENT STEP	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
BUDGET (\$2021)	-	\$6,000,000	\$2,000,000	\$55,854,700	



LOOP 303 (ESTRELLA FREEWAY): MC 85 TO VAN BUREN ST.

 **TYPE:** New
 **STATUS:** Active
 **PHASE:** Design
 **PROGRAM:** Proposition 400

- Constructs an extension of the Loop 303 from its current terminus at Van Buren south to MC 85.
- Project will construct at least three lanes in each direction and provide room for the ultimate freeway conditions.
- Will provide a connection to the future SR 30 center segment facility.
- Project is scheduled to start construction in 2026; **MAG is identifying opportunities to advance construction to 2025.**



SCHEDULE	2016-2018	2021-2023	2026	2026-2030	JAN-MAR 2030
CURRENT STEP	PREDESIGN	 DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
BUDGET (\$2021)	\$240,000	\$15,798,000	\$46,988,900	\$225,121,200	



STATE ROUTE 30 (TRES RIOS FREEWAY): LOOP 202 (SOUTH MOUNTAIN FREEWAY) TO LOOP 303 (ESTRELLA FREEWAY)

 **TYPE:** New
 **STATUS:** Active
 **PHASE:** Right of Way Acquisition
 **PROGRAM:** Proposition 400

- Construction of a new freeway between Loop 303 and Loop 202.
- Significant funding (more than \$500 million) has been allocated to advance right of way acquisition and utility work as part of Proposition 400.
- Construction is funded as part of Phase I of the Proposition 400 extension investment plan.

 **State Route 30 (SR 30) Study – SR 303L to SR 202L**
 Public Hearing

**NOVEMBER 2017:
RECOMMENDED BUILD ALTERNATIVE vs. NO BUILD**

Recommended Build Alternative



No Build Alternative

- The No Build is the baseline condition carried forward in an environmental study if the proposed major transportation facility were not built
- The No Build was used to provide the SR 30 study team with a basis against which social, environmental, and economic impacts were measured.
- The No Build was studied in detail in the SR 30 EA and compared with the recommended build alternative.
- The No Build Alternative assumes the construction of all other funded transportation projects occurs in the study area (e.g., City street projects, etc.).






Proposition 400 Extension: Freeway Projects

John Bullen

I-10 (PAPAGO FREEWAY) AT JACKRABBIT TRAIL

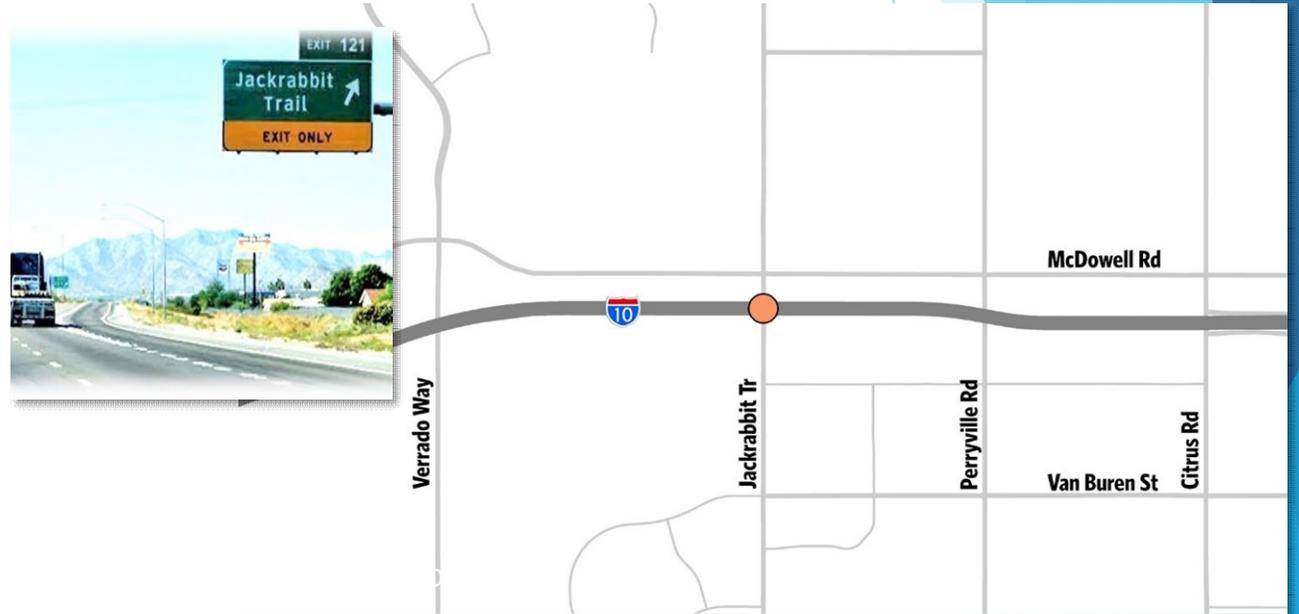
 **TYPE:**
Traffic Interchange

 **STATUS:**
Planned

 **PHASE:**
Pre-design

 **PROGRAM:**
Proposition 400 Extension

- Construct interchange improvements at the existing Jackrabbit Trail traffic interchange.
- Previous engineering work led by Maricopa County Department of Transportation identified the diverging diamond interchange as the preferred design alternative.
- ADOT has initiated design efforts.
- MAG will assess the opportunity to advance construction with a successful November 2022 vote to extend Proposition 400.



I-10 (PAPAGO FREEWAY): LOOP 101 (AGUA FRIA FREEWAY) TO I-17 (BLACK CANYON FREEWAY)

 TYPE: Widen
 STATUS: Planned
 PHASE: Planned
 PROGRAM: Proposition 400 Extension

- Improve I-10 between Loop 101 and I-17.
- Improve the interchanges along I-10, including significant investment at 83rd and 91st avenues to support freight movement.



SCHEDULE	--	--	--	Phase I	
CURRENT STEP	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
BUDGET (\$2021)	--	--	--	\$211,000,000	

I-10 (MARICOPA FREEWAY): I-10 TUNNEL TO I-17 (MARICOPA FREEWAY) SPLIT

 **TYPE:** Corridor Improvements
 **STATUS:** Planned
 **PHASE:** Planned
 **PROGRAM:** Proposition 400 Extension

- Project will make improvements between the I-10 tunnel and the I-10/I-17 "Split" system interchange.
- Improvements include the I-10/SR 51/Loop 202 (Red Mountain) "ministack" system interchange and reconfiguration of the western Sky Harbor International Airport freeway access.
- A MAG study to identify potential improvements was started in March 2022 and is expected to take 18 months.
- Improvements to the western Sky Harbor International Airport freeway access are funded as part of the current Proposition 400 program (construction in 2025).

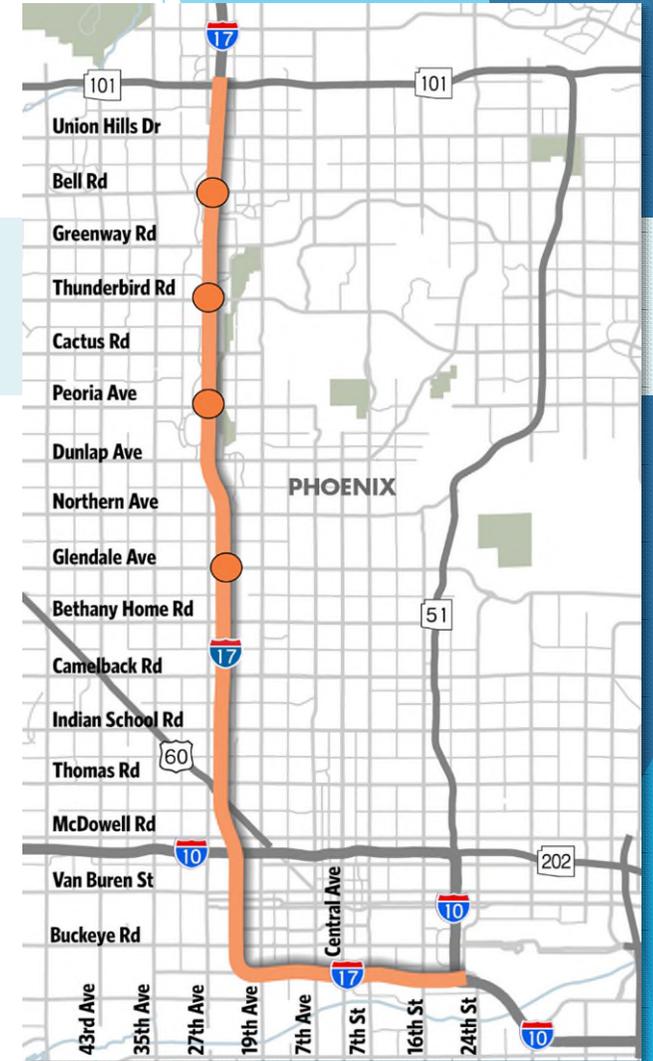


	SCHEDULE	--	--	--	Phase II	--
	CURRENT STEP	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
	BUDGET (\$2021)	--	--	--	\$540,000,000	

I-17: I-10 (SPLIT) TO LOOP 101 (AGUA FRIA FREEWAY)

 **TYPE:** Widen/Reconstruction
  **STATUS:** Planned
  **PHASE:** Planned
  **PROGRAM:** Proposition 400 Extension

- Reconstruct I-17 from I-10 (Split) to the Loop 101, including rebuilding the I-17 (Maricopa Freeway) section.
- Rebuild I-17 between I-10 (Split) and 19th Avenue to add a high occupancy vehicle lane and auxiliary lanes.
- Add an additional managed lane between 19th Avenue and the Loop 101.
- The future I-17 and SR 30 interchange will be designed as part of this project.
- Improve interchanges at Glendale, Peoria, Thunderbird, and Bell.



Phase II - IV

	SCHEDULE	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
CURRENT STEP	--					
BUDGET (\$2021)	--				\$ 2,753,773,600	



LOOP 101 (PRICE FREEWAY): LOOP 202 (RED MOUNTAIN FREEWAY) TO US 60 (SUPERSTITION FREEWAY)

 **TYPE:** Corridor Improvements
  **STATUS:** Planned
  **PHASE:** Planned
  **PROGRAM:** Proposition 400 Extension

- Intended to address operational issues on between Loop 202 (Red Mountain Freeway) and US 60 (Superstition Freeway).
- Funding has also been identified for a direct high occupancy vehicle ramp to and from the south between Loop 101 (Price Freeway) and Loop 202 (Red Mountain Freeway).
- MAG will initiate a planning study to identify potential improvements.



SCHEDULE	--	--	--	Phase II	--
CURRENT STEP	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
BUDGET (\$2021)	--	--	--	\$464,080,000	

LOOP 303 (ESTRELLA FREEWAY): LAKE PLEASANT PARKWAY TO I-17

 TYPE: Widen/System Interchange	 STATUS: Planned	 PHASE: Scoping/ Pre-design	 PROGRAM: Proposition 400 Extension
---	---	--	--

- Project to construct new traffic interchanges at 51st and 43rd Avenues and extend the Loop 303 through the new traffic interchange areas scheduled for summer 2022.
- Completion of the mainline and the Loop 303 (Estrella Freeway)/ I-17 system interchange planned as two separate projects.
- Final design of the Loop 303 (Estrella Freeway)/ I-17 system interchange anticipated to start in 2023.
- Improvements are needed to support the new development in the area, including the Tiawanese Semiconductor Manufacturing Company facility.



	SCHEDULE	--	--	--	Phase I	--
	CURRENT STEP	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
	BUDGET (\$2021)	--	--	--	\$334,525,000	

US 60 (GRAND AVE): LOOP 303 (ESTRELLA FREEWAY) TO I-10 (PAPAGO FREEWAY)

TYPE:
Corridor Improvements

STATUS:
Planned

PHASE:
Planned

PROGRAM:
Proposition 400 Extension



- A number of improvements have been identified as part of the Proposition 400 extension plan.
- Additional grade separations planned at 51st Avenue/Bethany Home Road and Northern Avenue; 35th Avenue/Indian School Road improvements funded as part of Proposition 400.
- Improves access management, where feasible.
- Adds a direct high occupancy vehicle (DHOV) ramp at I-17.
- Constructs the ultimate US 60 (Grand Ave)/Loop 303 interchange.



SCHEDULE	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
---	---	---	---	Phase II - IV	---
CURRENT STEP	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
BUDGET (\$2021)	---	---	---	\$833,703,700	---

SR 24 (GATEWAY FREEWAY): LOOP 202 (SANTAN FREEWAY) TO IRONWOOD RD

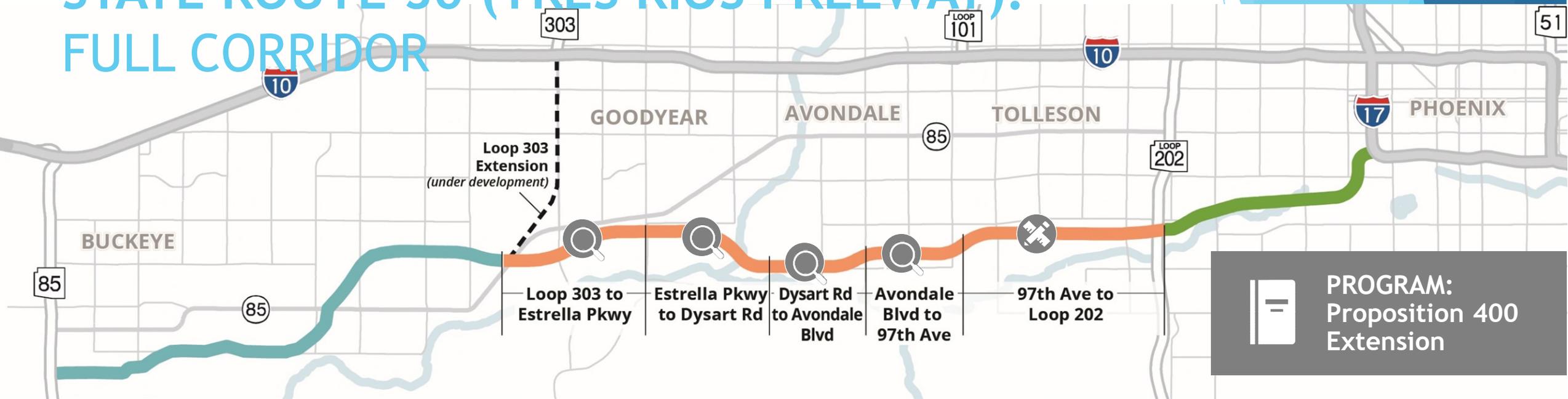
 **TYPE:** Widen
  **STATUS:** Planned
  **PHASE:** Final Design
  **PROGRAM:** Proposition 400 Extension

- Completes the freeway as a limited access facility with three general purpose lanes in each direction.
- A fourth general purpose lane as part of a separate project (Phase V).
- Is needed for the rapid growth in the southeast valley.



SCHEDULE	--	--	--	Phase I/Phase V	--
CURRENT STEP	PREDESIGN	DESIGN	RIGHT OF WAY	CONSTRUCTION	OPEN TO TRAFFIC
BUDGET (\$2021)	--	--	--	\$148,400,000	

STATE ROUTE 30 (TRES RIOS FREEWAY): FULL CORRIDOR



PROGRAM:
Proposition 400
Extension

WEST

Construction of:

- New interim freeway facility between SR 85 to SR 303L ("west segment").

Planned
\$878,256,000
5 Phase V

- One general purpose lane in each direction between SR 85 to east of MC 85 with at-grade arterial intersections.
- Two general purpose lanes east of MC 85 in each direction with a new interchange at Jackrabbit Trail.
- Three general purpose lanes from the Loop 303 interchange ramps to Cotton Lane.

CENTER

Construction of:

- New freeway facility between Loop 202 to Loop 303 with three general purpose lanes in each direction.
- Ramp connections to Loop 202 and Loop 303.
- Implementation planned through five segments.
- Right of way acquisition and scoping will be completed under Proposition 400.

5 Segments
\$2,665,163,749
1 Phase I

EAST

Corridor Recommendation Report completed in September 2021.

- Construction of a new freeway facility between Loop 202 and I-17 ("eastern segment") with three general purpose lanes in each direction.

Planned
\$2,100,000,000
5 Phase IV

City of Phoenix Current Light Rail Projects

Markus Coleman, City of Phoenix Lightrail



South Central Extension Light Rail/ Downtown Hub

Markus Coleman



Northwest Extension Phase II Light Rail

Markus Coleman

▶ 2 TPSS and 1 Signal Building



Capitol Extension Light Rail

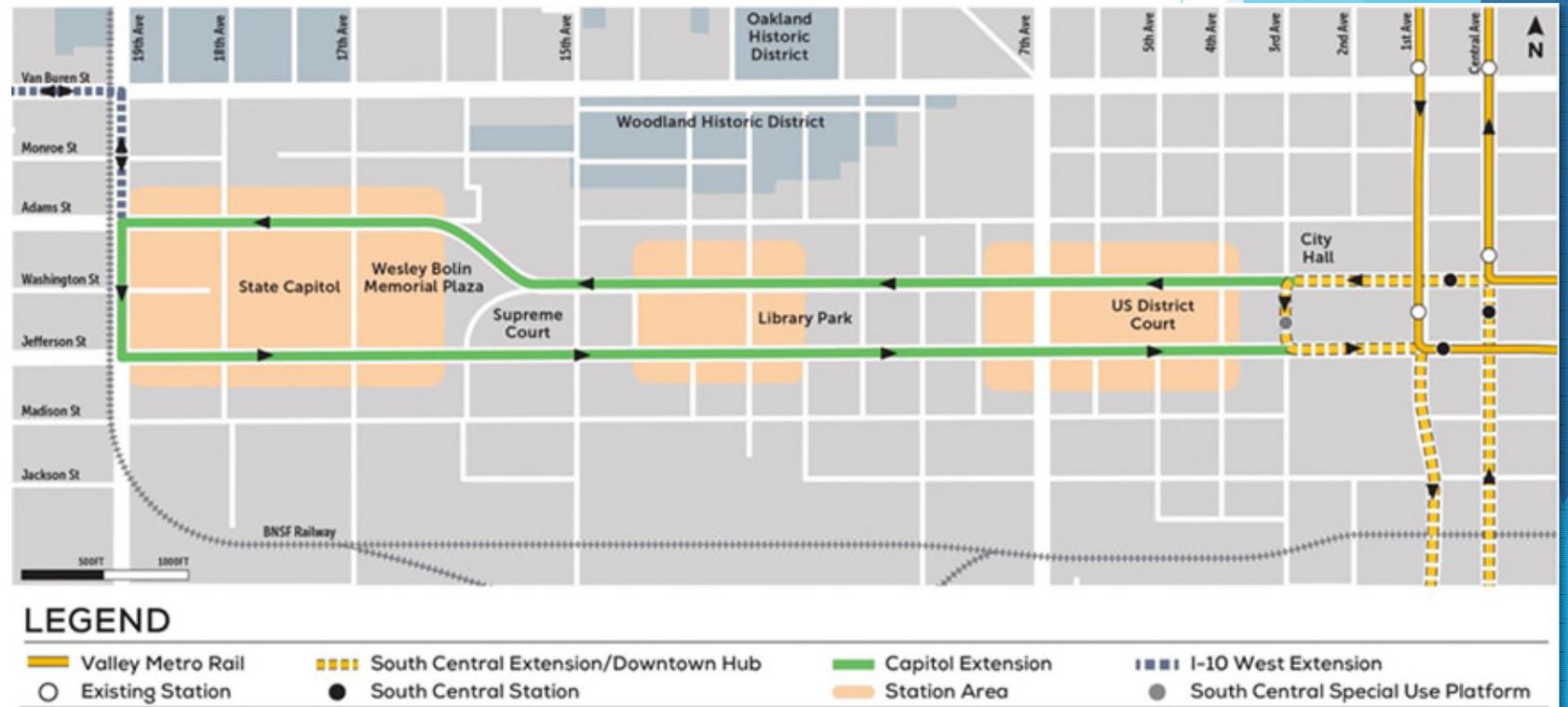
Markus Coleman

1.4

MILES

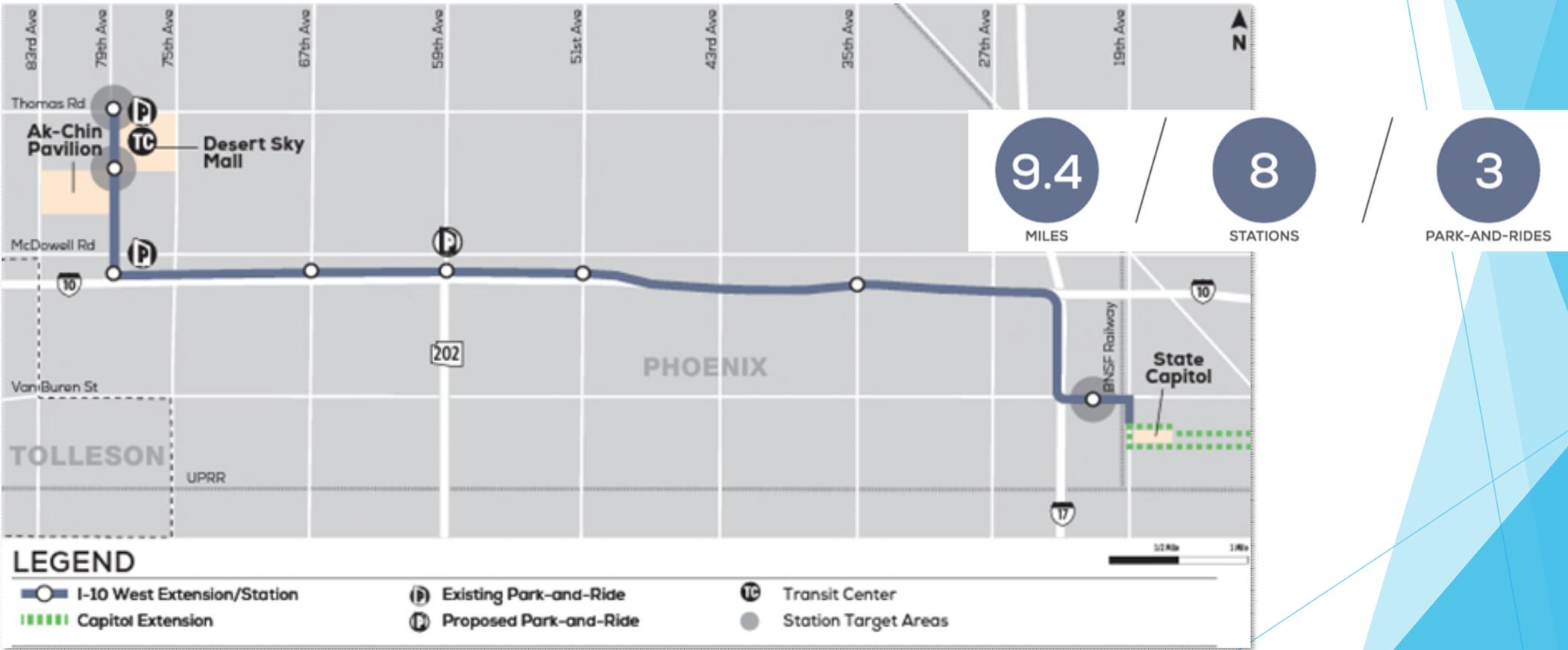
3

STATION
AREAS



I-10 West Extension Light Rail

Markus Coleman



Pinal County Update

Vail Clear

COOKIE BREAK

Sponsored by Integra Realty Resources



We'll resume at 4:00 p.m.



Condemnation Summit Quiz Show

Vail Cloar, Dickinson Wright