

## **ACHP Seeks Public Input on Formal Comments regarding the Replacement of a Microwave Communications System in Mount Graham, Arizona**

**SUMMARY:** The Advisory Council on Historic Preservation will be accepting public comments in preparation for issuing formal comments, under the National Historic Preservation Act, to the United States Forest Service regarding its intent to issue a special use permit for the replacement of a microwave communications system in Mount Graham, Arizona.

**DATES: Comments must be received on or before February 6, 2006.**

**ADDRESS:** Address all comments to John L. Nau, III, Chairman, c/o Stephen Del Sordo, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004. Fax (202) 606-8672. Comments may also be submitted by electronic mail to: [sdelsordo@achp.gov](mailto:sdelsordo@achp.gov).

**FOR FURTHER INFORMATION CONTACT:** Stephen Del Sordo, (202) 606-8580. E-mail: [sdelsordo@achp.gov](mailto:sdelsordo@achp.gov). Further information may be found in the ACHP website: [www.achp.gov](http://www.achp.gov).

**SUPPLEMENTARY INFORMATION:** The Advisory Council on Historic Preservation (ACHP) is an independent Federal agency, established by the National Historic Preservation Act (NHPA), that promotes the preservation, enhancement, and productive use of our Nation's historic resources, and advises the President and Congress on national historic preservation policy. Among other things, the ACHP issues formal comments to Federal agencies per Section 106 of the NHPA.

Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the ACHP a reasonable opportunity to comment on such undertakings. The procedures in 36 CFR part 800 define how Federal agencies meet these statutory responsibilities.

When a Federal agency is unable to reach an agreement to avoid, minimize or mitigate the adverse effects of its undertaking, it must seek the formal comments from the ACHP. 36 CFR § 800.7.

On December 5, 2005, the ACHP received a letter from the United States Forest Service (FS), informing the ACHP that the FS has terminated the consultation towards reaching such an agreement with regard to the undertaking described below, and has requested the formal comments of the ACHP. This notice seeks public input on the ACHP formal comments that will be sent to the FS.

### **Undertaking Summary:**

The University of Arizona (UA) has been working to establish the Mount Graham International Observatory (MGIO) since the early 1980s. Passage of the Arizona-Idaho Conservation Act (AICA) in 1988 instructed the Forest Service (FS) to issue a special use permit for the MGIO and permitted the construction of the MGIO on 8.6 acres within the Coronado National Forest in southern Arizona. AICA authorized the construction of

at least three, but not more than seven, telescopes within the compound, along with necessary support facilities. At the present time, the MGIO consists of the Vatican Observatory Telescope (VOT) and the Hertz Submillimeter Telescope (HST).

A Large Binocular Telescope (LBT) is due to be activated within the next year. In anticipation of the activation of the LBT, the UA, in September 2003, asked the FS to amend the existing special use permit to construct an improved microwave communications tower. At that time, the proposed tower was to be located outside the MGIO compound. Based on a variety of issues, among them were tribal concerns, the UA, in August 2004, changed the proposed location to one inside the MGIO Compound. Once the new tower is installed, the existing microwave communications tower will be removed. The construction of the new microwave communications tower is the undertaking that has been the subject of Section 106 review and will be the subject of the ACHP formal comments.

### **Affected Historic Properties:**

Mount Graham is sacred to the Western Apache tribes and one of four such mountains in Apache cultural tradition. The tribes believe that the mountain, known as Dzil ncha'a si 'an, is home to the "gaan" or mountain spirits, source of sacred powers, and a place of prayer and traditional practices. In addition, the mountain is a source of plants and other materials used in Apache traditional practices and ceremonies. Following a formal request from the FS in 2002, the National Park Service determined that the Mount Graham Traditional Cultural Property (MGTCP) was eligible for listing on the National Register of Historic Places, and therefore a "historic property" under the scope of the Section 106 review process.

### **History of Consultation:**

At first the FS determined that the new tower would have no adverse effect on the MGTCP. However, the tribes objected, arguing that the MGIO complex and the metal of the buildings and support structures, to include the proposed metal monopole, interfere with their prayers on the mountain and diminish their ability to communicate through prayer. Accordingly, in September 2004, the FS reversed its decision and determined that the new tower would have an adverse effect. The FS therefore invited the Arizona State Historic Preservation Officer (SHPO), UA, the San Carlos Apache Tribe, the White Mountain Apache Tribe, the Yavapi Apache Tribe, Apache Survival Coalition, and the ACHP to consult to attempt to reach a Memorandum of Agreement (MOA) which would include measures to mitigate the adverse effects.

The first meeting to discuss the various options for the microwave tower was held in December 2004. Further meetings were held among the consulting parties, but little progress was made. The last consultation meeting was held in June 2005. While it was then agreed that tribal representatives would provide mitigation language for the MOA and that the parties would meet in August to review a revised MOA, such a meeting was never held. In early August, the FS chose to sign a slightly revised MOA, secured the signature of UA, and then, in a letter dated August 8, 2005, asked the other consulting parties to sign the MOA. Arguing that FS had violated an agreed upon approach, the tribes refused to sign the MOA. The ACHP provided the FS some recommended

language for the MOA that included the use of a laminated wood pole, consultation protocols for projects at Mount Graham, and a management plan for the mountain, but those recommendations were not accepted.

As stated above, on a letter received by the ACHP on December 5, the FS notified the ACHP of its decision to terminate consultation and seek the formal comments from the ACHP.

Again, the ACHP seeks public input on those formal comments that ACHP will send to FS.