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June 30, 2023

Adam Assenza
Surface Transportation Board
Environmental Filing, Docket No. FD 36501
c/o Sabra McNeish
Jacobs Engineering Group Inc.
1501 West Fountainhead Parkway, Suite 401
Tempe, AZ 85282

Re: Maricopa County; Union Pacific Railroad Company (UP) Pecos Industrial Rail Access and Train Extension (PIRATE) Project (Docket No. FD 36501); NEPA Review; Surface Transportation Board (STB); SHPO-2021-1360 (169680)

Dear Mr. Assenza:

Thank you for providing our office the opportunity to review the draft Environmental Assessment (EA) for the above referenced project, which includes the proposed construction of a new rail line for the Pecos Advanced Manufacturing Zone (PAMZ) in Mesa, Arizona. The project is considered a major federal action under the National Environmental Policy Act (NEPA; 40 CFR 1508.1[q]). The State Historic Preservation Office (SHPO) has been reviewing this project pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act as amended (54 USC 306108).

SHPO has reviewed the draft EA with regard for its cultural resources analyses and has the following comments.

Section 3.12 Archaeological and Historic Resources

1. Add a section analyzing Native American Concerns or Tribal Interests. This section should be included under Cultural Resources or Environmental Justice, therein describing potentially impacted Tribal interests within the Affected Environment, including identification efforts for TCPs and/or sacred sites. Examples of Tribal interests are available online through the Arizona Government-to-Government Consultation Toolkit (<https://sites.google.com/view/az-consultation-toolkit/tribes/gila-river-indian-community>; <https://sites.google.com/view/az-consultation-toolkit/tribes/salt-river-pima-maricopa-indian-community>); however, SHPO notes that tribally sensitive information should be withheld from public NEPA documents.
2. Regulatory Environment
 - This section does not adequately define the regulatory context for analyzing cultural resources impacts under NEPA. Rather, it conflates NEPA with Section 106 of the National Historic Preservation Act (NHPA) and National Register Bulletin 38. Specifically, cultural resources and historic properties are not one and the same, and Traditional Cultural Properties (TCPs) are recognized as a particular type of historic property. Likewise, adequate NEPA analysis of potential impacts to cultural resources is not limited to Section 106-defined historic properties. Please revise this

section to define how cultural resources could be impacted by the proposed project alternatives (e.g., construction, visual, auditory, etc.), and clarify differences among the applicable regulations and guidance. Refer to the *Integrating NEPA and Section 106* manual on the Advisory Council on Historic Preservation website.

3. Study Area: Area of Potential Effects (APE):
 - Rename this section “3.12.1 Affected Environment”. The Section 106 APE should be discussed here; however, APE is not a NEPA term.
 - Clearly define the Affected Environment, which may or may not concord with the Section 106 APE. Adequate context should include both characterization (site and property types) in addition to quantification of known and estimated cultural resources and historic properties calculated as projected sites per acre based on existing survey data and overall site density.
 - Include the acreage of the Affected Environment and APE. Note that the APE includes 4.91 acres of private land that will not be acquired by the project; however, analysis should include potential impacts to any cultural resources or historic properties therein.
4. Inventory Methods:
 - Simplify the narrative of the Class III investigations.
 - The Addendum Survey had two survey areas; please revise.
 - Revise the discussion of the 4.91 acres that were not surveyed. We recommend: *A total of 4.91 acres in the APE have not been inventoried by Class III survey. UP has provided a letter to OEA stating that these 4.91 acres will not be acquired or accessed and will be avoided for any current or future activities relating to the current project.*
 - Key steps in the Section 106 process are defining the APE, identifying historic properties, assessing adverse effects, and resolving adverse effects. Please revise.

Section 3.12.1 Affected Environment:

5. Rename “Affected Environment” as “Cultural Context” and make this a subsection of the Affected Environment section. This subsection comprises a brief cultural history of the area.
6. Change “survey” to “surveys.”

Section 3.12.1.1 Prehistoric and Historic Settlements:

7. This section is overly broad. Reference the Arizona Thematic Study, AZ-27 “Hohokam and Euroamerican Land Use and Settlement Along the Northern Queen Creek Delta,” MPS AZ 64500040.

Section 3.12.1.2 Cultural Resources in the APE.

8. We also recommend addressing the cultural landscape. See prior comments on defining the Affected Environment.
9. Global check and redact or rework site-specific data provided in text, tables, and appendices (e.g., Table 3-19. Location in the APE column). Cultural resources locational data are considered confidential and restricted from public NEPA documents (c.f., Section 304 of the NHPA and the Archaeological Resources Protection Act regulations at 43 CFR 7.18). The impact analysis can simply state the number of cultural resources and/or historic properties

impacted by each alternative. Likewise, see prior comment regarding tribally sensitive data that also should be reviewed for potential redaction throughout.

Section 3.12.2 Effects of No-Action Alternative

10. Remove the last four sentences. This analysis does not define any Affected Environment components as being concordant with the PAMZ or PMGA, nor is the potential regulatory context of adjacent, proposed developments relevant to this NEPA assessment.

Sections 3.12.3 Effects of Alternative 1 and 3.12.4 Effects of Alternative 2

11. Revise awkward terminology “archaeological cultural resources sites.”
12. Tables 3-20 and 3-21: Revise text regarding disclosed impacts.
13. APE acreages per site are too detailed for a public-facing document.
14. Point of Clarification: Sites are stationary and do not act upon an APE. They do not “encompass” a portion of an APE or “extend across” an APE. Rather, the APE encompasses, extends across, or intersects the sites.

Section 13.4.5 Cultural Resources (Cumulative Impacts Analysis)

15. Revise entire section to compare and disclose impacts of the project alternatives against the projected impacts of Reasonably Foreseeable Future Actions (RFFAs) within the analysis area as depicted on Figure 3.13 (i.e., not limited to the PAMZ).
16. Based on Class I (existing archival) data, the extent of cultural resources inventory with known sites and/or historic properties should be used to establish an estimated site density (i.e., sites per acre) for the entire analysis area.
17. The ultimate question to be answered by a cumulative effects analysis is: *When added to the projected impacts of RFFAs, will the current project cause a significant impact?* That answer should be provided as a quantification and avoid the use of value-laden terms such as “relatively small,” “minor,” and “only” unless these terms are previously defined.
18. As previously noted, the potential regulatory context of RFFAs is irrelevant to this analysis. Impacts to all cultural resources should be characterized and quantified, regardless of Section 106 definitions or procedures.

Section 5.1.2 NHPA Section 106 Consultation

19. Not all of the 15 agencies included in the EA are included as concurring parties in the Memorandum of Agreement (MOA). Should the Mesa Historical Museum also be included in the MOA? Should the Mesa Historic Preservation Office and the Mesa Office of Economic Development be differentiated in the MOA, rather than consolidated into “City of Mesa?”

If you have any questions, please contact me at 602.542.7140 or via email at cklebacha@azstateparks.gov, if you have any questions or concerns.

Sincerely,



Caroline Klebacha, M.A.
Archaeological Compliance Specialist
State Historic Preservation Office