
From: Jason Pike <JPike@azcc.gov>
Sent: Tuesday, August 8, 2023 9:41 AM
To: Assenza, Adam
Cc: Buckley, Maggie; Phoebus, Elizabeth (Betsi); Joseph Pinkerman; Timothy Good
Subject: [EXTERNAL] RE: FD-36501 Union Pacific's PIRATE rail line, proposed construction and operation
Attachments: PIRATE_Comments.docx

Comments on the EA.

JASON PIKE

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From: Assenza, Adam <Adam.Assenza@stb.gov>
Sent: Thursday, August 3, 2023 7:27 AM
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Cc: Buckley, Maggie <Maggie.Buckley@jacobs.com>; Phoebus, Elizabeth (Betsi) <Betsi.Phoebus@jacobs.com>; Joseph Pinkerman <JPinkerman@azcc.gov>; Timothy Good <TGood@azcc.gov>
Subject: RE: FD-36501 Union Pacific's PIRATE rail line, proposed construction and operation

Jason,

This is very informative and thank you for the overview of your process. We will keep a close eye on the docket.

I'll keep an eye out for a separate email regarding the Draft EA.

Thanks,

Adam Assenza

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From: Jason Pike <JPike@azcc.gov>

Sent: Wednesday, August 2, 2023 3:29 PM

To: Assenza, Adam <Adam.Assenza@stb.gov>

Cc: Buckley, Maggie <Maggie.Buckley@jacobs.com>; Phoebus, Elizabeth (Betsi) <Betsi.Phoebus@jacobs.com>; Joseph Pinkerman <JPinkerman@azcc.gov>; Timothy Good <TGood@azcc.gov>

Subject: RE: FD-36501 Union Pacific's PIRATE rail line, proposed construction and operation

State Constitution and State Railroad Regulation

The Arizona State Constitution defines railroads as 'Common Carriers' (utilities, similar to water and electric) and therefore subject to control by law. This controls is assigned to the Arizona Corporation Commission which consists of 5 elected officials.

<https://www.azleg.gov/constitution/?article=15>

<https://azcc.gov/>

State Law and Rail-Highway Crossings

Arizona Revised Statutes establish that the commission (AZCC.gov) shall have the exclusive power to grant permission to construct a new at-grade or grade-separated rail-highway crossings. Private crossings and Pedestrian crossing are specifically excluded from AZCC jurisdiction.

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/40/00337.htm>

We do this through a formal process.

- *Application for establishing new crossing

- *Establish a public Docket

- *Rail Safety Division response to the application

- *Public hearing with Administrative Law Judge. Public comment and evidence recorded

- *Recommended Order to the 5 elected

- *Open Meeting (public and on the record) where the elected vote to approve or deny the request

- *Upon a majority yes vote, the Railroad has the approval to establish the new crossing

- *A complete-by date is part of the Order

- *Once complete, a memo that documents work is done is placed on the Docket.

- *As far as I know the electronic records are maintained perpetually

This Docket, Hearing and Order have already happened for this UP project. RR-03639A-22-0287

[eDocket](#) | [Arizona Corporation Commission \(azcc.gov\)](https://azcc.gov)

Union Pacific RR is the applicant. The Town of Queen Creek was an Intervenor in the case. Intervention is allowed if the entity will be directly impacted and whose involvement won't broaden the scope of issues under consideration unnecessarily.

In this case the UP original Application requested 5 new at-grade and 1 modification of existing at-grade crossings. Staff disagreed and recommended a grade-separation at Ellsworth Road DOT#980160S. UP provided a Traffic Impact Analysis Study produced by consultant RailPros. The study was intended to assess the potential impact on traffic flows of the new at-grade crossings both opening day and future. What I took away from that study was that traffic is bad, will get worse but not because of the crossings.

UP submitted an Amended Application in which they asked to move forward with all the at-grade crossings, including Ellsworth but they would actively monitor traffic impacts as follows.

...Union Pacific, with the assistance of the City of Mesa, would annually analyze traffic conditions at the Ellsworth Road Crossing, monitoring the impact of (Rail) operations on existing traffic conditions using annual traffic data from the City of Mesa. When the vehicle-hours of delay reach 80% of the FHWA warrant (24 vehicle-hours), Union Pacific would complete a detailed screening of the Ellsworth Road at-grade crossing to determine the actual hourly vehicle count and

train signal activation time during train operations. If the detailed screening confirms that Ellsworth Road has reached 80% of the vehicle-hours of delay contemplated in the FHWA's warrant, Union Pacific would apply to grade separate Ellsworth Road.

Staff Docketed a response as a Supplemental Staff Report. We agreed to the interim and future Ellsworth crossing proposed by UP-new at-grade, near term widening and future grade-separation. Additionally, we asked the UP to engage a design consultant to start designing the bridge; upon approval of the current amended application-not when the warrant is met. There was quite a bit of testimony about this in the hearing.

As of today the ALJ has not issued a Recommended Opinion and Order to the elected. It's possible that either the ALJ or the 5 commissioners may reject our recommendations and order something else. This case is unusual. Most of our items in front of the commission are safety upgrades that are clearly in the public's interest.

So, nothing has been ordered yet and everyone is waiting for the judges recommendation. The next two possible AZCC Open Meetings where a vote could happen are 9/12 and 10/3.

This was a lot so, I'll do a separate email when I look through the EA.

JASON PIKE

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From: Assenza, Adam <Adam.Assenza@stb.gov>
Sent: Friday, July 28, 2023 6:41 AM
To: Jason Pike <JPike@azcc.gov>
Cc: Buckley, Maggie <Maggie.Buckley@jacobs.com>; Phoebus, Elizabeth (Betsi) <Betsi.Phoebus@jacobs.com>
Subject: FD-36501 Union Pacific's PIRATE rail line, proposed construction and operation

Hello Mr. Pike,

Thank you for speaking with me earlier this week about the UP PIRATE project's anticipated crossings. I appreciate your offer to clarify the status of ACC's review process related to this proposed rail line construction, including review of local traffic and the potential for at-grade crossings.

Though you mentioned having received the Draft Environmental Assessment (EA), I thought I'd also point you to the Storymap, which gives a high-level overview of the project and includes directions of how to access the Draft EA online, in case anyone else at ACC needs to review the Draft EA or appendices. It can be accessed here:
<https://storymaps.arcgis.com/stories/f03ead62167b4a99b266d3f9b4fd1010>.

I look forward to reading ACC's response clarifying its crossing review process and any input about ACC-related aspects of the Draft EA.

Thanks in advance,

Adam Assenza

Environmental Protection Specialist (he/him)

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Table S-1

2050 LOS - UP/RailPros study lists Ellsworth LOS E currently. Queen Creek argued that the UP study had incorrectly designated the LOS and should be F currently. School bus traffic(*) was not included in the UP/RailPros TIA and so, LOS would be F currently. LOS improving post construction of at-grade crossing and capacity improvement can not be confirmed by us. Though, 'Mesa anticipates completion of the widening project by 2023, which should provide adequate capacity at all the study intersections.'

(*) 150-200/day required to stop at crossings even when no train is present.

2050 Build intersection LOS	All intersections would operate at an acceptable LOS D or better, except Sossaman Road and Germann Road, which would operate at LOS E	Same as Alternative 1
	Minor adverse impact from longer delays	

Operational noise and vibration. 49 CFR 222 trains are required to blow the horn at all public crossings

Operational noise and vibration	No impact	No impact	VM requires trains to meet Federal Railroad Administration noise limits. (Refer to Section 4.5.3, Noise and Vibration.)
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Transportation safety and access management during operation-MMs restrict trains from blocking at-grade crossing during peak traffic periods or for more than 10 minutes at a time. UP made no such commitment to ACC.

Transportation safety and access management during operation	Trains may block at-grade crossings and public roads, which could cause minor adverse impacts from traffic and emergency response delays	Trains may block at-grade crossings and public roads, which could cause minor adverse impacts from traffic and emergency response delays Minor adverse impacts from proximity of the future Crismon Road and Willis Road intersection to the Crismon Road at-grade crossing	VMs require continued coordination with emergency service providers, and state and local agency approval of at-grade crossing warning devices and other warning and safety devices. MMs restrict trains from blocking at-grade crossing during peak traffic periods or for more than 10 minutes at a time, and require Arizona Corporation Commission review of increased train frequency. MM also requires coordination regarding the future Willis Road project (Alternative 2 only). (Refer to Section 4.5.1, Transportation and Safety.)
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No mention of future grade separation at Ellsworth.

2.4.4 Roads and Infrastructure

2.4.4.1 At-grade Crossings

To maintain access to existing public and private roads, UP would construct at-grade crossings where either Alternative 1 or Alternative 2 would cross roadways. Either alternative would include five new at-grade road crossings at Pecos Road, Sossaman Road, Ellsworth Road, Crismon Road, and Signal Butte Road. UP's planned work along the Phoenix Subdivision would

3.1 Transportation and Safety

"a train on PIRATE would interrupt vehicular traffic for 10 minutes during the peak hours" There could be some confusion of terms here. RailPros TIA went into great detail regarding traffic interruption during peak hours. See screen clip Vehicle Hours of Delay.



3.1 Transportation and Safety

This section addresses the existing conditions and impacts related to transportation and safety and is based on the traffic analysis found in Appendix B, Traffic Report. The traffic analysis study area is bounded by Power and Rittenhouse Roads to the west, Meridian Road to the east, Pecos Road (north) to the north, and Germann Road to the south.

The operational traffic analysis evaluated major intersections in the study area for three scenarios in the A.M. and P.M. peak periods (7 to 9 a.m. and 3 to 6 p.m.): Existing (2022), No Build (2050), and Build (2050). These scenarios are used exclusively to refer to existing and future conditions in the traffic analysis. The Existing scenario represents traffic conditions that existed in the year 2022. The No Build scenario includes planned and funded roadway projects in the study area anticipated to be completed by the year 2050 and was used to evaluate the traffic impacts at that point if the proposed line is not authorized and constructed. In addition to the projects included in the No Build scenario, the Build scenario assumes construction and operation of PIRATE and the planned Phoenix Subdivision support tracks and assesses impacts related to transportation and safety in 2050. The Build scenario was used to evaluate the traffic impacts of both Alternatives 1 and 2 and the planned Phoenix Subdivision support tracks, since the alignments are within 0.25 mile of one another and, from a traffic operations standpoint, would have similar effects on adjacent roadways and intersections. The analysis of Alternatives 1 and 2 and the planned Phoenix Subdivision support tracks assumed that a train on PIRATE would interrupt vehicular traffic for 10 minutes during the peak hours of 7:00 to 9:00 a.m. and 3:00 to 6:00 p.m.

OEA proposes recommended mitigation measures (MMs) that would limit train operations to occur outside the A.M. and P.M. peak periods whenever possible (MM-TS-1). UP made no commitment to ACC.

The longer delays in the Build scenario are mainly attributed to train operations from PIRATE during A.M. and P.M. peak hours. To minimize the impact to roadways and intersections, OEA is recommending mitigation to impose timing restrictions for train operations on PIRATE, but not on the Phoenix Subdivision. As discussed in Section 4.5.1, OEA proposes recommended mitigation measures (MMs) that would limit train operations to occur outside the A.M. and P.M. peak periods whenever possible (MM-TS-1). This proposed mitigation would also minimize potential access impacts to local schools near the at-grade crossings during the A.M. and P.M. peak hours, which include the busiest times for schools of 7:00 to 8:00 a.m. and 3:00 to 4:00 p.m. (EPS Group 2022).

Based upon the results of the traffic analysis, OEA determined that traffic impacts do not necessitate the need for grade-separated crossings. How was this determined?

5.1.1.2 Agency Coordination Meetings

In March 2022, OEA held four virtual coordination meetings based on agency jurisdiction and resource topics to provide interested agencies with further information about the project, its purpose and need, and the range of alternatives that OEA would consider during the environmental review. Agencies also had the opportunity to provide feedback and pose questions for follow-up throughout the review process. Copies of the agenda, minutes, sign-in sheet, presentation, and supporting materials for each meeting are available at www.stb.gov under Docket No. FD 36501. Table 5-1 identifies the dates and attendees of each of these agency meetings.

As listed in Table 5-1, OEA also held or attended additional virtual meetings with Queen Creek and Mesa and to discuss potential traffic impacts and with SRP to discuss the utility's proposed transmission line projects in the project area. During the April 2022 meeting, Queen Creek presented a summary of population growth and traffic concerns in southeastern Maricopa County and adjacent Pinal County. The town requested that OEA's review include a traffic impact analysis to evaluate potential safety and traffic impacts at six arterial crossings, including the intersection of Sossaman and Germann Roads, and the need for grade separations where necessary. Based upon the results of the traffic analysis, OEA determined that traffic impacts do not necessitate the need for grade-separated crossings. Queen Creek also requested that OEA consider vibration impacts to ASLD land and lighting and noise impacts along the proposed rail line.