
From: Luhnnow, Glennda
Sent: Friday, December 1, 2023 4:42 PM
To: AZSHPO - AZPARKS
Cc: Caroline Klebacha; Tabachnick, Alan; Assenza, Adam; Powell, Kris; Buckley, Maggie; McNeish, Sabra; Phoebus, Elizabeth (Betsi)
Subject: UPRR PIRATE 11/21/23 Consulting Party Meeting Minutes
Attachments: 2023 1121 pirate CP mtg minutes.pdf

Dear Ms. Leonard,

As the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) stated in previous Section 106 consultation conducted under the National Historic Preservation Act, on June 30, 2022, the Union Pacific Railroad Company (UP) filed a petition with the Board requesting authority to construct and operate approximately six miles of new rail line in Maricopa County, Arizona (the proposed Pecos Industrial Rail Access and Train Extension [PIRATE] rail line).

OEA recently notified you about unauthorized excavation in UP's right-of-way that resulted in substantial damage to cultural resources sites and invited you to attend a virtual Teams meeting on November 21, 2023. OEA wishes to thank those of you that attended the virtual meeting last week, which provided invaluable input on the framework for the damage assessment work plan.

On behalf of OEA, Jacobs Engineering Group Inc. has compiled the attendance log, meeting minutes, and PowerPoint presentation for distribution to the consulting parties, attached. As a follow-up to the discussion that occurred during the meeting, OEA requests input from the consulting parties on the following questions by **December 15, 2023**:

- Regarding the spoils pile in the wye, do you have a recommended sampling strategy for screening? Is mechanical screening an acceptable method or does screening need to be completed by hand? Would you like to participate in the screening process?
- Do you have recommendations for non-invasive procedures for evaluating the potential of remaining soils to yield cultural materials?
- Do you have any other feedback on the *Proposed Framework for Comprehensive Archaeological Site Damage Assessment under Section 106 of the National Historic Preservation Act*, distributed on November 14, 2023?

Please send your responses to me and/or Alan Tabachnick, STB's Federal Preservation Officer, at Alan.Tabachnick@stb.gov, or let us know if you would like to request a meeting to discuss the questions.

Sincerely,
Glennda Luhnnow

Glennda Luhnnow, M.A., RPA | JACOBS | Manager/Archaeology and Cultural Resources |
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Meeting Minutes

Subject	Consulting Party Site Damage Update		
Project	Pecos Industrial Rail Access and Train Extension (PIRATE)		
Reference No.	Surface Transportation Board Docket No. FD 36501		
Date	Tuesday, November 21, 2023	Time	1 p.m. – 3 p.m. MDT 3 p.m. – 5 p.m. EDT
Location	MS Teams		

The following notes summarize the topics discussed during the November 21, 2023 Section 106 consulting party meeting between the Surface Transportation Board's (STB or Board) Office of Environmental Analysis (OEA) and representatives from several consulting parties and Tribes and their legal counsel. The meeting objectives were to:

1. Discuss goals and content of the damage assessment work plan.
 2. Discuss questions, concerns, and next steps in the damage assessment process.
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Welcome and Introductions

Alan Tabachnick, STB's Federal Preservation Officer, welcomed the meeting attendees and reviewed general housekeeping requests. Mr. Tabachnick began the introductions with OEA, STB, and third-party consultant (Jacobs) staff present. The remaining attendees then introduced themselves with their name and agency or Tribe according to the agency roll call (see attached attendee list). Mr. Tabachnick outlined the Board's and OEA's roles and responsibilities (refer to slide 4 in the attached presentation) and meeting agenda (slide 5).

Project Snapshot

- OEA reviewed the project description, project alternatives, area of potential effects (APE), and culturally sensitive areas (slides 7-8).
 - OEA reviewed the results of the Class III survey and report, including the four historic properties that would be adversely affected by the proposed project (slide 9).
 - OEA explained the project's adverse effect finding (slide 10). Based on consultation with the State Historic Preservation Office (SHPO)/Tribal Historic Preservation Officers (THPOs) and consulting parties, OEA further explained that it had been developing a draft Memorandum of Agreement (MOA) and draft Historic Properties Treatment Plan (HPTP) for resolving adverse effects to the historic properties. OEA stated that the MOA and HPTP are on hold while the comprehensive damage assessment is completed.
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Damage Assessment Work Plan

Mr. Tabachnick provided an overview of what is known to-date about the site damage, including the location, estimated acreage, and the nature of the damage in each of the five damage areas (slides 12-13). Mr. Tabachnick outlined the past efforts on the preliminary damage assessment report and the general goals of the damage assessment work plan (slide 14). Glennnda Luhnnow, Jacobs' Cultural Resources Manager, then explained the proposed work plan methodology, which involves a tiered approach based on the magnitude of damage in each area (slide 15). Ms. Luhnnow detailed

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the damage in each area and outlined the proposed methodology for Damage Areas 1 and 2, the spoils pile in Damage Area 1, and Damage Areas 3, 4, and 5 (slides 16-21).

Discussion

Mr. Tabachnick opened the floor for discussion regarding the goals and methods of the work plan and requested written comments on the questions posed during the presentation and listed below under Follow Up Questions (page 5). He went on to request input on the treatment for the spoils pile and any thoughts on the geomorphological investigations. He stated that input is requested on two specific areas of concern: 1) treatment of the spoils pile in Damage Area 1 and 2) non-invasive procedures for evaluating the potential of remaining soils to yield cultural materials.

Q1: Mr. Tabachnick asked the attendees about an appropriate sample size to screen the spoils pile.

A1: Barnaby Lewis, Gila River Indian Community (GRIC) THPO, said screening the spoils pile is necessary because past experience has indicated intact funerary vessels and other items may be present. He was unsure about the appropriate sample size. Mr. Lewis went on to suggest excavating trenches in the retention basin to determine if any intact subsurface materials remain below the disturbance area. Mr. Lewis asked whether OEA is able to determine which soils are from another location and were deposited in the spoils pile.

Mr. Tabachnick reiterated that the origin of the spoils pile is part of an ongoing investigation, but that detailed evaluation of the specific soil type by a soil scientist may aid in understanding whether the soil is associated with the adjacent Power Industrial development.

Ms. Luhnow stated that a geomorphological trench within the retention basin is proposed as part of the detailed damage assessment to assess soils beneath the damage area for their potential to contain cultural materials. She also asked Mr. Lewis to clarify his suggested trench location(s) and depth(s). Mr. Lewis responded that if the HPTP initially proposed trenches up to 5 feet deep, and the retention basin was excavated to 3 feet, perhaps 2 additional feet could be excavated to determine if subsurface features are present. Ms. Luhnow confirmed that this type of trenching would be part of the geomorphological assessment.

Sunday Eiselt, SRPMIC THPO Archaeologist, stated that it would be hard to come up with a specific sample size. Rather, she proposed the sampling strategy should ensure the sample would be representative of the whole pile. For instance, she suggested that linear sections of the spoils pile could be subject to screening. However, she noted that stabilization of the spoils pile will be challenging.

Q2: Kurt Dongoske, Pueblo of Zuni THPO, inquired whether OEA has found evidence that human remains were damaged.

A2: Mr. Tabachnick indicated that OEA does not know whether any ancestral remains are in the spoils pile or whether any ancestral remains were taken out of the area. However, OEA does know that burials are in the general area based on prior documentation.

Ms. Luhnow indicated that based on a visual examination of the spoils pile, nothing was observed on the surface.

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Q3: Ms. Luhnnow asked whether mechanical screening of the spoils pile would be acceptable for the Tribes or whether screening needs to be completed by hand.

A3: Ms. Eiselt stated that mechanical screening would be appropriate given the size of the spoils pile, but that hand excavation would be necessary if cultural materials were encountered.

Mr. Lewis stated that he is not familiar with mechanical screening and expressed concern that any human remains may be missed with mechanical screening. He also said that cost should not be a factor in the screening process.

Mr. Dongoske indicated that mechanical screening was conducted at Amity Pueblo in Eager, Arizona and was an effective screening method. This Damage Assessment Report is available, and the Arizona State Museum (ASM) should have a copy of the report.

Brent Kober, Desert Archaeology, Graphics and Mapping Specialist, stated that both mechanical and hand screening were used at Amity Pueblo.

Q4: Mr. Tabachnick asked what role, if any, the Tribes would like to take during the damage assessment (e.g., monitoring or participating in the screening of the spoils pile).

A4: Mr. Lewis indicated that GRIC has no Tribal monitors and doesn't normally provide Tribal monitors for projects. Rather, they trust that the archaeologists employed on the project are professional and, therefore, Tribal monitors do not need be present.

Holly Houghten, Mescalero Apache THPO/NAGPRA Coordinator, stated that she prefers a Tribal monitor from one of the local communities be present.

Mr. Dongoske indicated that he would need to ask the religious leaders and elders whether they would want to participate in the screening efforts. Mr. Dongoske intimated that, from the Zuni perspective, archaeologists approach archaeological sites with their own bias and often leave behind culturally significant items.

Q5: Sunshine Manuel, GRIC Senior Assistant General Counsel, asked whether the questions provided at the beginning of the meeting could be provided for Tribal review and internal discussion.

A5: Mr. Tabachnick responded that the questions will be sent to the consulting parties so that the consulting parties can review and respond (see Follow Up Questions below (page 5)).

Q6: Sarah Herr, Desert Archaeology President, asked whether cadaver dogs have been considered as a non-invasive method for determining presence of ancestors.

A6: Mr. Lewis stated that dogs were used in the Resolution Copper Mine project but were not successful in identifying human remains.

Ms. Houghten indicated that such dogs have been used on projects with the Texas Department of Transportation and were successful in finding human remains.

Ms. Houghten stated that she was unsure if the dogs would be able to identify cremations.

Mr. Kober stated that dogs were employed for projects in California but could not recall if the results were successful or not.

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Q7: Ms. Luhnnow inquired whether the Amity Pueblo project focused on non-invasive techniques as background to the MOA.

A7: Mr. Kober stated that the Amity Pueblo project included the initial assessment and quantification of damage, along with measurements. After the initial information was obtained, an MOA was prepared, and then screening followed the executed MOA.

Q8: Mary-Ellen Walsh, SHPO Cultural Resources Compliance Manager, inquired about the status and timing of the damage investigation.

A8: Mr. Tabachnick indicated that OEA does not have a timeline for next steps, but OEA would like to begin field work as soon as the consulting parties agree on methodology. The Tribes, SHPO, and the Advisory Council on Historic Preservation have asked about Section 110(k) and that issue has been raised to the Board.

Ms. Walsh explained that the damage to the archaeological sites is an additional adverse effect, and this might require a separate agreement document. She also stated that the work plan cannot include soil or ground disturbance without an agreement document. Ms. Walsh also expressed concern that some of the methodology proposed in the work plan borders on mitigation and would not be appropriate for a damage assessment investigation, but will defer to Kathryn Leonard, SHPO, for that determination.

The following were provided as comments during the discussion.

Mr. Lewis expressed his frustration that the damage should not have occurred and would not have happened if UP was educated enough to know the laws related to cultural resources. Mr. Lewis continued by indicating that he feels UP takes shortcuts, and expressed concern that the damage assessment must be completed the correct way, regardless of cost or time.

Mr. Dongoske stated that the standard damage assessment only focuses on archeological damage and does not include anything about assessing or quantifying the emotional and psychological damage to the Zuni. He stated that the Zuni have inheritance and stewardship responsibilities to the ancestors and that this needs to be addressed in the damage assessment.

Ms. Houghten expressed disappointment that damage to archaeological sites occurred before the project was even constructed. Ms. Houghten further indicated that it would be helpful to incorporate traditional cultural property identification and analysis into the damage assessment to provide a greater focus on Tribal relationships associated with the damage.

Darius Enos, GRIC Cultural Resources Specialist, stated that the work plan is most relevant for Tribal input and that not all consulting parties need to be present for the discussion. Mr. Enos further requested separate meetings for each of the Tribes. Mr. Tabachnick indicated that STB is happy to facilitate smaller government-to-government meetings with the Tribes if it is beneficial to do so. **Ms. Manuel** requested a separate meeting between STB and GRIC.

Comprehensive Site Damage Assessment Process

OEA summarized potential next steps in the Site Damage Assessment Process (slide 23), including preparation of the draft damage assessment work plan, finalization of work plan, damage assessment field investigations, draft of the damage assessment report, and finalization of the report.

OEA encouraged the attendees to continue to provide feedback and thoughts about the damage via email directly to Alan Tabachnick following the meeting.

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Follow-Up Questions

OEA requests input from the consulting parties on the following questions by **December 15, 2023**.

- Regarding the spoils pile in the wye, do you have a recommended sampling strategy for screening? Is mechanical screening an acceptable method or does screening need to be completed by hand? Would you like to participate in the screening process?
- Do you have recommendations for non-invasive procedures for evaluating the potential for the remaining soils to yield cultural materials?
- Do you have any other feedback on the *Proposed Framework for Comprehensive Archaeological Site Damage Assessment under Section 106 of the National Historic Preservation Act*, distributed to all of the consulting parties on November 14, 2023?

Attachments	List of attendees Meeting presentation
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Distribution	Meeting invitees and attendees
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Attendees

Subject	Consulting Party Site Damage Update		
Project	Union Pacific Railroad PIRATE Project		
Reference No.	Surface Transportation Board Docket No. FD 36501		
Date	Tuesday, November 21, 2023	Time	1 p.m. – 3 p.m. PDT 3 p.m. – 5 p.m. EDT
Location	MS Teams		

Group in Attendance	Representative(s)
Surface Transportation Board (Board), Office of Environmental Analysis (OEA)	Adam Assenza, Environmental Protection Specialist Alan Tabachnick, Federal Preservation Officer Danielle Gosselin, Director of OEA Barbara Miller, Attorney, Office of General Counsel
Jacobs (supporting the Board's OEA)	Maggie Buckley, Environmental Project Manager Glennnda Luhnnow, Manager/Archaeology and Cultural Resources (Phoenix) Kris Powell, Senior Archaeologist Betsi Phoebus, NEPA Lead
Gila River Indian Community (GRIC)	Barnaby Lewis, Tribal Historic Preservation Officer Larry Benallie, Jr., Archaeological Compliance Specialist Darius Enos, Cultural Resources Specialist Sunshine Manuel, Sr., Assistant General Counsel for GRIC Barley Harris, Sr., Assistant General Counsel for GRIC
Mescalero Apache Tribe	Holly Houghten, Tribal Historic Preservation Officer, NAGPRA Coordinator
Pascua Yaqui Tribe	Karl Hoerig, Tribal Historic Preservation Officer
Pueblo of Zuni	Kurt Dongoske, Tribal Historic Preservation Officer
Salt River Pima-Maricopa Indian Community	Shane Anton, Tribal Historic Preservation Officer Sunday Eiselt, Tribal Historic Preservation Office, Archaeologist Martha Martinez, NAGPRA Coordinator for Tribal Historic Preservation Office
Advisory Council on Historic Preservation	Emily Choi, Historic Preservation Specialist
Arizona Museum of Natural History	Alison Stoltman, Acting Deputy Director
Arizona State Land Department	Tiffany Grew, Archaeological Compliance Specialist Michael Romero, Right-of-Way Specialist
Arizona State Museum	Shannon Plummer, Arizona Antiquities Act Administrator

Attendees

Consulting Party Site Damage Update

Group in Attendance	Representative(s)
City of Mesa	Maria Laughner, Economic Development Deputy Director
Desert Archaeology	Sarah Herr, President Brent Kober, Graphics and Mapping Specialist Patricia Castalia, Operations Director Kathy Henderson, Principal Investigator
Phoenix-Mesa Gateway Airport	Carl D'Acosta, Environmental and Safety Coordinator
Salt River Project	Dan Garcia, Senior Cultural Management Specialist
State Historic Preservation Office	Caroline Klebacha, Archaeological Compliance Specialist and Archaeologist Mary-Ellen Walsh, Cultural Resources Compliance Manager
Town of Queen Creek	Dave Lipinski, Capital Improvements Director Brad Novacek, Capital Improvements Program Manager Mohamed Youssef, Public Works Director
Union Pacific Railroad (UP)	Kevin Rice, Sr., Manager M/W Environmental Jackie Bendon, Senior Vice President of Commercial Team Terry Atkinson, Assistant Vice President of Commercial Products Team Ray Johnson, Construction Manager Tanya Spratt, Senior General Attorney Kris Anderson, Manager – Acquisitions, Real Estate Jennifer Weddle, Greenberg Traurig (outside legal counsel for UP) Troy Eid, Greenberg Traurig (outside legal counsel for UP)
U.S. Army Corps of Engineers	Shannon Morgan, Senior Regulatory Project Manager

Invited but unable to attend:

Ak-Chin Indian Community
Hopi Tribe
Tohono O'odham Nation
Tonto Apache Tribe
Yavapai-Apache Nation
Federal Aviation Administration
Flood Control District of Maricopa County
Mesa Historical Museum
San Tan Historical Society

**Docket No. FD 36501
Union Pacific Railroad Company
Construction and Operation Exemption
in Maricopa County, Arizona**

**Pecos Industrial Rail Access and
Train Extension (PIRATE)
Consulting Party Site Damage Meeting**

November 21, 2023



Welcome and General Housekeeping Requests



- **Meeting Purpose**—to discuss the goals and content of the damage assessment work plan.
- **Please** stay on mute during the presentation and during the discussion while other parties are speaking.
- **Please** hold your questions until the discussion at the end of this presentation or put them in the chat.

Welcome! Introductions of Agency, Tribal, and Other Interested Parties

Agencies	Tribal Nations	Other Interested Parties
Advisory Council on Historic Preservation	Ak-Chin Indian Community	Arizona Museum of Natural History
Arizona State Land Department	Gila River Indian Community	Mesa Historical Museum
Arizona State Museum	Hopi Tribe	San Tan Historical Society
City of Mesa	Mescalero Apache Tribe	
Federal Aviation Administration	Pascua Yaqui Tribe	Applicant
Flood Control District of Maricopa County	Pueblo of Zuni	Union Pacific Railroad Company
Phoenix-Mesa Gateway Airport Authority	Salt River Pima-Maricopa Indian Community	
Salt River Project	Tohono O'odham Nation	
State Historic Preservation Office	Tonto Apache Tribe	
Town of Queen Creek	Yavapai-Apache Nation	
U.S. Army Corps of Engineers		

Surface Transportation Board's Office of Environmental Analysis

- The **Surface Transportation Board (Board)** is an independent federal regulatory agency with jurisdiction over certain surface transportation matters, including new rail line constructions, abandonments, and mergers.
- The **Office of Environmental Analysis (OEA)** is the office within the Board responsible for directing the environmental and historic review process, conducting independent analysis of all environmental data, and making environmental recommendations to the Board.



Meeting Agenda

Project Snapshot

- Description of project and area of potential effects (APE)
- Identification and evaluation of historic properties
- Adverse effect determination

Damage Assessment Work Plan

- Damage summary
- Proposed goals
- Proposed tiered methodology

General Discussion

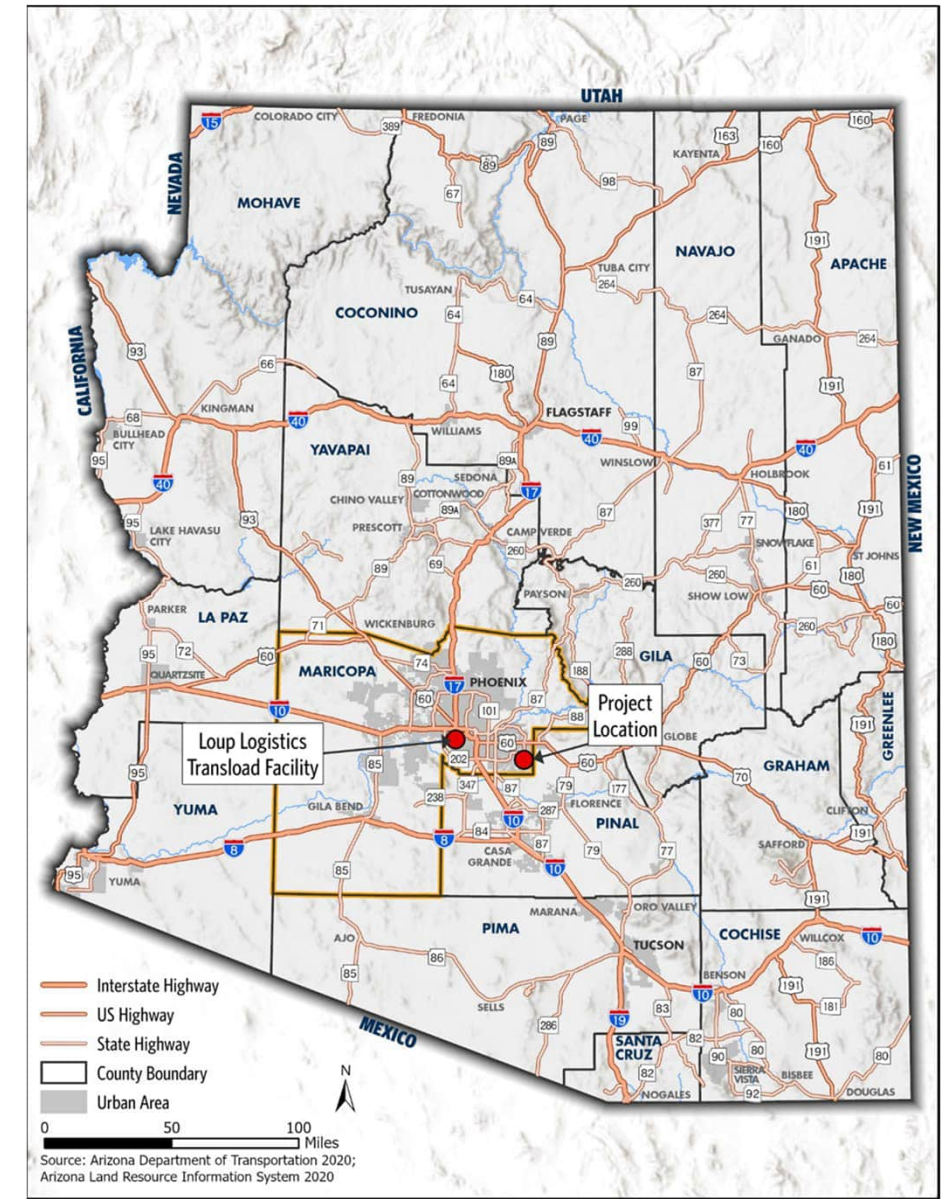
- Questions
- Concerns
- Next steps in Section 106 process
- Contacts



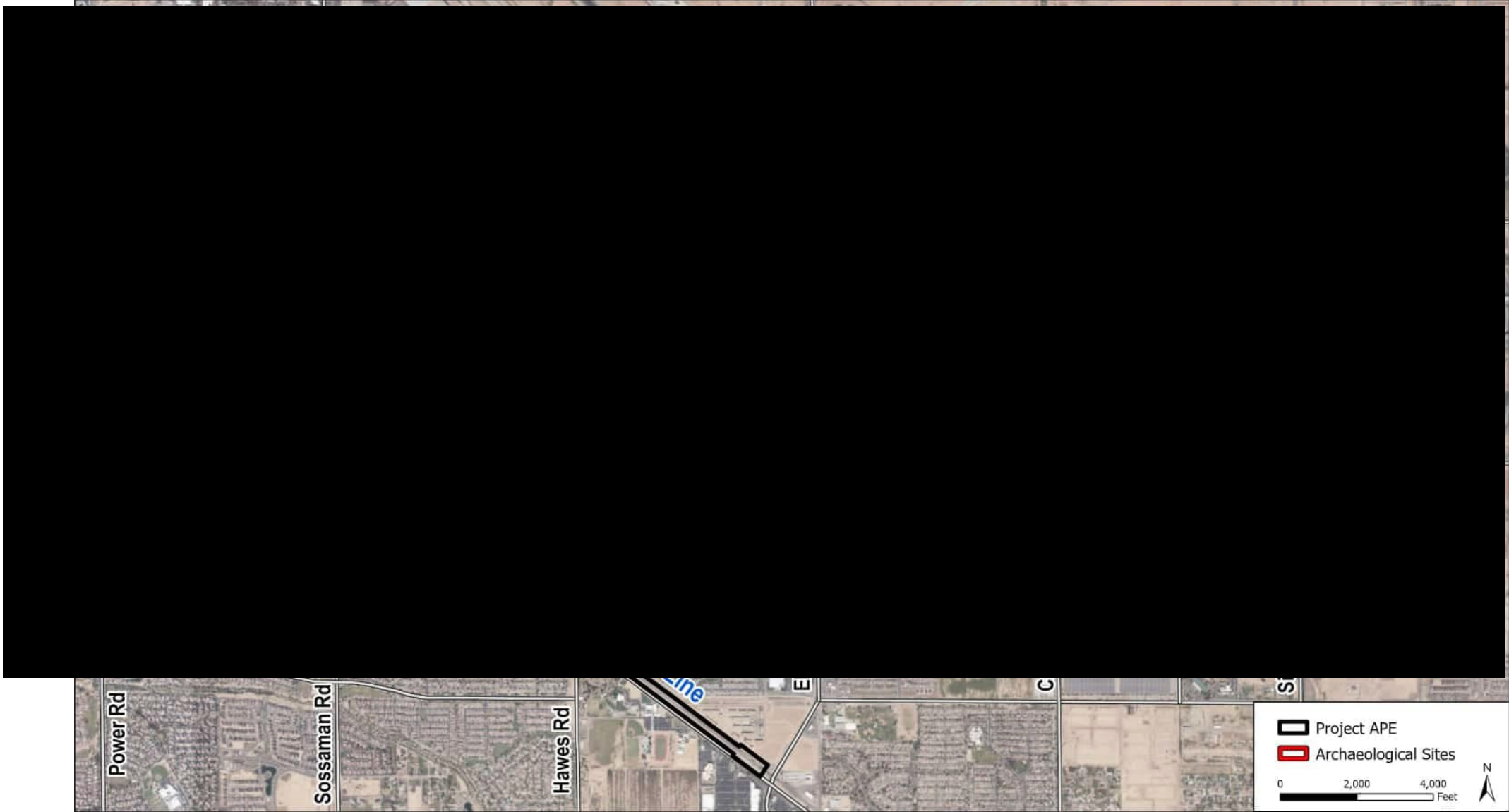
Project Snapshot

Project Description

- Approximately 6 miles of new single track rail line in Maricopa County
- Connection of UP's Phoenix Subdivision main line track to industrial properties southeast of Phoenix-Mesa Gateway Airport
- Approximately 2.5 miles of new support track along the main line between Power and Ellsworth Roads



Alternatives, APE, and Culturally Sensitive Areas



Identification and Evaluation of Historic Properties

- A Class III cultural resource survey was completed to identify sites within the APE
- Four prehistoric sites and two historic in-use structures were identified
- The four prehistoric sites are eligible for listing on the NRHP under Criterion D
- One of the historic in-use properties, the Southern Pacific Railroad, is eligible under Criterion A. The other historic in-use property is not considered eligible



Adverse Effect Determination

Four eligible prehistoric sites were identified during the survey that would be adversely affected by the proposed project.

- [REDACTED]

[REDACTED]

[REDACTED]

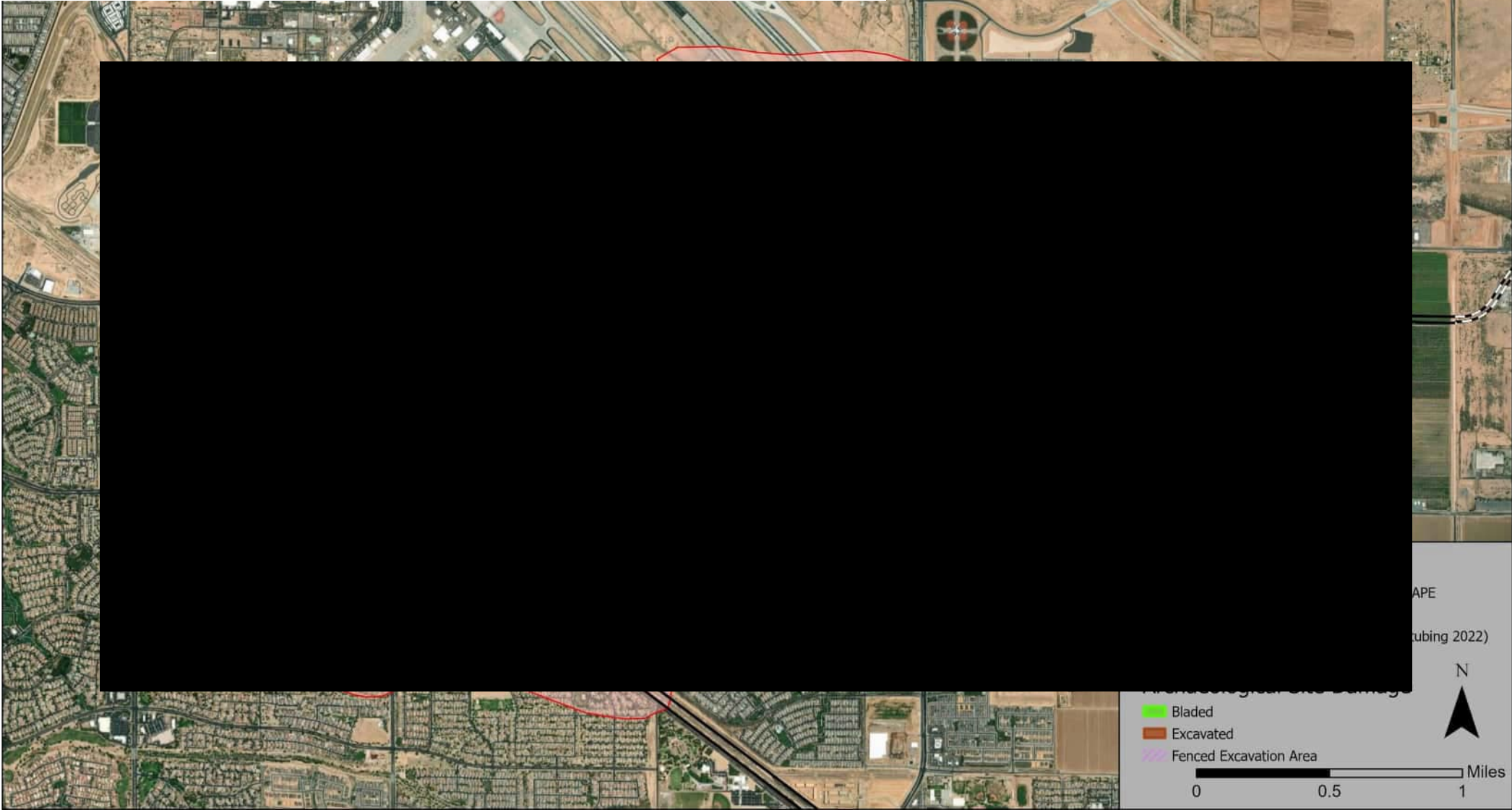
[REDACTED]





Damage Assessment Work Plan

APE, Site Locations, and Damage Areas



Damage Summary

Damage Area	Location in APE	Site Damaged	Damage Acreage	Type of Damage
Damage Area 1	In the wye	[REDACTED]	8.5 acres	Excavation of a retention basin; additional grading; construction staging and storage
Damage Area 2	East of and adjacent to Sossaman Road	[REDACTED]	6.3 acres	Excavation of a retention basin; excavation and grading of a drainage channel
Damage Area 3	East of Sossaman Road and Damage Area 2	[REDACTED]	1.9 acres	Grading to create a construction access road; construction storage
Damage Area 4	In the wye	[REDACTED]	0.6 acres	Grading
Damage Area 5	UP Phoenix Subdivision main line	[REDACTED]	0.6 acres	Vegetation clearing

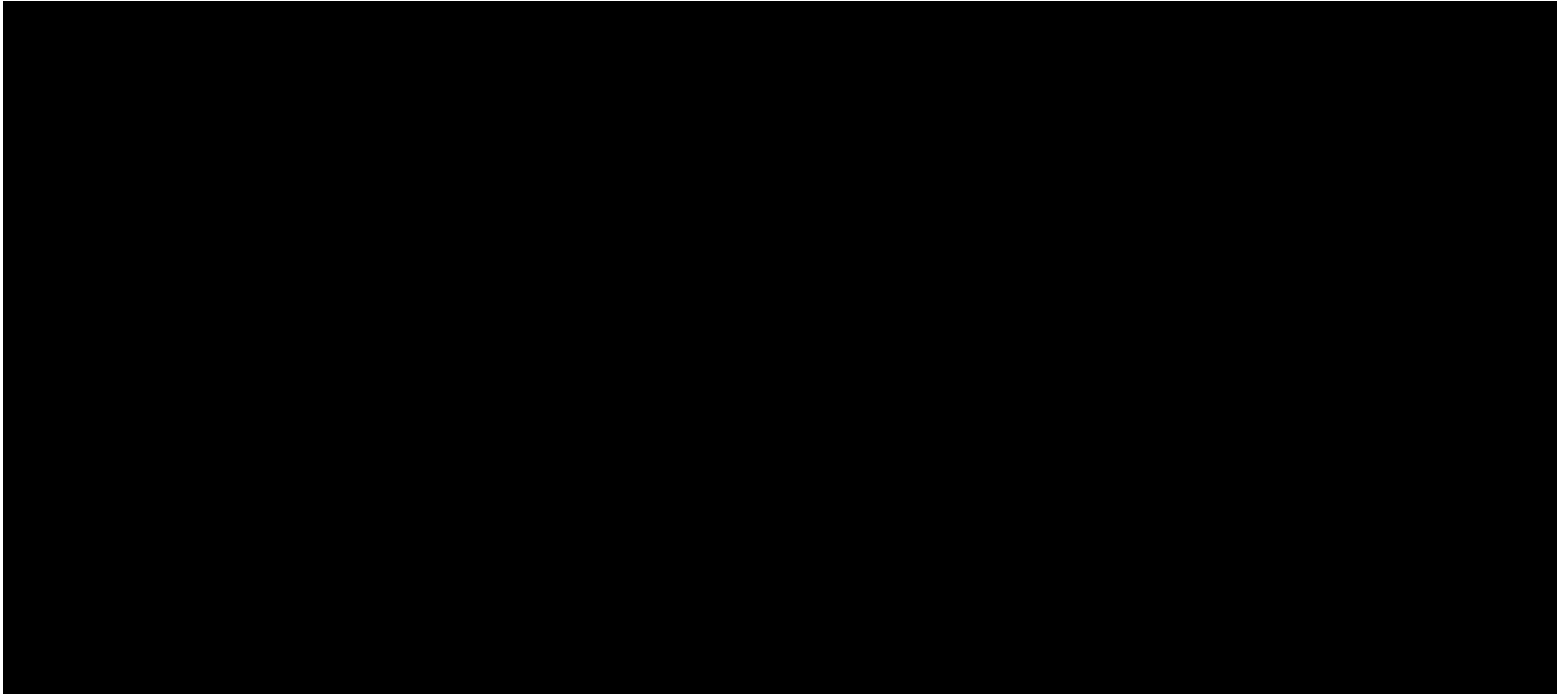
Proposed Goals of the Damage Assessment Work Plan

- Fully document the extent and magnitude of the damage via fieldwork and a comprehensive damage assessment report
- Summarize pre-damage conditions in [REDACTED]
- Quantify the extent of the damage in [REDACTED]
- Assess the potential for intact subsurface archaeological deposits in all five Damage Areas

Proposed Methodology for Damage Assessment Work Plan

- Fieldwork dictated by the magnitude of damage in each of the five Damage Areas
- Tiered approach based on magnitude of damage
 - Focus more resources on Damage Areas 1 and 2
 - Research and resurvey Damage Areas 3, 4, and 5

Damage Areas 1 and 2 at [REDACTED]



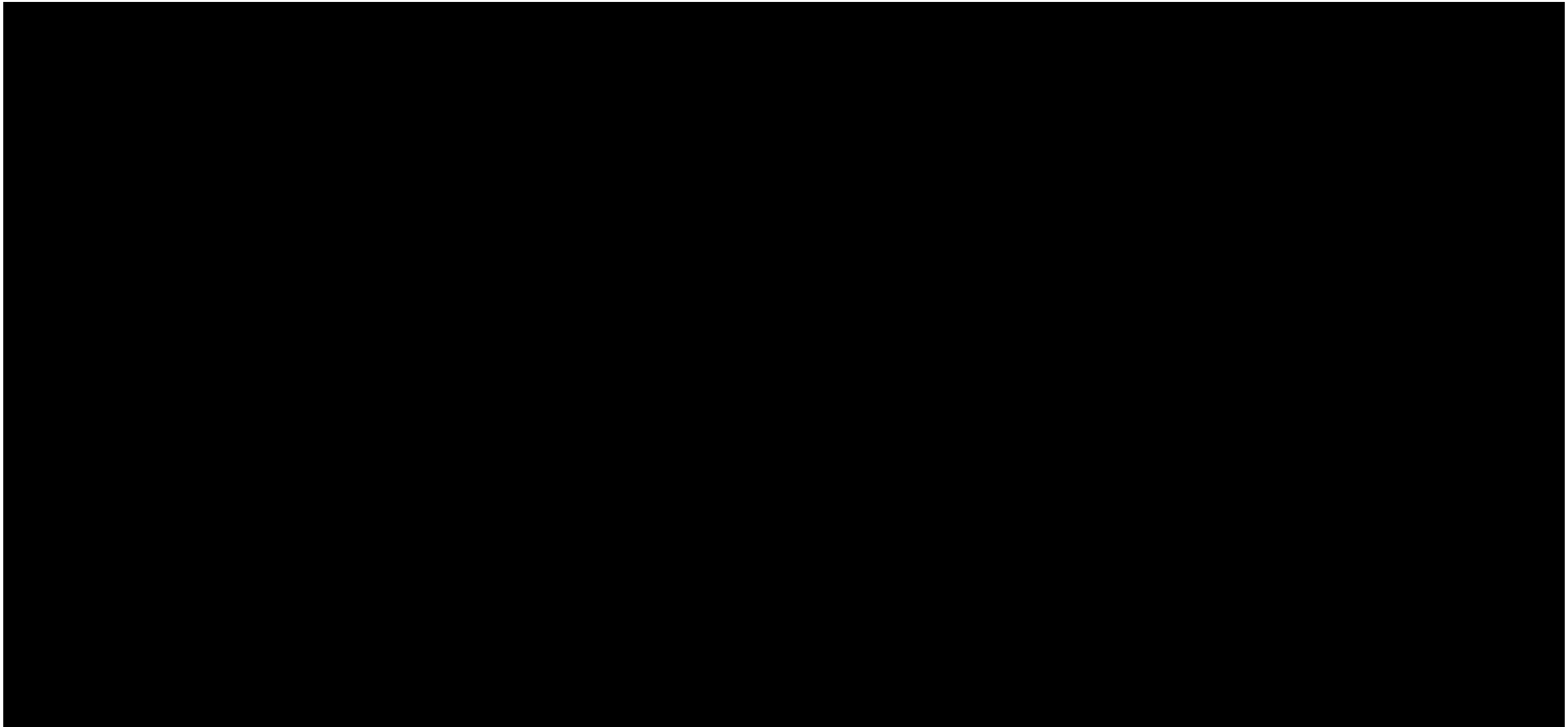
Proposed Methodology—Damage Areas 1 and 2

Task	Data / Resources
Characterize pre-damage conditions	Previously conducted survey, testing, data recovery, and geomorphological assessments
Assess soil conditions and the potential for intact subsurface deposits	- Additional geomorphological investigations - Possible use of non-intrusive remote sensing techniques
Quantify the extent of the damaged areas	Detailed topographic mapping
Identify potentially disturbed features	Face the side walls and bases of the excavated retention basins
Evaluate impacts to Artifact Concentrations 1 and 2 (Damage Area 1)	Compare originally recorded artifact assemblages with remnant post-disturbance artifact assemblages

Damage Area 1 Spoils Pile at [REDACTED]

- Origin not formally confirmed
- Likely consists of material from Power Industrial property, within the boundary of [REDACTED]
- Volume is ~4,787 cubic yards
- Primary concern is to recover any ancestral remains and/or belongings
- Start with sample screening of spoils pile
- Advance to full screening if ancestral remains and/or belongings are encountered





Methodology—Damage Areas 3, 4, and 5

Task	Data / Resources
Characterize pre-damage conditions	Previously conducted survey, testing, data recovery, and geomorphological assessments
Evaluate impacts in each Damage Area	Compare originally recorded and post-disturbance artifact assemblages (as possible)

Damage Area 5 Vegetation Piles at [REDACTED]

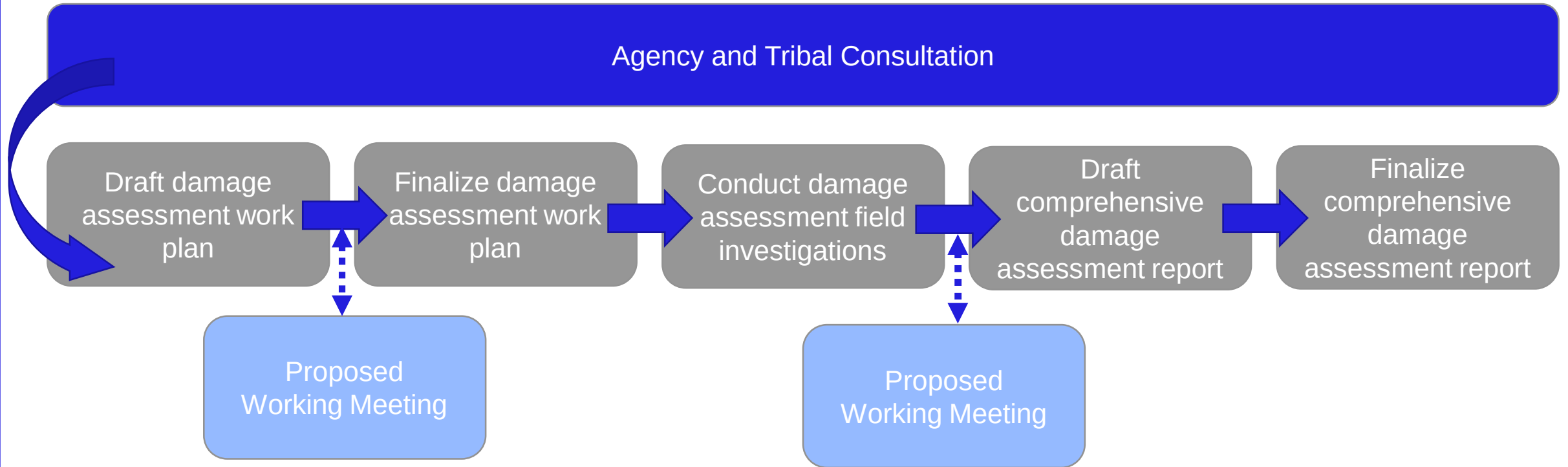
- Two vegetation piles remain adjacent to the UPRR Phoenix Subdivision mainline after clearing by Lumen/Century Link
- Predominately comprised of vegetation and trash, with some displaced soil
- Careful removal of the vegetation and trash in these piles with an archaeological monitor is proposed; soil would be screened





Discussion

Comprehensive Site Damage Assessment Process



Project Contacts

- Alan Tabachnick, STB Federal Preservation Officer
alan.tabachnick@stb.gov / 202.245.0367
- Adam Assenza, STB Environmental Protection Specialist
adam.assenza@stb.gov / 202.245.0301
- Glennda Luhnnow, Jacobs Manager/Archaeology and Cultural Resources
Glennda.Luhnnow@jacobs.com / 480.510.0830

Electronic Comments

- <https://www.stb.gov/proceedings-actions/e-filing/>

Thank you

