



BUILDING AMERICA®

Via email

August 14, 2023

Ms. Danielle Gosselin
Director, Office of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: STB Docket No. FD 36501, Union Pacific Railroad – Construction and Operation Exemption-
In Maricopa County, Arizona; Recently Discovered Ground Disturbance Within the APE

Dear Ms. Gosselin:

We are in receipt of your letter dated August 1st, 2023, addressing the recently discovered ground disturbance within the current Area of Potential Effects (APE) of Union Pacific Railroad Company's (UP) proposed 6-mile rail construction in Mesa, Arizona (known as PIRATE). UP understands that the Office of Environmental Analysis (OEA) recently discovered land altering activities within the current APE for the historic review of PIRATE under Section 106 of the National Historic Preservation Act, which may result in disruption to sensitive sites that are eligible for listing in the National Register of Historic Places. Upon being notified by the OEA, UP has taken significant actions to investigate and immediately implement the recommended corrective measures from the OEA. UP appreciates the follow up discussions, emails, and meetings with the OEA to help further expedite these remedial actions.

To immediately protect the property within the APE from any additional disturbances while this matter remains pending for Board approval, UP contacted the owner adjacent to the first disturbance site, Power Industrial, and instructed them to cease any work on UP property until further notice from UP. UP advised Power Industrial that if any equipment or other material from Power Industrial remains on UP property, they should immediately contact UP and coordinate the removal of the equipment and materials. They were further advised that any removal must be coordinated with UP, an archaeological expert directed by the Board must be on site to monitor the removal. In coordinating with Power Industrial, UP confirmed that a Right of Entry Agreement (ROE) had been entered into between UP and Power Industrial for Power Industrial to construct a detention basin for Power Industrial's project, not UP's PIRATE project. However, Power Industrial did not provide UP with prior notice to begin work on UP property as required by the ROE. Had Power Industrial provided that notice, UP would have had the

opportunity to advise Power Industrial of the restrictions on activities on the UP property within the APE pending the Board's review.

For the second ground disturbance, UP sent a letter to Greystar instructing them to cease any work on UP property until further notice from UP and if any equipment or other materials of Greystar remain on UP property, to contact UP and coordinate the removal of the equipment and materials. UP also advised that any removal must also be coordinated with an archaeological expert directed by the Board and must be on site to monitor the removal.

To further comply with the OEA's recommendations, UP has begun securing UP's property within the APE to protect known archaeological sites. UP is working to procure a contract with a security service to patrol the right of way (ROW) 5 days per week and provide a daily report to UP. In addition to this security service, a UP construction manager will also check in bi-weekly on the ROW to ensure the security service is performing adequately.

UP has procured 'No Trespassing' signs to identify that the rail corridor is private property and unauthorized parties are not to enter the premises. UP's contractor will be onsite Monday, August 14th, and Tuesday, August 15th, installing approximately 167 'No Trespassing' signs at 30-foot intervals on existing fences in high-priority areas. UP's contractor will join Jacobs' construction manager during their site visit today so Jacobs can provide more specific directions on how best to secure the site without further disturbance. Jacobs will place 42 pin flags in the highest priority areas to have signs placed on the posts on Tuesday, August 15th, 2023. Upon the completion of the utility locates by 5pm on Tuesday, UP's contractor will install 25-30 private property/no trespassing signs on t-posts with Jacobs providing an archaeologist to monitor this activity and will continue installing on Wednesday morning, August 16th, until all 42 signs are installed. Later this week, Jacobs will place an order for an additional 264 signs to be delivered in 2-3 business days.

UP is beginning to survey and stake our ROW perimeter boundary today, which will allow for accurate subsequent fencing installation. Priority will be given to the two disturbed locations and orange construction fencing will be installed in those areas once the survey work has been completed. Due to the size of the undertaking for the rest of the ROW, it will take approximately 30-45 days to begin fence installation. The property survey staking of the location of the ROW will take 3-4 weeks. Procurement of the contractor to do the installation work and large amount of materials is estimated at 3-4 weeks. The fence installation will include archaeological oversight by Jacobs, with the fencing to be inspected and maintained on a regular basis going forward.

Lastly, UP has taken appropriate steps to contact all adjacent landowners and instruct them not to undertake any construction or land disturbing activities within the APE while this case is pending before the Board. UP has attached here each of the subsequent letters sent for confirmation to the Board.

UP appreciates the outreach by the OEA on this situation. UP has followed each of the recommendations provided by the OEA and is quickly taking a multitude of actions to address this situation immediately to help ensure that any current construction activities cease, and that additional work does not occur while this case is pending before the Board.

Sincerely,

A handwritten signature in black ink, appearing to read "Tanya Spratt", written in a cursive style.

Tanya Spratt
Senior General Attorney - Law

Cc: James Boles, Vice President
Kevin Rice, Senior Manager
Greg Brigham, General Director