



Katie Hobbs
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308151

April 1, 2024

Surface Transportation Board
395 E St SW
Washington, DC 20423

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RE: Mesa, Maricopa County; Docket No. FD 36501 Union Pacific Railroad Company (UP) – Construction and Operation Exemption – in Maricopa County, Arizona for the Pecos Industrial Rail Access and Train Extension (PIRATE); Section 110(k) Consultation; Surface Transportation Board (STB); SHPO-2021-1360(173805)

Dear Board Members:

The Arizona State Historic Preservation Office (SHPO) appreciates STB’s investigation of the above-referenced project in regards to a potential Section 110(k) violation pursuant the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108. UP has proposed to construct a new rail line in a developing industrial area in Mesa, Arizona, designated the “Pecos Advanced Manufacturing Zone.” In order to construct the new line, UP requires approval from STB; as such, the project is considered a federal Undertaking subject to review pursuant to Section 106 of the NHPA and its implementing regulations at 36 CFR Part 800. The STB Office of Environmental Analysis (OEA) initiated Section 106 consultation with our office on December 10, 2021 and our office continues to coordinate with OEA staff as they work to meet the requirements of 36 CFR Part 800.

On September 26, 2022, SHPO concurred with OEA’s area of potential effects (APE) and efforts to identify historic properties. Four archaeological sites – AZ U:10:2(ASM), AZ U:10:69(ASM), AZ U:10:152(ASM), and AZ U:10:275(ASM) – and one in-use historic structure – the Mesa to Winkelman Spur of the Southern Pacific Railroad – are located within the APE. The archaeological sites, which are comprised of adobe compounds, trash mounds, slag mounds (hornos), pithouses, possible reservoirs, as well as human burials, represent significant pre-contact occupation and use of the area by the *Huhugam*, the ancestors of members of the Ak-Chin Indian Community (Ak-Chin), the Gila River Indian Community (GRIC), the Salt River Pima-Maricopa Indian Community (GRIC), and the Tohono O’odham Nation (TON.) These tribal nations, collectively referred to as the Four Southern Tribes, have – through consultation with STB – identified traditional cultural properties of religious and cultural significance within the Undertaking’s APE.

SHPO concurred with OEA’s finding of “Adverse Effect” to historic properties within the APE on December 20, 2022. SHPO has worked with OEA and 20 consulting parties, including 10 tribal governments, to develop a memorandum of agreement (MOA) and associated documents

to resolve adverse effects to the Register-eligible archaeological sites and traditional cultural properties. Consultation included two virtual meetings to discuss agency and Tribal comments on the MOA and review of four draft revisions. SHPO received the fourth revision of the MOA on July 21, 2023, and was mere days away from signature when the State Historic Preservation Officer was notified by OEA on August 7, 2023 that their consultant had identified significant ground disturbance within the portion of the APE where site AZ U:10:2(ASM) is located. Further investigation identified additional disturbances within and adjacent to AZ U:10:2(ASM) and AZ U:10:152(ASM). These disturbances have halted execution of the agreement document while OEA investigates the nature and source of the damage. OEA has continued to provide updates to our office on the progress of the damage assessment as well as the Board's Section 110(k) investigation.

While the full extent of damage is still being evaluated, previous data recovery investigations at AZ U:10:2(ASM) have identified habitation features and ancestral remains within the immediate vicinity of the newly excavated basin. More recently, our office was notified on January 22, 2024 that cremated ancestral remains were encountered on the site surface during the damage assessment survey. Although these remains are likely the result of bioturbation rather than a direct effect of unauthorized excavations, the discovery demonstrates that ancestral remains are present in the vicinity of the disturbed areas.

I am writing to you today so that you can better appreciate the level of resources that have been expended by the signatories to this agreement, consulting parties, and tribes to develop and memorialize a thoughtful, coordinated approach to the resolution of adverse effects for this Undertaking. As State Historic Preservation Officer, I am charged with representing the State's voice in the federal historic preservation process. It is my privilege to work alongside my colleagues in Tribal Historic Preservation Offices to ensure that federal decision making regarding the disposition of archaeological sites follows all applicable statutes and regulations. These places are not only important for their scientific value, but because they represent direct connections between descendent communities and their heritage. We appreciate the Board's investigation of this matter and are confident that the Board will fully consider and acknowledge the significant impact the destruction of these resources has had on descendent tribal communities. Please contact me by telephone, 602.542.4009, or via e-mail at kleonard@azstateparks.gov, if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathryn Leonard', with a stylized, cursive script.

Kathryn Leonard
State Historic Preservation Officer
Arizona State Historic Preservation Office

ECC: Parties of Record