



SIDLEY AUSTIN LLP
1501 K STREET, N.W.
WASHINGTON, D.C. 20005
+1 202 736 8000
+1 202 736 8711 FAX

AMERICA • ASIA PACIFIC • EUROPE

+1 202 736 8889
RATKINS@SIDLEY.COM

April 1, 2024

308152

Via E-Filing

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street SW
Washington, DC 20423

ENTERED
Office of Proceedings
April 1, 2024
Part of
Public Record

Re: Union Pacific Railroad Company—Construction and Operation Exemption—In Maricopa County, Ariz., Docket No. FD 36501

Dear Ms. Brown:

Pursuant to the Surface Transportation Board's March 26, 2024 Decision, Union Pacific Railroad Company ("Union Pacific") is filing the requested sworn Verification and Affidavit.

In addition, Union Pacific is also updating its Responses to the Board's Information Requests and Document Requests filed on January 25, 2024. On March 22, Union Pacific conducted training for its employees on federal requirements of the National Environmental Policy Act, the National Historic Preservation Act, Federal Indian Law, and tribal consultations. The training was led by two renowned experts in these fields—Ms. Jennifer Weddle and Mr. Troy Eid, who co-chair Greenberg Traurig's American Indian Law Practice. The 2.5-hour training session was attended by senior leadership and employees from multiple departments. More details are provided in Union Pacific's attached supplemental response to Information Request 5(b).

Respectfully submitted,

/s/ Raymond A. Atkins

Raymond A. Atkins, Ph.D.

cc: Service List for Docket No. FD 36501

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36501

**UNION PACIFIC RAILROAD COMPANY
—CONSTRUCTION AND OPERATION EXEMPTION—
IN MARICOPA COUNTY, AZ**

**UNION PACIFIC'S SUPPLEMENTAL RESPONSE
TO INFORMATION REQUESTS**

Union Pacific provides the following Supplemental Response to the Surface Transportation Board's ("STB") Information Requests set forth in its December 11, 2023 Decision. The Response below is based on Union Pacific's current knowledge or belief, and Union Pacific reserves the right to supplement or amend these Responses as circumstances may require.

* * *

Information Request 5. Identify all manuals, policies, procedures, and/or guidance in effect from January 2018 to the present used to educate UP personnel and/or promote compliance with requirements and limitations imposed by NHPA to protect cultural and archaeological resources at sites subject to federal licensing requirements under 49 U.S.C. Chapter 109. For each item identified,

(a) state (i) its full title; (ii) the date it was adopted; (iii) the time period it was or has been in effect; and (iv) the date(s) of any amendments (if applicable).

(b) describe how UP used and disseminated the items to relevant UP personnel involved in the PIRATE project.

Union Pacific Response:

In light of the third-party, ground-disturbing activities that occurred at the PIRATE project location, and to promote improved understanding among relevant employees about the important requirements of the National Environmental Policy Act, National Historic Preservation Act, Federal Indian Law, and government-to-government consultation between Native American tribes and the federal government, Union Pacific engaged outside counsel—Jennifer Weddle and Troy Eid of Greenberg Traurig—to develop a comprehensive training.

Both attorneys are nationally recognized, widely respected, and leading experts in the field. A summary of some of their relevant credentials is provided below.

Jennifer Weddle. Ms. Weddle co-chairs Greenberg Traurig's American Indian Law Practice and specializes in Indian law, including tribal economic development and natural resources development. She has extensive experience representing tribes and affiliated entities before the U.S. Supreme Court. Ms. Weddle has wide-ranging project siting experience, including the application of the National Environmental Policy Act, the National Historic Preservation Act, and other environmental laws on tribal and public lands, including with respect to large linear multi-state energy and infrastructure projects. Her relevant experience also includes serving as adjunct faculty at the University of Colorado School of Law where she teaches "American Indian Law II" and "American Indian Economic Development." Additional information concerning Ms. Weddle's experience and numerous accolades can be found at <https://www.gtlaw.com>.

Troy Eid. Mr. Eid co-chairs Greenberg Traurig's American Indian Law Practice Group and is a member of the firm's Special Investigations Group. His practice includes representing tribes, companies, public and private universities, and non-profit institutions in litigation and transactional matters and, by federal judicial appointment, mediating complex disputes between Indian tribes and energy companies, and between tribes and state governments. Mr. Eid specifically litigates claims under the National Historic Preservation Act and National Environmental Policy Act and negotiates cultural resource mitigation agreements with federally recognized Indian tribes to mitigate adverse impacts to various Native American and Alaska Native traditional cultural properties and sacred sites as provided in the National Historic Preservation Act. The President Emeritus of the Navajo Nation Bar Association, Mr. Eid served as the 40th United States Attorney for Colorado appointed by President George W. Bush, and as the Chair of the Indian Law and Order Commission under President Barack Obama. Mr. Eid has been an Adjunct Professor since 2007 at the University of Denver-Sturm College of Law, where he teaches "Native American Nations and Federal Law and Policy." Additional information concerning Mr. Eid's experience can be found at <https://www.gtlaw.com>.

Ms. Weddle and Mr. Eid developed and conducted a 2.5-hour training session on the topics described above. The training took place on Friday, March 22, 2024, and was attended by senior leadership and members of the following Union Pacific groups and departments: (a) Law Department; (b) the Acquisitions and Contracts groups within the Real Estate Department; (c) the Commercial Telecom group within the Technology Department; and (d) the Maintenance of Way Environmental group within the Engineering Department.

Although Information Request 5(a) is not applicable to this training session, Union Pacific provides the aforementioned information concerning the training pursuant to 5(b).

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36501

**UNION PACIFIC RAILROAD COMPANY
—CONSTRUCTION AND OPERATION EXEMPTION—
IN MARICOPA COUNTY, AZ**

VERIFICATION AND AFFIDAVIT

Union Pacific Railroad Company submits this Verification and Affidavit pursuant to the Surface Transportation Board's decisions in the above-captioned proceeding served on December 11, 2023 and March 26, 2024.

1. On January 25, 2024, Union Pacific filed Responses to the Board's Information Requests and Document Requests and produced documents marked UP-Pirate-0000001 to UP-Pirate-0006543.
2. On February 6, 2024, Union Pacific produced documents marked UP-Pirate-0006544 to UP-Pirate-0009647.
3. On February 15, 2024, Union Pacific produced documents marked UP-Pirate-0009648 to UP-Pirate-0010082, which completed Union Pacific's production of documents in response to the Board's Document Requests.
4. On April 1, 2024, Union Pacific filed a Supplemental Response to the Board's Information Request 5.

VERIFICATION AND AFFIDAVIT

I, Jennifer Galer, Senior General Attorney at Union Pacific Railroad Company, declare under penalty of perjury that the information contained in these foregoing described submissions by Union Pacific is true and correct to the best of my knowledge and belief.

I also declare that Union Pacific Railroad Company undertook a reasonable search to locate the information and documents requested by the Surface Transportation Board in its decision dated December 11, 2023, and that Union Pacific completed its production of documents in response to those requests on February 15, 2024.

Further, I certify that I am qualified and authorized to file this statement.

Executed on this 1st day of April 2024.



Jennifer Galer

STATE OF Nebraska)
) SS.
COUNTY OF Douglas)

On this 1st day of April 2024, before me the undersigned notary public, personally appeared Jennifer Galer personally known or proved to me through satisfactory evidence of identification, to be the person(s) whose name(s) is/are signed on the preceding or attached document and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.



My commission expires: June 28, 2025

NOTARY PUBLIC

