



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

July 16, 2025

Jaime Loichinger
Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street NW
Washington DC 20001-2637

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

Dear Ms. Loichinger,

The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) appreciates the Advisory Council on Historic Preservation's (ACHP) July 1, 2025 letter regarding the Board decision addressing the applicability of Section 110(k) of the National Historic Preservation Act (NHPA) to the above-referenced project. Pursuant to that letter, OEA is providing the requested clarification of the effect of the Board's June 3, 2025 decision in this matter.

Under ACHP regulations, if the Board determines that Section 110(k) is applicable, then either the NHPA Section 106 process stops and the project is not authorized, or, if the Board finds that circumstances justify authorization, it consults with ACHP. *See* 36 C.F.R. § 800.9(c)(2). Absent a finding that Section 110(k) is applicable, no further action related to that provision is required and the Section 106 process may continue. *Id.* In its June 3 decision, the Board explained that it was unable to reach a majority decision on whether Union Pacific Railroad Company (the applicant) violated Section 110(k). But it held that "no determination that Section 110(k) is applicable will be issued under 36 C.F.R. § 800.9(c)." *Union Pacific Railroad Company – Construction and Operation Exemption in Maricopa County, Arizona*, FD 36501, slip op. at 5 (June 3, 2025). Because the Board affirmatively held that it would not issue a finding that Section 110(k) applies to this project, the Board has addressed the requirements of the NHPA and its implementing regulations as they relate to Section 110(k), and no further action by the Board or ACHP is required for the Section 106 process to move forward.

I appreciate the opportunity to clarify that the Board's decision resolves Section 110(k) in this case and look forward to continuing to work with ACHP, as well as all consulting parties and the public, during the Section 106 process for this and other projects.

Sincerely,

A handwritten signature in cursive script, appearing to read "Danielle Gosselin".

Danielle Gosselin
Director
Office of Environmental Analysis
Surface Transportation Board