



GILA RIVER INDIAN COMMUNITY

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TRIBAL HISTORIC PRESERVATION OFFICE

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November 27, 2024

Danielle Gosselin, Director
Surface Transportation Board
Office of Environmental Analysis
RE: Docket No. FD 36501
395 E Street SW
Washington, DC 20423

RE: Docket No. FD 36501, Surface Transportation Board (STB) Directs Union Pacific Railroad Company to Correct Deficiencies in Rail Line Construction in Arizona

Dear Director Gosselin,

The Gila River Indian Community Tribal Historic Preservation Office (GRIC-THPO) received notification on November 14, 2024 of the STB *"decision to direct the Union Pacific Railroad Company (UPRC) to cure certain deficiencies in its responses to Board-ordered document requests and reinstates a schedule for submissions placed in abeyance earlier this year."* The Union Pacific Railroad Company (UPRC) filed a petition with the Surface Transportation Board (Board) requesting to construct and operate a 6-mile long rail line, the Pecos Industrial Rail Access and Train Extension (PIRATE), east and south of the Phoenix-Mesa Gateway Airport, Mesa, Maricopa County, Arizona.

During the preparation of a Final Environmental Assessment (Final EA), it was discovered that there had been significant ground disturbance and damage to National Register of Historic Places-eligible archaeological resources with the project's Area of Potential Effects (APE), including within the proposed right-of-way (ROW). The Board Office of Environmental Analysis (Board-OEA) ordered that all construction work for the PIRATE undertaking be halted. In addition, the Board instructed the UPRC to provide and submit additional information to supplement information the UPRC had previously provided about the incidents of site damage that occurred and to illuminate UPRC's practices and procedures to comply with environmental and historic review requirements. The Board, on January 24, 2024, advised that the UPRC responses are considered non-responsive to the document submittal directive and further orders may be necessary to obtain full compliance. The UPRC document submissions were supposed to be submitted under oath with an affidavit affirming that a reasonable search to locate all responsive material had been completed. The Board advises that the UPRC is not in compliance with their information request.

The Board's most recent decision requires the UPRC to provide additional information and clarification on the materials they submitted to the Board. Those additional materials are due to

the Board by November 29, 2024. In addition, the Board has restarted the submission process specifically related to the potential violation of Section 110(K) of the National Historic Preservation Act (NHPA). Section 110(K) of the NHPA is entitled "Anticipatory demolition," which states that each federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant that, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, has allowed the significant adverse effect to occur, unless the agency, after consultation with Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting the assistance despite the adverse effect created or permitted by the applicant." [54 U.S.C. § 306113].

The following is paraphrased from our response submitted to the Board on February 9, 2024.

The *Akimel O'Odham* of the Gila River Indian Community affirm direct ancestry to the Huhugam (Hohokam) prehistoric tradition. We are deeply saddened to know that our religious and culturally significant *O'Odham* heritage has been desecrated and destroyed by modern human ground disturbing activities.

Destructive actions with heavy earth-moving machinery are unconscionable to the *O'Odham* spiritual connections with our Huhugam ancestors. We are dismayed that there are people who believe that destruction of this nature is considered a casual mishap and do not have any idea what spiritual harms have occurred due to the desecration of our Ancestor's eternal resting places. The *O'Odham* of Southern Arizona experience a significant emotional loss as our spiritual beings are cut and scraped away every time an Ancestral site is obliterated by unlawful actions by various entities. In this instance, the UPRC. *O'Odham* reverent associations with ancestral sites are reaffirmed daily through prayers, songs, and ceremonies that are essential and reaffirm our existence in this modern world.

Our reverent connections with our Ancestors are continuously being dismissed. Modern society views our beliefs as vanished, yet we continue our traditional religious practices that provide *O'Odham* with the strength to overcome the growing, accumulating sadness that remains within our hearts and minds. We would believe and trust that the Board will determine that UPRC, with intent, violated Section 110(k) of the NHPA.

The unauthorized construction and excavation activities of the UPRC has adversely affected and extensively damaged the site. The adverse effect and harm that the UPRC has inflicted upon the Ancestors and *O'Odham* are un-measurable and un-quantifiable. The results of this archaeological damage assessment only adds urgency to the Board's ongoing 110(k) inquiry into the actions of the UPRC and for a fair and just resolution of this situation.

The GRIC-THPO expresses our thanks to the Board for allowing us to comment on this investigation and notification of the November 14, 2024 Board decision. The GRIC-THPO will continue to participate in the consultation process of this undertaking. The proposed project area is within the ancestral lands of the Four Southern Tribes (Gila River Indian Community; Salt River Pima-Maricopa Indian Community; Ak-Chin Indian Community and the Tohono O'Odham Nation).

Thank you for consulting with the GRIC-THPO about this undertaking. If you have any questions please do not hesitate to contact our office at 520-562-7162.

Respectfully,

A handwritten signature in cursive script that reads "Reylynne Williams". The signature is written in dark ink and is positioned above the printed name and title.

Reylynne Williams
Interim Tribal Historic Preservation Officer
Gila River Indian Community