

**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.

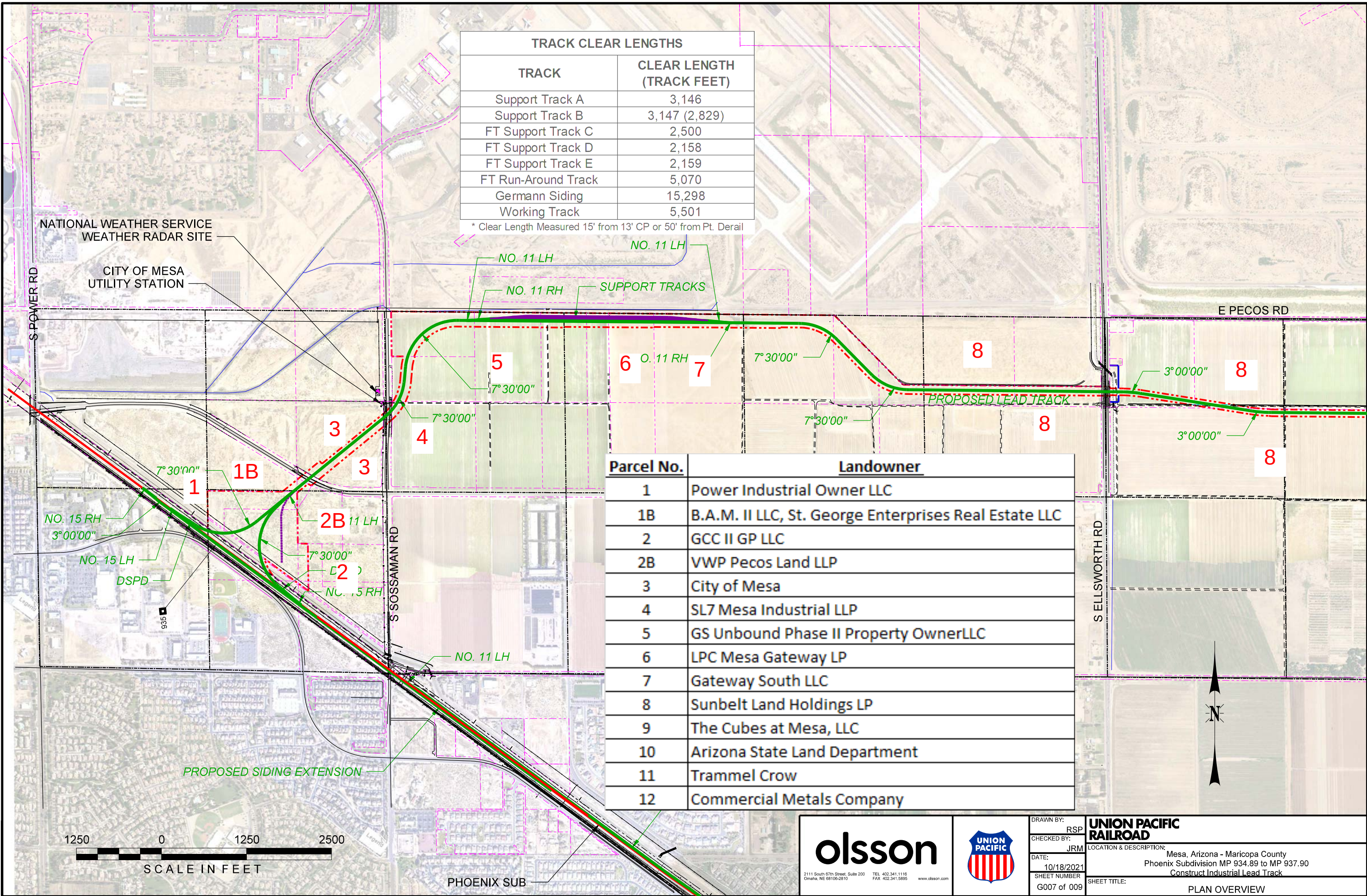
Sincerely,

A handwritten signature in black ink, appearing to read "Tanya Spratt". The signature is fluid and cursive, with the first name "Tanya" and last name "Spratt" clearly distinguishable.

Tanya Spratt
Senior General Attorney - Law

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

Color: table: K:\Bentley\Workspace\8\Projects\Clients\UPRR_Track_V8\Color\UPRR.tbl
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Default
10/18/2021



TRACK CLEAR LENGTHS	
TRACK	CLEAR LENGTH (TRACK FEET)
Support Track A	3,146
Support Track B	3,147 (2,829)
FT Support Track C	2,500
FT Support Track D	2,158
FT Support Track E	2,159
FT Run-Around Track	5,070
Germann Siding	15,298
Working Track	5,501

* Clear Length Measured 15' from 13' CP or 50' from Pt. Derail

Parcel No.	Landowner
1	Power Industrial Owner LLC
1B	B.A.M. II LLC, St. George Enterprises Real Estate LLC
2	GCC II GP LLC
2B	VWP Pecos Land LLP
3	City of Mesa
4	SL7 Mesa Industrial LLP
5	GS Unbound Phase II Property Owner LLC
6	LPC Mesa Gateway LP
7	Gateway South LLC
8	Sunbelt Land Holdings LP
9	The Cubes at Mesa, LLC
10	Arizona State Land Department
11	Trammel Crow
12	Commercial Metals Company



SCALE IN FEET

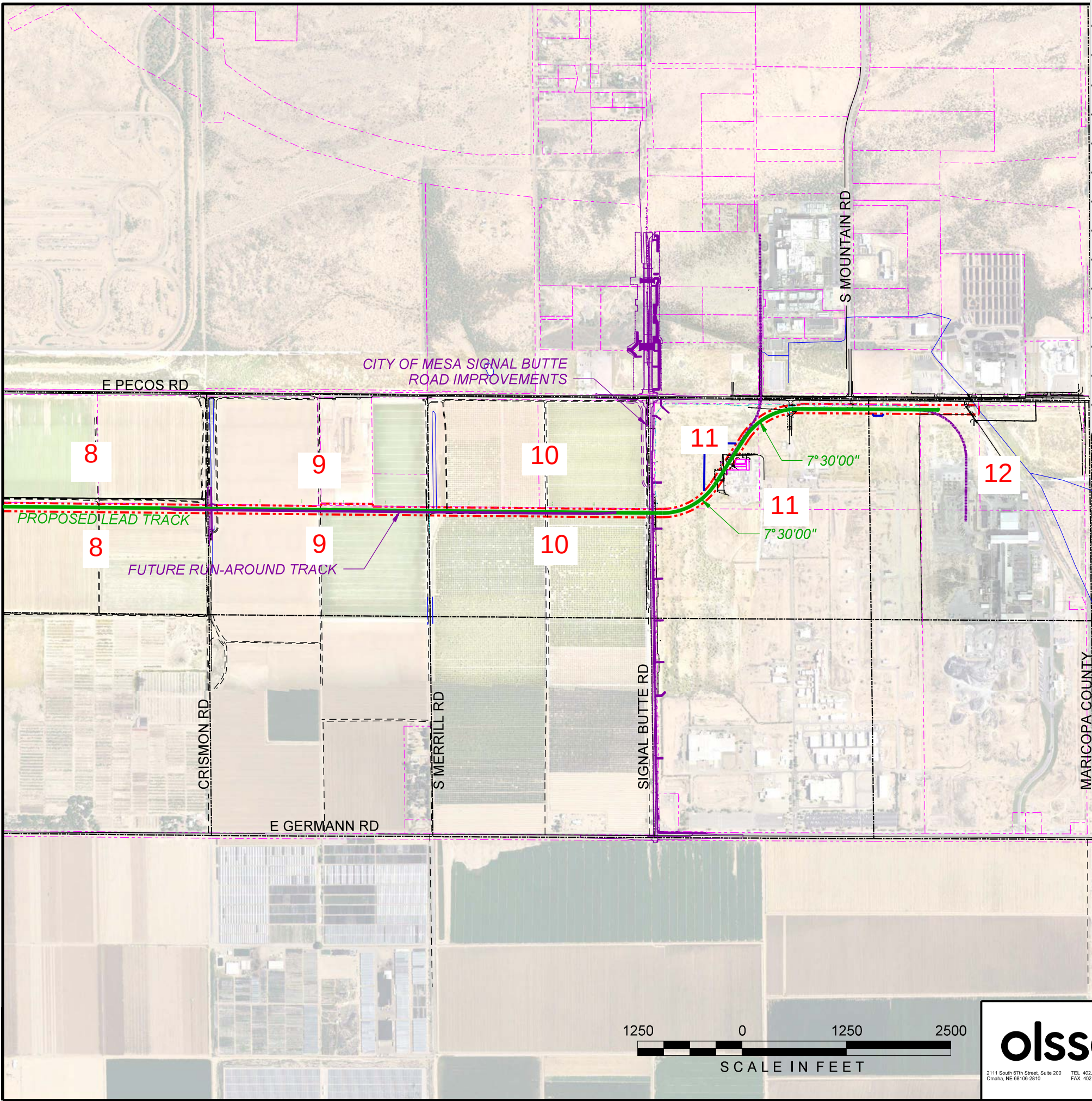


2111 South 87th Street, Suite 200
Omaha, NE 68108-2810
TEL 402.341.1116
FAX 402.341.5895
www.olsen.com

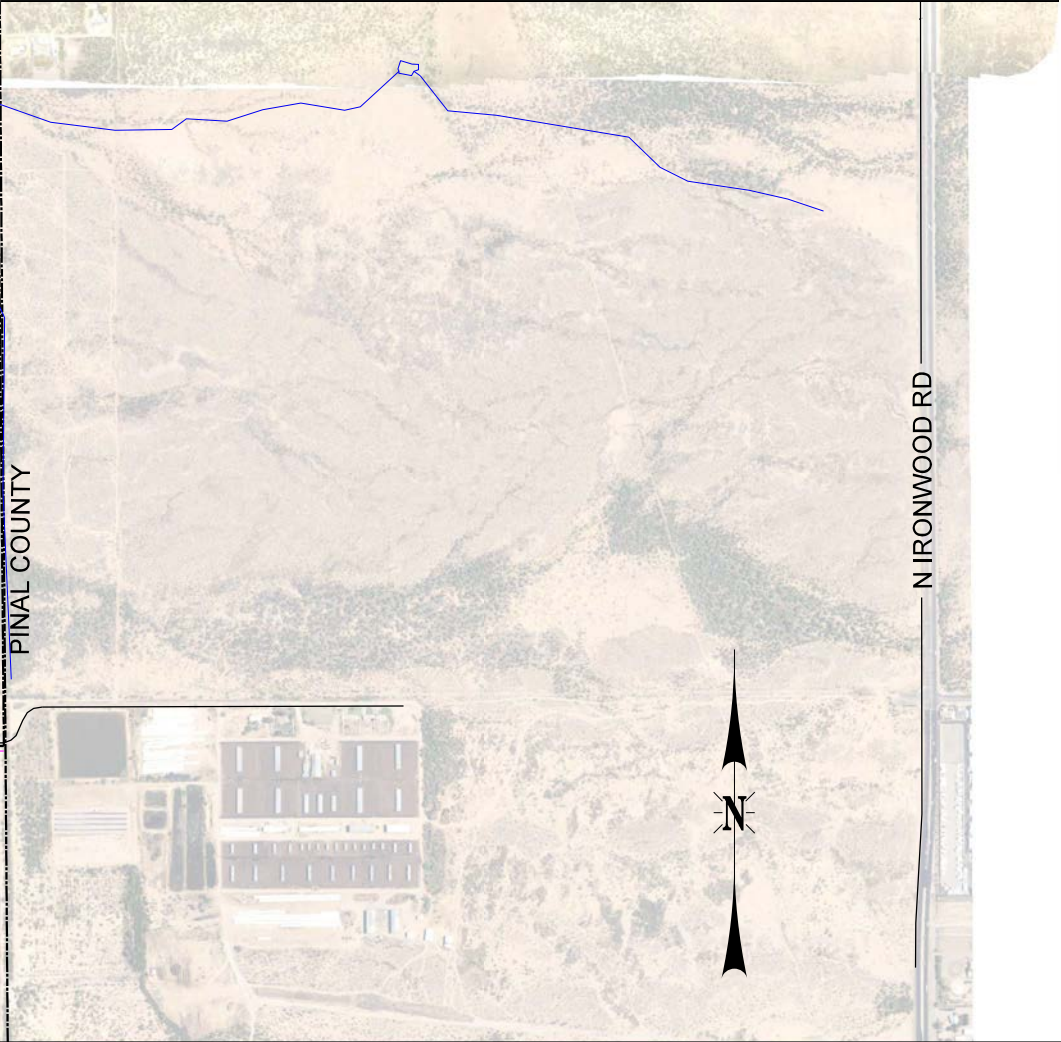
DRAWN BY: RSP
CHECKED BY: JRM
DATE: 10/18/2021
SHEET NUMBER: G007 of 009

UNION PACIFIC RAILROAD
LOCATION & DESCRIPTION: Mesa, Arizona - Maricopa County
Phoenix Subdivision MP 934.89 to MP 937.90
Construct Industrial Lead Track
SHEET TITLE: PLAN OVERVIEW

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Default
10/18/2021



Parcel No.	Landowner
1	Power Industrial Owner LLC
1B	B.A.M. II LLC, St. George Enterprises Real Estate LLC
2	GCC II GP LLC
2B	VWP Pecos Land LLP
3	City of Mesa
4	SL7 Mesa Industrial LLP
5	GS Unbound Phase II Property OwnerLLC
6	LPC Mesa Gateway LP
7	Gateway South LLC
8	Sunbelt Land Holdings LP
9	The Cubes at Mesa, LLC
10	Arizona State Land Department
11	Trammel Crow
12	Commercial Metals Company





2111 South 87th Street, Suite 200
Omaha, NE 68108-2810

TEL 402.341.1116
FAX 402.341.5895
www.olson.com



DRAWN BY: RSP
CHECKED BY: JRM
DATE: 10/18/2021
SHEET NUMBER: G008 of 009

UNION PACIFIC RAILROAD

LOCATION & DESCRIPTION: Mesa, Arizona - Maricopa County
Phoenix Subdivision MP 934.89 to MP 937.90
Construct Industrial Lead Track

SHEET TITLE: PLAN OVERVIEW



BUILDING AMERICA®

August 4, 2023

Silver Canyon Nurseries, Inc.
Attn: Brian Blake
2647 East Southern
Phoenix, AZ 85040

RE: PIRATE Corridor property, Mesa, Maricopa County

Mr. Blake:

As you are likely aware Silver Canyon Nurseries, Inc. leases property adjacent to property owned or over which Union Pacific Railroad has operating rights in Maricopa County near Mesa, Arizona within the Pecos Industrial Rail Access and Train Extension corridor, otherwise known as PIRATE.

Please be advised that the Union Pacific property has been identified as a culturally sensitive area and is currently undergoing investigative activity to determine the extent of cultural archives that may be present on the property. As a result any activity related to your use of your property must be contained within your property and should not encroach onto any portion of Union Pacific property.

If you currently have materials or equipment located on Union Pacific property we ask that you contact us immediately to coordinate the relocation of such materials or equipment to a location that is off of Union Pacific property. Due to the sensitive nature of the property, an archaeological expert will be required to be present during the time of such removal.

Please contact Kris Anderson at 402-544-3162 to arrange for any removal activities. We appreciate your cooperation.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

Greg Brigham

Greg Brigham
General Director – Real Estate



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August 4, 2023

B.A.M. II LLC, St. George Enterprises Real Estate LLC
Attn: Alan Archibald
P.O. Box 981
St. George, UT 84771

RE: PIRATE Corridor property, Mesa, Maricopa County

Dear Mr. Archibald:

As you are likely aware B.A.M II LLC et al owns property adjacent to property owned or over which Union Pacific Railroad has operating rights in Maricopa County near Mesa, Arizona within the Pecos Industrial Rail Access and Train Extension corridor, otherwise known as PIRATE.

Please be advised that the Union Pacific property has been identified as a culturally sensitive area and is currently undergoing investigative activity to determine the extent of cultural archives that may be present on the property. As a result any activity related to your use of your property must be contained within your property and should not encroach onto any portion of Union Pacific property.

If you currently have materials or equipment located on Union Pacific property we ask that you contact us immediately to coordinate the relocation of such materials or equipment to a location that is off of Union Pacific property. Due to the sensitive nature of the property, an archaeological expert will be required to be present during the time of such removal.

Please contact Stephanie Tingley at 402-544-5453 to arrange for any removal activities. We appreciate your cooperation.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

Greg Brigham

Greg Brigham
General Director – Real Estate

cc: Aaron Barney - Huber Barney, PLLC



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August 4, 2023

City of Mesa
Attn: Kim Fallbeck
20 East Main Street, Suite 200
Mesa, AZ 85201

RE: PIRATE Corridor property, Mesa, Maricopa County

Mrs. Fallbeck:

As you are likely aware the City of Mesa owns property adjacent to property owned or over which Union Pacific Railroad has operating rights in Maricopa County near Mesa, Arizona within the Pecos Industrial Rail Access and Train Extension corridor, otherwise known as PIRATE.

Please be advised that the Union Pacific property has been identified as a culturally sensitive area and is currently undergoing investigative activity to determine the extent of cultural archives that may be present on the property. As a result any activity related to your use of your property must be contained within your property and should not encroach onto any portion of Union Pacific property.

If you currently have materials or equipment located on Union Pacific property we ask that you contact us immediately to coordinate the relocation of such materials or equipment to a location that is off of Union Pacific property. Due to the sensitive nature of the property, an archaeological expert will be required to be present during the time of such removal.

Please contact Kris Anderson at 402-544-3162 to arrange for any removal activities. We appreciate your cooperation.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

Greg Brigham

Greg Brigham
General Director – Real Estate



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August 4, 2023

Gateway South, LLC
Attn: Will Moseley
2415 Camelback Road, Suite 700
Phoenix, AZ 85016

RE: PIRATE Corridor property, Mesa, Maricopa County

Mr. Moseley:

As you are likely aware the Gateway South, LLC owns property adjacent to property owned or over which Union Pacific Railroad has operating rights in Maricopa County near Mesa, Arizona within the Pecos Industrial Rail Access and Train Extension corridor, otherwise known as PIRATE.

Please be advised that the Union Pacific property has been identified as a culturally sensitive area and is currently undergoing investigative activity to determine the extent of cultural archives that may be present on the property. As a result any activity related to your use of your property must be contained within your property and should not encroach onto any portion of Union Pacific property.

If you currently have materials or equipment located on Union Pacific property we ask that you contact us immediately to coordinate the relocation of such materials or equipment to a location that is off of Union Pacific property. Due to the sensitive nature of the property, an archaeological expert will be required to be present during the time of such removal.

Please contact Kris Anderson at 402-544-3162 to arrange for any removal activities. We appreciate your cooperation.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

Greg Brigham

Greg Brigham
General Director – Real Estate



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August 4, 2023

GCC II GP, LLC
3104 East Camelback Road, Unit 957
Phoenix, AZ 85016

RE: PIRATE Corridor property, Mesa, Maricopa County

To Whom it May Concern:

As you are likely aware GCC II GP, LLC owns property adjacent to property owned or over which Union Pacific Railroad has operating rights in Maricopa County near Mesa, Arizona within the Pecos Industrial Rail Access and Train Extension corridor, otherwise known as PIRATE.

Please be advised that the Union Pacific property has been identified as a culturally sensitive area and is currently undergoing investigative activity to determine the extent of cultural archives that may be present on the property. As a result any activity related to your use of your property must be contained within your property and should not encroach onto any portion of Union Pacific property.

If you currently have materials or equipment located on Union Pacific property we ask that you contact us immediately to coordinate the relocation of such materials or equipment to a location that is off of Union Pacific property. Due to the sensitive nature of the property, an archaeological expert will be required to be present during the time of such removal.

Please contact Stephanie Tingley at 402-544-5453 to arrange for any removal activities. We appreciate your cooperation.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

Greg Brigham

Greg Brigham
General Director – Real Estate



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August 8, 2023

Unbound Phase I Property Owner, LLC

Attn: John Parnell and Billy Cundiff

2525 East Camelback Road, Suite 500

Phoenix, Arizona 85016

GS Unbound Phase II Property Owner, LLC

Attn: John Parnell and Billy Cundiff

2525 East Camelback Road, Suite 500

Phoenix, Arizona 85016

RE: Union Pacific Railroad Company (“UP”) Agreements

Mesa, AZ

Dear Mr. Parnell and Mr. Cundiff:

With respect to the property sold to UP by Unbound Phase I Property Owner, LLC, including the portions of the property which are the subject of easements benefiting Unbound Phase I Property Owner, LLC and GS Unbound Phase II Property Owner, LLC, please be advised that the Surface Transportation Board has begun its review of potential environmental impacts from UP’s proposed rail project. While the Board’s review is pending, no work anywhere on UP’s rail corridor, including on the detention basin or other drainage areas, can be conducted until the Board’s review is completed or the Board has otherwise approved the work. Additionally, the location for the detention basin and other areas have been determined to be culturally sensitive areas. As a result, even after the Board completes its review, excavation and certain other activities at these locations may require special processes.

If any equipment or other materials of Unbound Phase I Property Owner, LLC or GS Unbound Phase II Property Owner, LLC remain on UP property, please contact Stephanie Tingley of UP to coordinate removal of the equipment and materials. Any removal must be coordinated with UP, and an archeological expert directed by the Board must be on site to monitor the removal.

Please contact the undersigned if you have any questions or concerns about this letter.

Sincerely,

Greg Brigham

Greg Brigham

General Director – Real Estate

cc: Procopio, Cory, Hargreaves & Savitch

Attn: Anrew Yocopis

8355 East Hartford Drive, Suite 207

Scottsdale, AZ 85255



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August 4, 2023

LPC Mesa Gateway LP
Attn: Brad Cushard
1 N Wacker Drive, Suite 1925
Chicago, IL 60606

RE: PIRATE Corridor property, Mesa, Maricopa County

Dear Mr. Cushard:

As you are likely aware LPC Mesa Gateway LP owns property adjacent to property owned or over which Union Pacific Railroad has operating rights in Maricopa County near Mesa, Arizona within the Pecos Industrial Rail Access and Train Extension corridor, otherwise known as PIRATE.

Please be advised that the Union Pacific property has been identified as a culturally sensitive area and is currently undergoing investigative activity to determine the extent of cultural archives that may be present on the property. As a result any activity related to your use of your property must be contained within your property and should not encroach onto any portion of Union Pacific property.

If you currently have materials or equipment located on Union Pacific property we ask that you contact us immediately to coordinate the relocation of such materials or equipment to a location that is off of Union Pacific property. Due to the sensitive nature of the property, an archaeological expert will be required to be present during the time of such removal.

Please contact Stephanie Tingley at 402-544-5453 to arrange for any removal activities. We appreciate your cooperation.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

Greg Brigham

Greg Brigham
General Director – Real Estate



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August 4, 2023

Power Industrial Owner LLC
Attn: Jill Lauckner or Riley Miller
711 High Street
Des Moines, Iowa 50392

RE: Union Pacific Railroad Company (“UP”) Right of Entry Agreement (“ROE”)
With Power Industrial Owner LLC, dated 12/1/22 – Mesa, AZ

Dear Ms. Lauckner or Ms. Miller:

With respect to the detention basin contemplated in the ROE, please be advised that the Surface Transportation Board has begun its review of potential environmental impacts from UP’s proposed rail project. While the Board’s review is pending, no work on the detention basin or anywhere on UP’s rail corridor can be conducted until the Board’s review is completed or the Board has otherwise approved the work. Additionally, the proposed location for the detention basin has been determined to be a culturally sensitive area. As a result, even after the Board completes its review, excavation and certain other activities at this proposed location may require special processes.

UP has learned that Power Industrial has entered onto UP property and completed some or all of the work needed to construct the detention basin contemplated under the ROE. Please be advised Power Industrial must cease any work on UP property until further notice from UP. If any equipment or other materials of Power Industrial remain on UP property, please contact Stephanie Tingley of UP to coordinate removal of the equipment and materials. Any removal must be coordinated with UP, and an archeological expert directed by the Board must be on site to monitor the removal.

UP finds no record that Power Industrial provided UP with prior notice as required by the ROE. Once UP initiated the Board’s environmental review of UP’s proposed rail project, as noted above work on the UP property required Board approval. Had UP received the required prior notice from Power Industrial, UP would have advised Power Industrial of the restrictions on activities on the UP property. By acting without Board approval, it appears to UP that Power Industrial failed to complete the work in compliance with all applicable federal, state and local laws, regulations and enactments, as required by the ROE. In response to the excavation by Power Industrial, the Board is requiring UP to take a number of measures, at significant expense to UP. The full extent of these measures and the corresponding cost is not yet known, but UP expects to hold Power Industrial responsible for its failure to comply with the terms of the ROE.

UP reserves all of its rights and remedies under the ROE and applicable law.

Sincerely,

Greg Brigham

Greg Brigham
General Director – Real Estate

cc: Newport Commercial Partners, LLC
Attn: Brett Shaves
8700 E. Pinnacle Peak Rd., Suite 201
Scottsdale, AZ 85255



BUILDING AMERICA®

August 4, 2023

Sunbelt Mesa Ellsworth, LP
Attn: Todd Holzer
8095 Othello Avenue
San Diego, CA 92111

RE: PIRATE Corridor property, Mesa, Maricopa County

Mr. Holzer:

As you are likely aware the Sunbelt Mesa Ellsworth, LP owns property adjacent to property owned or over which Union Pacific Railroad has operating rights in Maricopa County near Mesa, Arizona within the Pecos Industrial Rail Access and Train Extension corridor, otherwise known as PIRATE.

Please be advised that the Union Pacific property has been identified as a culturally sensitive area and is currently undergoing investigative activity to determine the extent of cultural archives that may be present on the property. As a result any activity related to your use of your property must be contained within your property and should not encroach onto any portion of Union Pacific property.

If you currently have materials or equipment located on Union Pacific property we ask that you contact us immediately to coordinate the relocation of such materials or equipment to a location that is off of Union Pacific property. Due to the sensitive nature of the property, an archaeological expert will be required to be present during the time of such removal.

Please contact Kris Anderson at 402-544-3162 to arrange for any removal activities. We appreciate your cooperation.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

Greg Brigham

Greg Brigham
General Director – Real Estate



August 9, 2023

The Cubes at Mesa Gateway Building C, LLC
c/o Clayco, Inc.
2199 Innerbelt Business Center Drive
St. Louis, Missouri 63114
Attn: Chris McKee

The Cubes at Mesa Gateway, LLC
CRG c/o Clayco, Inc.
2199 Innerbelt Business Center Drive
St. Louis, Missouri 63114

Clayco, Inc.
2199 Innerbelt Business Center Drive
St. Louis, Missouri 63114

RE: Union Pacific Railroad Company ("UP") Agreements
Mesa, AZ

Dear Mr. McKee:

This letter follows my earlier letter to Hannah Marshall of August 4, 2023. With respect to the property sold to UP by The Cubes at Mesa Gateway Building C, LLC, please be advised that the Surface Transportation Board has begun its review of potential environmental impacts from UP's proposed rail project. While the Board's review is pending, the Board has directed that no work anywhere on UP's rail corridor be conducted until the Board's review is completed or the Board has otherwise approved the work. Additionally, as noted in the August 4th letter certain locations on UP's rail corridor have been determined to be culturally sensitive areas. As a result, even after the Board completes its review, excavation and certain other activities at these or other locations may require special processes.

As communicated to Ms. Marshall, if any equipment or other materials of The Cubes at Mesa Gateway Building C, LLC, of The Cubes at Mesa Gateway, LLC, or of Clayco, Inc. remain on UP property, please contact Kris Anderson of UP to coordinate removal of the equipment and materials. Any removal must be coordinated with UP, and an archeological expert directed by the Board must

August 9, 2023

be on site to monitor the removal. Please note that no soil, including spoil piles, can be removed from UP's rail corridor.

Please contact Kris Anderson if you have any questions or concerns about this letter.

Sincerely,

Greg Brigham

Greg Brigham

cc: CRG c/o Clayco, Inc.
35 E Wacker Drive, Suite 1300
Chicago, Illinois 60601
Attention: Jennifer E. Nichols, General Counsel



BUILDING AMERICA®

August 4, 2023

The Cubes at Mesa Gateway Building C, LLC
Attn: Hannah Marshall
2199 Innerbelt Business Center Drive
St. Louis, MO 63114

RE: PIRATE Corridor property, Mesa, Maricopa County

Mrs. Marshall:

As you are likely aware The Cubes at Mesa Gateway Building C, LLC owns property adjacent to property owned or over which Union Pacific Railroad has operating rights in Maricopa County near Mesa, Arizona within the Pecos Industrial Rail Access and Train Extension corridor, otherwise known as PIRATE.

Please be advised that the Union Pacific property has been identified as a culturally sensitive area and is currently undergoing investigative activity to determine the extent of cultural archives that may be present on the property. As a result any activity related to your use of your property must be contained within your property and should not encroach onto any portion of Union Pacific property.

If you currently have materials or equipment located on Union Pacific property we ask that you contact us immediately to coordinate the relocation of such materials or equipment to a location that is off of Union Pacific property. Due to the sensitive nature of the property, an archaeological expert will be required to be present during the time of such removal.

Please contact Kris Anderson at 402-544-3162 to arrange for any removal activities. We appreciate your cooperation.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

Greg Brigham

Greg Brigham
General Director – Real Estate



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August 4, 2023

VWP PECOS LAND, LLC
3104 East Camelback Road, Unit 957
Phoenix, AZ 85016

RE: PIRATE Corridor property, Mesa, Maricopa County

To Whom it May Concern:

As you are likely aware VWP Pecos Land, LLC owns property adjacent to property owned or over which Union Pacific Railroad has operating rights in Maricopa County near Mesa, Arizona within the Pecos Industrial Rail Access and Train Extension corridor, otherwise known as PIRATE.

Please be advised that the Union Pacific property has been identified as a culturally sensitive area and is currently undergoing investigative activity to determine the extent of cultural archives that may be present on the property. As a result any activity related to your use of your property must be contained within your property and should not encroach onto any portion of Union Pacific property.

If you currently have materials or equipment located on Union Pacific property we ask that you contact us immediately to coordinate the relocation of such materials or equipment to a location that is off of Union Pacific property. Due to the sensitive nature of the property, an archaeological expert will be required to be present during the time of such removal.

Please contact Stephanie Tingley at 402-544-5453 to arrange for any removal activities. We appreciate your cooperation.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

Greg Brigham

Greg Brigham
General Director – Real Estate