



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

May 11, 2009

John M. Fowler
Executive Director
Office of the Executive Director
1100 Pennsylvania Avenue, Suite 803
Washington, DC 20004

RE: STB Finance Docket No. 34836, Arizona Eastern Railway – Construction and Operation – In Graham County, Arizona; **Executed Memorandum of Agreement and Final Historic Preservation Treatment Plan**

Dear Mr. Fowler:

Enclosed please find the fully executed Memorandum of Agreement (MOA) for the Arizona Eastern Railway's (AZER) petition to construct and operate a rail line in Graham County, Arizona, pursuant to Section 106 of the National Historic Preservation Act (NHPA). The MOA was executed by the signatory parties on March 10, 2009 and then circulated to all concurring parties.¹ The scope of the MOA focused on the Proposed Action Alternative that would begin near the City of Safford, Arizona and proceed northerly for 12.1 miles, terminating at the Freeport-McMoRan Dos Pobres Mine. The MOA resolves any adverse effects to historic properties for the proposed undertaking pursuant to 36 CFR 800.6 (b)(i)(iv) and completes our compliance responsibilities under Section 106 of the NHPA.

We are also submitting a copy of the final treatment plan, *Historic Properties Treatment Plan for Historic Properties Affected by the Arizona Eastern Railroad*, dated February 20, 2009 and approved by the Arizona State Parks (State Historic Preservation Office) on March 12, 2009 (letter attached). As indicated in the MOA, the proposed undertaking may have an adverse effect on six sites eligible for listing in the National

¹ Signatory parties include the Federal Railroad Administration, the Arizona State Historic Preservation Office, the Surface Transportation Board and the Arizona Eastern Railway. Concurring parties include the Gila River Indian Community, the Hopi Tribe, and the U.S. Army Corps of Engineers. By letter dated September 24, 2008, the ~~Advisory Council on Historic Preservation determined that its participation in the~~ consultation process to resolve adverse effects was not needed.

Register of Historic Places, and has the potential to adversely affect four other sites that will be further evaluated per the treatment plan to determine eligibility.

SEA prepared an Environmental Assessment (EA) in February 2008 for this project pursuant to the National Environmental Policy Act (NEPA) and other Federal laws, including the NHPA, and recently completed the Final EA for this proceeding. The Final EA, issued on April 6, 2009, responds to comments on the Draft EA and makes final environmental recommendations to the decision-maker, the Board.² The Board will now consider the environmental record, including SEA's final recommended mitigation measures and all environmental comments received in this proceeding in making its final decision as to whether to allow the Proposed Action to proceed, and if so, what mitigation to impose.

If you have any questions regarding this case or require further information, please do not hesitate to contact me or Diana Wood, SEA Project Manager, at 202-245-0302 or woodd@stb.dot.gov.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

Enclosures: (3)

² The entire EA is also available for review on the Board's Web site (www.stb.dot.gov) by clicking on the "Decisions and Notices" link, then "E-LIBRARY" and searching by the Service Date (February 25, 2008 or April 6, 2009) or Docket Number (FD 34836).