

AZER Post EA
Appendix A
Comment Letters



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



Stephen A. Owens
Director

March 3, 2008

Diana Wood, Section of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423

RE: STB Finance Docket No. 34836
Draft Environmental Assessment for Arizona Eastern Railway
Construction and Operation, Graham County, Arizona

Dear Ms. Wood:

The Air Quality Division appreciates the opportunity to review the "Draft Environmental Assessment, Arizona Eastern Railway (AZER) - Construction and Operation - In Graham County," received February 25, 2008. We understand the proposed railway would provide the Phelps Dodge Mine and Safford Airport with an alternative to truck shipment of materials, which your estimates projected would result in reduced air emissions.

Staff of the Air Quality Division previously has reviewed the proposed project that was submitted for a General Conformity Determination with the Arizona State Implementation Plan in accordance with Clean Air Act Section 176(c)(1); 58 Federal Register 63214-63259; Title 40 Code of Federal Regulations Part 51, Subpart W §§ 51.850-51.860; Title 40 Code of Federal Regulations Part 93, Subpart B §§ 93.150-160; and Arizona Administrative Code R18-2-348 (approved into the Arizona State Implementation Plan April 23, 1999; effective June 22, 1999). The Air Quality Division concluded on July 12, 2006 that a General Conformity Determination was not required because the 12-mile construction site was not in a Nonattainment or Maintenance area.

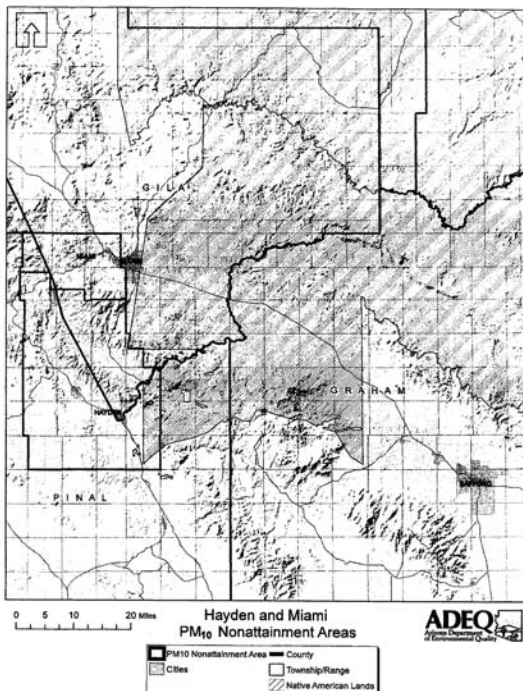
Although the Safford area is not in a nonattainment area or maintenance area for any National Ambient Air Quality Standard (NAAQS) criteria pollutant, approximately 50 miles to the West in portions of Pinal and Gila Counties, is the Hayden-Miami Nonattainment Area for Particulate Matter (PM). Refer to the enclosed map. To minimize adverse impacts on public health and welfare, information was provided in 2006 that included practices and procedures that would reduce disturbance of PM during the construction of the rail line, which may temporarily increase ambient PM levels (A.A.C. R18-2-664 through -667; R18-2-804).

Particulate matter 10 microns in size and smaller can penetrate the lungs of human beings and animals and is subject to a toxic public health and welfare. Particulate matter 2.5 microns in size and smaller is difficult for lungs to expel and has been linked to increases in death rates; heart attacks by disturbing heart rhythms and increasing plaque and clotting; respiratory infections; asthma attacks and cardiopulmonary obstructive disease (COPD) aggravation. It is also subject to a NAAQS.

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March 2008 - Author N. Carril

Ms. Diana Wood
March 3, 2008
Page 2

Additionally, PM contributes to Regional Haze that impairs visibility at national parks and monuments (Federal Class I areas), including Grand Canyon National Park on the Colorado Plateau. Although no specific Regional Haze reduction measures are in effect in the proposed project area at this time, measures that reduce disturbance of PM also reduce Regional Haze. Refer to the following website: www.azdeq.gov/environ/air/haze/index.html.

Table 3.3-1, "Population Trends," contains population for Graham County, Safford, and Arizona, but the most recent data are for 2003. Population data, as well as economic conditions, could be updated using population projections from the following website: <http://www.workforceaz.gov/>. Refer to the enclosures.

Staff also noted the preliminary analysis of emissions, prepared by Kleinfelder dated October 30, 2007, that showed projected emissions from the use of diesel trucks (40 tanker and 40 freighter) traveling on the highway compared to locomotives traveling the round-trip per day of 187.5 miles on the railway. PM₁₀ emissions, for example, are projected at 4.04 tons per year (tpy), compared to 221.22 tpy using the heavy duty diesel trucks, representing more than a 98 percent reduction. However, volatile organic compounds, carbon monoxide, and nitrogen oxides would be expected to increase from the use of locomotives on the railway compared to emissions using a fleet of heavy duty diesel trucks.

Should you have further questions, please do not hesitate to call David Lillie, of the Planning Section Staff, at (602) 771-4461.

Very truly yours,

Diane L. Armit

Diane L. Armit, Manager
Air Quality Planning Section

Enclosure (3)

cc: Henry R. Darwin, EV Administrative Counsel
David H. Lillie, Economist
File No. 132184 (7/12/06)

Arizona Department of Environmental Quality
July 1, 2008 to July 1, 2008
By County, Census County, Decade, Place, and Reservation

	2000	2007	2008	2009	2010	2011	2012
Stratford County	16,071	16,127	16,186	16,244	16,302	16,360	16,418
Stratford County CDD	2,510	2,538	2,566	2,593	2,620	2,648	2,675
Stratford County CDD (part)	1,082	1,081	1,081	1,081	1,081	1,081	1,081
Remainder of Stratford County CDD	1,428	1,457	1,485	1,512	1,539	1,567	1,594
Price CDD	4,108	4,213	4,319	4,425	4,531	4,637	4,743
Price CDD	2,108	2,128	2,148	2,168	2,188	2,208	2,228
Remainder of Price CDD	2,000	2,085	2,171	2,257	2,343	2,429	2,515
Safford CDD	24,349	24,467	24,585	24,703	24,821	24,939	25,057
Safford CDD	9,287	9,413	9,539	9,665	9,791	9,917	10,043
Safford CDD (part)	1,688	1,637	1,577	1,517	1,457	1,397	1,337
Remainder of Safford CDD	7,599	7,776	7,962	8,148	8,334	8,520	8,706
San Carlos CDD	6,962	6,923	6,884	6,845	6,806	6,767	6,728
San Carlos CDD	892	882	872	862	852	842	832
Remainder of San Carlos CDD	6,070	6,041	6,012	5,983	5,957	5,923	5,896
Reservations	4,918	4,871	4,824	4,777	4,730	4,683	4,636
San Carlos (part)	4,918	4,871	4,824	4,777	4,730	4,683	4,636
Total Reservations	4,918	4,871	4,824	4,777	4,730	4,683	4,636
Total Nonattainment	11,588	11,813	12,038	12,263	12,488	12,713	12,938

Source: Arizona Department of Environmental Quality, Research Administration, Population Statistics and Census
Design: CDD Population Statistics approved June 8, 2007

E-Form Correspondence Information				Status
* Required Fields				Recorded by Diana Wood on 04/01/2008
*Docket #:	Michael Bryce	Affiliation:	34836	Local Interest
*Name of Sender:	Graham County	Letter Type:		
*Attention Of:	Diana Wood	NEPA Type:		
*Date Received:		In Public Docket?	No	
Date of Letter:	Graham County	Phone Number:	928-428-0410	
Group's Address:	921 Thatcher Blvd	Email Address:	mbryce@graham.az.gov	
Group's City:	Safford	Group's Zip Code:	85546	
Group's State:	AZ			

Submitter's Comments:
April 1, 2008

Comments regarding STB Finance Docket No. 34836

Graham County Board of Supervisors comment

1. Why is there no noise or vibration comment relative to Gene Robert Larson's residence adjacent to the route?

Graham County Engineer comments

Volume I

1. Page 4-19 Floodplain Impacts - Proposed Action
The report suggests a review of the construction documents by the County which it is true; however, the review will require a floodplain model for pre- and post- project conditions to verify the impact to the floodplain.

Volume II

1. Technical appendices should have an Index or Table of Contents to help locate information

2. Appendix B

Page 2 - Site and Project Description
"Turkey" Wash should probably be "Tailey" Wash

Page 10 - Railway crossing - same comment as above

3. The Preliminary Jurisdictional Delineation

Page 3 - The description of the southern alignment does not include any reference to the San Simon River floodplain designated by FEMA.

4. Appendix H - Hydrology Study

1. The FEMA Floodplain Map used has been superseded by a map effective September 28, 2007.

2. The Floodplain map showing the floodplain of the San Simon River should also be included because the railroad corridor passes through it.

3. The rail route should be on the floodplain maps superimposed, particularly for the San Simon and Gila Rivers.

4. The impact to the FEMA designated floodplains are minimized, but the true impact will require a hydraulic model of the Gila and San Simon River 100 year flood flows for pre- and post- project conditions.

Diana Wood
Section of Environmental Analysis
Surface Transportation Board
395 E. Street SW
Washington, DC 20423

March 31, 2008

Email: woodd@stb.dot.gov

Dear Ms Wood,

I have just become aware of a proposal to run a rail service to the new mining operation north of Safford. It is my understanding that the deadline for comments is today and that it may involve some property owned by City of Safford. I am an elected official on the Safford City Council and the council has not been made aware of any details concerning this proposed project.

I would like to request a 60 day extension to the comment period and would also appreciate any information you can provide me regarding it.

Thank you,

Ed Zappia
Safford City Council Member
2020 w. 18th St.
Safford, AZ 85546

928-428-0151 (H)

Diana Wood
Section of Environmental Analysis
Surface Transportation Board
Case Control Unit
395 E Street, SW
Washington, DC 20423

Re: STB Finance Docket No. 34836

Dear Ms. Wood,

We are lifelong farmers in the area that would be affected by the Arizona Eastern Railroad's new rail line. Our concerns with the proposed route are many, including flooding by the Gila and San Simon Rivers, crossing the state highway without an overpass bridge, traffic congestion because of the train crossing the highway and added noise in the area because of the train, to mention just a few.

Your document arrived at one of our busiest times of the year, as we are preparing to plant crops. We have not been able to completely read it and may need to seek legal advice to protect our interests in this matter. We are asking that you give an extension of the comment period for at least 60 days so that we may be better prepared to understand the impact the new railroad line may have on us. We are also reserving our rights to make future comments on the issue.

Thank you for your assistance

Sincerely,

[Signature]
Jimmy Kozak

ARIZONA DEPARTMENT OF TRANSPORTATION
STB DRAFT ENVIRONMENTAL ANALYSIS REVIEW COMMENTS

Project Name:	US 70 AZER Railroad Spur Crossing	Project No:	STB Finance Docket #34836
Reviewed By:	Paul R. David, Development Engineer	Discipline/Office:	Safford District Development

Item No	Reference	Comment	Disposition
1	SEA Cover Letter	Paragraph 4 - The SEA lists the relatively low number of existing and projected future vehicle trips and the low frequency and short duration of projected train trips as the criteria for warranting an at-grade crossing. As described this sounds very subjective. The warrant analysis criteria are not present in this EA nor have they been provided to the ADOT Safford District for review.	Initial Final
2	Executive Summary - 1	Paragraph 2 - Phelps Dodge has been purchased by the Freeport McMoan Gold & Copper Company. This change of ownership should be in the EA.	
3	Executive Summary - 1	Paragraph 3 - There is a desire by the City of Safford to construct an industrial park at the airport but there is no existing current demand or need. A front page news article in yesterday's local paper discussed placing a prison at the airport, not an industrial park.	
4	Executive Summary - 2	Paragraph 3 - The statement that the reduction or elimination of truck traffic to the mine as a result of the railroad spur is a spurious claim. The nearby Fiat Moronec Mine has an active rail spur yet still requires over half of their supplies to be delivered by trucks which travel along US 70.	
5	Executive Summary - 2	Paragraph 1 - The transport of copper anodes and sulfuric acid by the AZER to just one small component of the material transport required by the mine. The Fiat Moronec Mine has an active rail spur yet they continue to ship anodes and acid by truck on US 70.	
6	Page 3-2	Paragraph 4 - US 70 is correctly listed as a 2 lane highway within the project area. A construction project is scheduled for June of 2008 to increase this segment to 3 lanes as a result of increasing traffic volumes and concerns expressed by residents that a protected center turn lane be added.	
7	Page 3-11	Paragraph 6 - The AADT for 2005 was used by not 2006 data which shows an increase of 10% in traffic volume in one year.	
8	Page 3-13	The historical growth rate derived from linear interpolation is 1.55%. The growth rate falls for both 2006 and 2007. The impact on traffic by a rail crossing will be greater than the model predicts.	
9	Page 3-13	The existing and future traffic volume tables are missing the percentage of trucks, which is critical information. Many trucks and school buses are required by law to stop at railroad tracks. The trucks will create traffic impacts and some minor queuing even when trains are absent.	
10	Page 3-10	The delays of the railroad crossing on first responders and the is not addressed in this draft EA.	
11	Page 4-1	Paragraph 5 - Does the phrase "below the Gila River" refer to downstream or South of the Gila River?	

03/31/08
Page 2 of 2

12	Page 4-5	Unless the AZER is currently employing 0.5 - 1.0 person per lane mile of existing track the claim that 12 miles of track will provide 6 - 12 jobs is suspect. There is no footnote citing a source for this claim.	Disposition
13	Page 4-8	Paragraph 4 - Rather than include a generalization about fires on trains why not list the safety record for AZER. Within the last month a locomotive was destroyed by fire near Globe. Because of current track conditions and budgetary problems I believe that the AZER has a much higher incident rate than national and regional carriers. This accident rate should be listed and utilized when discussing the probability of spills, accidents and fires.	
14	Page 4-9	Paragraph 1 - The future configuration for US 70 which will begin design in 2010 is for a 5 lane section, not the listed 4 lane. This project is listed in the report as unfunded which is untrue. A costly and comprehensive Design Concept Review has been completed and funds for design have been allocated by the state. This project is not on the District's "wish list" but on our construction list.	
15	Page 4-10	Paragraph 4 - While LOS B & LOS C are acceptable for future (20 year) plans the degradation of LOS from A to B is a serious matter that should be mitigated. Small, medium and large developments are required by ADOT's Safford District to mitigate their capacity degradations with both safety and capacity improvements. Other than some federally mandated safety features at the crossing this Draft EA does not require any capacity improvements to be made by the AZER.	
16	Page 4-11	Paragraph 2 - Sight distance for AZER motor vehicles entering US 70 from the access roads is not addressed. These vehicles will be looking through crossing arm equipment and bridge barriers for crossing traffic. Using current standards these access roads would probably not receive an encroachment permit due to the crest vertical curve which is currently present.	
17	Page 4-19	Paragraph 4 - The SEA conclusion that the Proposed Action will have a minimal impact on natural drainage, sedimentation and erosion patterns does not address the flooding created by the upstream impoundment of water by the railroad bed. Why isn't flooding specifically discussed? There are no studies or sources cited in the very general conclusions of this paragraph.	
18	Page 6-1	The proposed traffic mitigation measures only cover construction and raising the at grade crossing to the level of the bridge deck. How about some meaningful mitigations such as an extra lane for trucks and buses which must stop at the tracks or incorporating the layout of the road to be constructed five lane configuration so that the crossing arms and other safety devices only have to be constructed once, not now and then later.	

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Diana Wood
Section of Environmental Analysis
Surface Transportation Board
Case Control Unit
395 E Street, SW
Washington, DC 20423

Re: STB Finance Docket No. 34836

Dear Ms. Wood,

I wish to voice my concern about the proposed railroad line to the new Safford mine. I own and lease farmland in the area of Highway 70 which would be most affected by the new line. I have many concerns about Arizona Eastern's proposal, including, but not limited to the following:

1. Flooding of the land that I farm because of the train's river crossing.
2. The number of acres that I farm being cut significantly by the train and its track.
3. The train crossing Highway 70 using an at-grade crossing.
4. My ability to drive my farm equipment down the highway, as I do now between fields, because of traffic congestion with the train stopping traffic to cross.
5. The devaluation of land prices because of a train by my property.
6. Capping of wells in the train easement area.

I have not had sufficient time to study the documents sent to me or to seek legal counsel, if necessary, so that I can completely understand the Draft EA and its full impact on my farming operation. I am also concerned that the Army Corps of Engineers should be consulted for any crossing in the Gila River. This letter will serve as my official response. I am requesting at least a 60 day extension of the comment period so that I can make a more educated assessment of the proposal.

Sincerely,

Dennis V. Palmer
Dennis V. Palmer
VIP Farms



James A. Palmer, Chairman
Mark C. Herrington, Member
Drew John, Member

GRAHAM COUNTY BOARD OF SUPERVISORS
991 THATCHER BOULEVARD - SAFFORD, ARIZONA 85546
PHONE: (928) 488-8830 - FAX: (928) 488-8881

TERRY COOPER, COUNTY MANAGER/CLERK

Diana Wood
Section of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: STB Finance Docket No. 34836

March 31, 2008

Dear Ms. Wood:

My name is James Palmer, and I am the chairman of the Graham County Board of Supervisors in Graham County Arizona. I am writing in regards to STB Finance Docket No. 34836, which is the proposed Arizona Eastern Railroad line that would extend from the current line to the new Freeport Copper & Gold Safford Mine site. I have been on record as supporting this railroad spur and I still do support the building of this spur to take a huge amount of truck traffic off of our state and local highways. I do however have several concerns that I would like to comment on concerning this project. From the beginning of this project, the railroad has been in communication with the property owners that the line would cross in order to get to the mine site, however when the plans were actually provided to one of the property owners, Mr. Claridge, they did not even resemble any of the conversations or agreements which is completely unnecessary for building this line. The right-of-way had grown to a width of 500 feet, that would have minimally impacted their property to one that in some instances completely rendered some parcels unusable. There are 5 irrigation wells in the proposed area, that it was agreed would still be accessible and usable by the owner and now they are shown to be capped by the railroad. We live in a desert river valley, and water is the life blood of our farms and our communities, and capping wells is not an acceptable solution. As I mentioned, while I do support building this rail line, I want the railroad to get back to the table with the property owner and work out a route and a solution to the concerns of the property owner that will be beneficial to both the railroad and the property owner. This land has been in this family for many generations, and in the more than 100 years that they have worked this land, they have gained an understanding of the two rivers that affect the railroad and how they can best be negotiated in a way that would benefit all parties involved. If this is done the environmental impacts of crossing and running next to these rivers would be minimal and all could benefit. Please consider these comments and send the parties to the negotiating table to work out equitable solutions to these issues. Thank you for your consideration in this matter.

Sincerely,

James A. Palmer
James A. Palmer
Chairman
Graham County Board of Supervisors

Diana Wood
Section of Environmental Analysis
Surface Transportation Board
Case Control Unit
395 E Street, SW
Washington, DC 20423

RE: STB Finance Docket No. 34836

Dear Ms. Wood,

My name is Gene Robert Larson and I live north and west of the newly proposed railroad line. I have lived in this area all my life and am very unhappy about how I will be affected by the new line.

I am concerned about stopping traffic on the highway for a train to cross at-grade. I can see that this will cause serious traffic issues not only for general traffic, but for school buses, emergency vehicles and trucks hauling hazardous materials. I live close enough to the proposed new line that traffic would be backed up to my driveway, which causes me to be concerned about such things as ingress and egress to my property and possibilities of vandalism and theft because people have time to sit and look things over on my land.

I am also concerned about the noise of the train and what will happen to the value of my land and others around me because of the train going through. My son lives in my father's house, which is over 100 years old. What will the vibration of a train do to this historic structure which has been in my family for so many years?

I worry about flooding caused by the river when a bridge goes across it. Is the railroad concerned with protecting people who live in the area from flooding? I know that things change and progress happens. But I want the railroad to know that I have many reasons not to want the train in that area. I have been told that there is a comment period that ends today, March 31, 2008. I would ask that the comment period be extended by 60 days so that we, as residents, can better respond.

Sincerely,

Gene Robert Larson
Gene Robert Larson



April 28, 2008

Environmental Assessments
Surface Transportation Board
395 East Street SW
Washington DC 20423

Subject: Arizona Eastern Railway Safford Branch Project alignment, which includes a crossing of the Gila River near the San Simon Wash in Graham County, Arizona. Comments on behalf of Chris Clardge

Attention Diana Wood

Having studied the documents provided and having assisted with design for structures in the Gila River nearby, I have several concerns. From my experience with the 1979 and 1983 floods on the Gila River, large trees and even telephone poles lodged against the bridge piers and caused backwater effect, which in turn caused the river to flow into the fields to the south. The bridge that caused backwater was removed. Now a railroad bridge is being proposed near the same area. With the fifteen proposed bridge piers, trees and other debris could cause a backwater effect that will likely cause flooding of the fields and homes to the south. The cost of the flooding could be considerable. Therefore it is my recommendation that the bridge be put in a wider area of the river, such as one mile to the west where the river is wider and has more capacity (see figure on the following page) or make sure the piers are designed farther apart to avoid collecting debris and raising the flood elevation even in the wider area of the river.

The grade of the railroad trackbed south of the Gila River also gives us concern that should the Gila River come out of its banks and go across the fields, the railroad trackbed might contribute to drainage problems. Therefore, the grade of the trackbed must be reviewed to determine any detrimental floodwater effects to the farms.

The report also mentions that wells that would be in the 500 foot corridor will be capped according to the standards of the Arizona Department of Environmental Quality. Capping the water production wells of the farms would render the farms useless since the irrigation water is provided by the wells. It is not a simple task to drill wells in new locations because the aquifer is not homogeneous. Therefore drilling a well nearby may not yield as much water supply and the water quality could be different. The wells need to be studied to determine if any can be capped. New wells will need to be drilled and in production before the other wells can be capped and abandoned.

The farming operations will be impacted by the alignment of the railroad. Currently the proposed railroad track will divide the farm and cause a portion of the field to be less than 35 acres. This small piece of farm will need to have new concrete delivery ditches installed. It makes it difficult to bring equipment in to work the field and causes more land to be in turnarounds and borders, so net farming area will be lost (see sheet 3). This creates a hardship on the farmer and loss of revenues.

I appreciate this opportunity to comment on Arizona Eastern Railway Safford Branch Project. Should you have any question, please feel free to call me (520-797-3235).

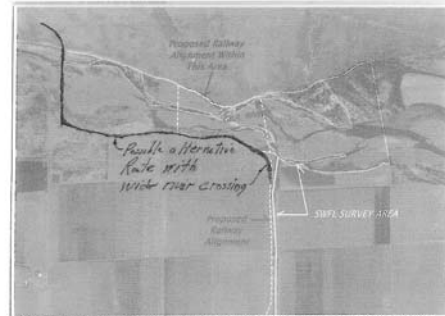
Sincerely,


Scott Marvin Larson



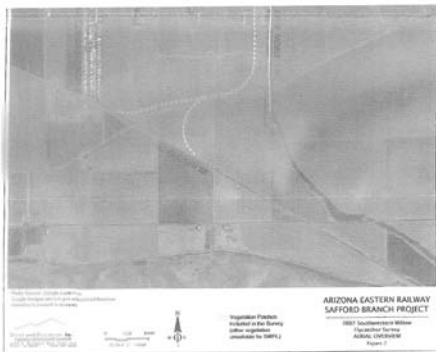
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Suggested possible route. (Base map from Arizona Eastern Railway Safford Branch Project report)

- 2 -



Problem of tract splitting field. (Base map from Arizona Eastern Railway Safford Branch Project report)

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Surface Transportation 8

09:17:25 a.m. 03-18-2008

2 / 6



Benjamin H. Nuvamsa

Chairman

Todd Honyama, Sr.

Vice Chairman

#E1-6768
FD 34836

March 6, 2008

Diana Wood, Section of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: 97th Finance Docket No. 34836

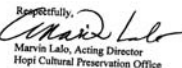
Dear Ms. Wood,

This letter is in response to the correspondence from Victoria Ruston dated February 25, 2008, regarding an enclosed draft Environmental Assessment for a proposed 12.1 mile rail line from Phelps Dodge's proposed San Juan mining operation to an existing Arizona Eastern Railway line. Because the Hopi Tribe claims cultural affiliation to prehistoric cultural groups in Arizona, and the Hopi Cultural Preservation Office supports the identification and avoidance of prehistoric archaeological sites and Traditional Cultural Properties, we appreciate your solicitation of our input and efforts to address our concerns.

The Hopi Cultural Preservation Office understands four prehistoric sites have been identified in the project area, one of which is recommended as National Register eligible. Page 3-20 states that the recommended treatment for indistinguishable site AZ CC:2370 (ASM), described as an artifact scatter with rock features, is "archaeological testing of possible grave," while page 4-18 states "The Proposed Action would have no adverse effect on this site."

Therefore, we have determined that this proposal may adversely affect cultural resources significant to the Hopi Tribe. If archaeological testing is proposed at site AZ CC:2370 (ASM), please provide us with copies of the draft testing plan and the draft testing report for review and comment.

If you have any questions or need additional information, please contact Terry Morgart at the Hopi Cultural Preservation Office at tmorgart@hopi.nsn.us or 928-734-3619. Thank you again for your consideration.

Respectfully,

Marvin Lajo, Acting Director
Hopi Cultural Preservation Office

cc: Arizona State Historic Preservation Office

- 3 -

TABLE 1. Components of Population Change

Graham County Population Projections 2004 - 2008

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	2977	2978	2979	2980	2981	2982	2983	2984	2985	2986	2987	2988	2989	2990	2991	2992	2993	2994	2995	2996	2997	2998	2999	3000	3001	3002	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March 31, 2008

**VIA CERTIFIED MAIL,
RETURN RECEIPT REQUESTED
VIA FACSIMILE**Ms. Diana F. Wood
Surface Transportation Board
Case Control Unit
395 F Street SW
Washington, DC 20423

Re: STB Finance Docket No. 34836

Dear Ms. Wood:

This firm represents Chris and Debbie Claridge, who own approximately 1300 acres in and around the project study area identified in the "Draft Environmental Assessment for the Arizona Eastern Railway ("AZER") - Construction and Operation - in Graham County, Arizona" (the "Draft EA") prepared by the Surface Transportation Board's ("STB") Section of Environmental Analysis ("SEA").

The Claridge family has owned, operated and lived on this land for more than a century. The Claridges wish to make clear that they do not stand in opposition to the development of the Safford area nor necessarily to the concept of the rail line. The Claridges do have concerns about the process as it has been conducted to date and the chosen alternative. The Claridges believe that further evaluation of reasonable alternatives and the impacts of these alternatives is necessary to ensure the best future for Arizona, Graham County, Safford and the families who have lived in the area for decades. We reviewed the Draft EA and the attachments thereto with the Claridge family. The following comments to the Draft EA are submitted on behalf of the Claridge family:

1. The comment period should be extended.

As stated in our March 24, 2008, correspondence to you, the Claridges requested a 60-day extension to the comment period to allow the Claridges and others more time to review the complex and lengthy (several hundred pages long) Draft EA and to assess the potential impacts to the Claridges, who are significant owners of land in the project study area. We received the Draft EA on March 19, 2008, leaving just eight business days for review and preparation of comments.

Given the size and complexity of the Proposed Action (as defined in Section 1.5 of the Draft EA) and the potentially significant impacts of this Proposed Action on the current and planned uses of the Claridges' property, a 60-day extension is warranted and appropriate in this matter. The Claridges have informed us that numerous other interested parties only recently became aware of the Draft EA and have not had the opportunity to review and comment on it.

In addition, an extension will allow all commenters the opportunity to provide comments that are targeted, specific, and meaningful to assist the SEA and the STB in reviewing the Proposed Action and its evaluation of whether an EIS is in fact required.

2. Environmental impacts associated with Airport development must be considered so long as the Airport is a critical component of the purpose and need for the Proposed Action.

According to the Draft EA, this Proposed Action is needed to provide the Dos Pobres Mine and the Safford Regional Airport with an alternative to truck shipment of materials. ES-1; 1-3. The Draft EA eliminated alternatives to the chosen rail line path because those alternatives did "not meet the objective of proximity to Safford Municipal Airport, such that the proposed rail line could someday serve a business park adjacent to the Airport." 2-13. Further, the EA process failed to consider alternatives that would result in a shorter, more direct route between the existing mainline and proposed terminus at the mine. For example, a route interconnecting with the railroad approximately 2 miles west of the route selected in the Proposed Action would result in a much shorter route and reduced impact to existing agricultural lands. In addition, the Draft EA focuses on beneficial impacts associated with the Proposed Action without considering detrimental impacts.

Despite reliance on the Airport connection as a reason for the Proposed Action, the Draft EA does not take into account any environmental impacts associated with service to the Airport area "because business park development details are unknown at this time." ES-2; see also, 2-4 ("Due to the uncertainty of the development of this business park area, this EA contemplates neither rail spurs nor separate rail trips associated with the potential business park."). The Draft EA must either analyze providing rail service to the Airport area in its entirety, evaluating beneficial and detrimental impacts, or the Airport rail service should not be considered at all in citing the line and certainly should not be a determining factor in locating the line.

Under 40 CFR §§ 1508.7 and 1508.8, direct and indirect effects and cumulative impacts, both beneficial and negative, associated with the Airport development must be considered in the EA or the EA must delete the Airport from the purpose and need for the Proposed Action. By only identifying potential beneficial impacts, ignoring potential negative impacts and disregarding reasonable alternatives, the Draft EA is an inaccurate and incomplete picture of the Proposed Action and fails to achieve its statutory and regulatory mandate.

3. Additional alternatives should be considered.

As noted in Section 2, the EA process failed to consider any alternatives that would result in a shorter, more direct route between the existing mainline and proposed terminus at the mine. A more direct route should be considered, particularly in light of the uncertainty of future Airport development. This direct alternative could be designed to allow a spur to the Airport if and when that development materializes.

Additionally, other alternatives should be considered south of the Gila River to minimize burdens on private landowners. In the Draft EA, the only alignment considered south of the Gila River (Action Alternative and Alternative B) bisects multiple parcels owned by the Claridges.

4. 49 CFR §1105.6 presumes that an EIS will be prepared for new rail lines.

Under 49 CFR §1105.6, an environmental impact statement generally is required for rail construction proposals unless they involve: (1) construction of a connecting track on **existing right of way or property owned by the connecting railroads**; (2) abandonment of a rail line; (3) discontinuance of passenger train or freight service; or (4) an acquisition, lease or operation under 49 USC §§ 10901 or 10910. None of these exceptions is present, and no justification exists for not performing an EIS. By not doing so, SEA is recommending that the STB ignore its own regulations.

Other than generalized comments found on Page ES-7, the main text of the Draft EA is silent on the reasons for failing to follow this regulatory mandate and provides no justification or explanation for preparing an EA rather than an EIS. This is particularly inappropriate given that: (1) the Draft EA acknowledges that the Proposed Action will have adverse effects (See, e.g., 4-18); (2) the Draft EA does not consider all the possible impacts of the Proposed Action (See Sections 2, 5 and 7 of this letter) and (3) the Draft EA does not include all the necessary cooperating agencies (See, Section 6 of this letter).

A. The stated reasons for not preparing an EIS are inadequate.

The claimed justification is found in Appendix I, in a letter from SEA to the Office of Railroad Development. In that letter, SEA asserts:

The potential environmental effects of the proposed construction and operation are likely to be minimal because the rail line would be located primarily on land owned by Phelps Dodge, only one highway would be crossed only one waterway would be crossed, and any potentially adverse environmental impacts could be mitigated.

This statement is conclusory and lacks technical or legal support. An EIS is required for "major Federal actions significantly affecting the quality of the human environment." 42 USC § 4332(2)(C). Under the Council on Environmental Quality's ("CEQ") National Environmental Policy Act ("NEPA") regulations:

Significance varies with the setting of the Proposed Action. For instance, in the case of a site-specific action significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant. 40 CFR § 1508.27(a).

With respect to the setting of this Proposed Action, the impacts are significant. First, while the Draft EA fails to identify how much of the Proposed Action is on private land held by third parties, it does note that farmland impacts to third parties such as the Claridges will exceed the impacts to farmland owned by Phelps Dodge. This in itself is significant and warrants more in-depth review. Second, while only one highway will be crossed, it is the **only** major east-west state highway providing access between significant communities in this part of the state. It is a significant transportation artery for both commercial and personal travel in Safford and the traffic is anticipated to increase significantly due to proposed future development. This also warrants more in-depth review and scrutiny. And finally, while only one waterway will be crossed, that waterway is the Gila River. In this area the Gila is a perennial waterway, a rarity in the arid Southwest. The proposed crossing is a significant one, 1600 feet long, requires a cut of 48 feet (the size of a 5 story building) and 44 feet of fill. The construction will require over 15 concrete pillars to a depth up to 115 feet - in the riverbed. This is no small project. Further, there appears to have been no consideration of a previous bridge washout at this location or any analysis of why that bridge was not rebuilt. The potential for flooding was given little consideration, but it is an issue of primary concern to neighboring landowners.

B. An EIS is typically prepared for similar projects.

A brief review of Environmental Matters on the STB website reveals a number of rail construction projects similar in scope to the Proposed Action for which STB required an EIS, including, but not limited to, the following:

- Alaska Railroad - Port MacKenzie Rail Extension: 30 to 45 miles of new rail construction with one round trip per day.
- Southwest Gulf Railroad: Seven miles of new rail construction with two round trips per day.
- Bayport Loop: 12.8 miles of new rail construction with one round trip per day.

The Proposed Action will have a similar length to two of the above-noted projects and will have similar usage to all three. In addition, the Proposed Action will cross the **only** east-west highway in the area, will cross the **one** perennial river in the region, and will carry substances potentially

harmful to the public and the environment if spilled. As a result, the Proposed Action requires the in-depth analysis afforded by the EIS process.

5. Because this Proposed Action is related to the Dos Pobres/San Juan Project, NEPA requires that all impacts be considered.

Because the primary purpose and need for the Proposed Action is to serve the Dos Pobres/San Juan Project, the two projects are connected actions. Accordingly, they should be discussed in the same environmental impact statement under 40 CFR §1508.25(a)(1) to provide a complete and accurate picture of the impacts of this Proposed Action.

The Draft EA considers only incremental impacts to resources such as land use, visual resources, traffic, noise, air, etc., rather than comparing current conditions resulting from truck traffic with other impacts that could occur as a result of these connected actions.

This is an inadequate assessment of the Proposed Action's true impacts. For example, even though the Proposed Action will result in 163 tons per year of NO_x, the Draft EA asserts this is not significant when compared to truck traffic and therefore no mitigation is necessary. However, no detailed analysis is provided to support this conclusion. The proper comparison should include the Proposed Action, other rail line paths, a truck alternative, and other alternatives.

Additionally, the indirect effects and cumulative impacts of the Mine should be addressed in this Draft EA under 40 CFR §§ 1508.7 and 1508.8.

6. The U.S. Army Corps of Engineers should be a cooperating agency.

The Draft EA implies that a Nationwide Permit may be available to authorize construction of the 1600 foot bridge crossing the Gila River. That is highly unlikely. Nationwide Permit #14 authorizes linear transportation projects that cause loss of no more than ½ acre of waters of the United States. The Draft EA states that there are approximately 9.7 acres of perennial waters associated with the Gila River crossing. 3-36.

Additionally, the proposed bridge is a massive structure. According to the Bridge Design report found in Appendix D to Appendix E, the bridge will have abutment pillar depths of 60 feet to 115 feet, will use 15 piers that vary in height from 20 feet to 61 feet, and will require a 30 to 40 foot wide access road within the Gila River during construction. According to the Draft EA, "extensive grading is anticipated" at the Gila River crossing. 2-6. This includes cuts up to 48 feet deep and fills up to 44 feet high. 2-7. These distances are the equivalent to the height of a four to five story building.

FOIA(b)(1)

Accordingly, SEA must identify what circumstances justify a Nationwide Permit or must include the U.S. Army Corps of Engineers in the current environmental review process. Combining the review processes into one process rather than having multiple federal agencies conduct multiple reviews will save both the federal government and affected stakeholders time and resources and will allow for a comprehensive review of the Proposed Action.

7. The analyses of resource impacts are conclusory and inadequate.

The analysis of impacts to land use, biological resources, cultural resources, air quality, water quality, visual resources, and noise do not meet the requirements of STB's own regulations under 49 CFR §§ 1105.1 to 1105.12, the CEQ's regulations under 40 CFR §§ 1500.1 to 1508.28, or the statutory framework under 42 U.S.C. §§ 4321 to 4379(f). Time limitations preclude our preparing a comprehensive list of concerns. However, even our abbreviated review supports the conclusion that an EIS is required to provide the necessary hard look at environmental impacts. Examples of the concerns include the following:

A. The Draft EA fails to consider impacts associated with increased rail traffic on the mainline.

According to the Draft EA, the increased traffic on AZER's mainline falls below the threshold for analysis under 49 CFR §1105.7(e)(5)(i)(A). This statement is legally incorrect and lacks factual support.

Section 1105.7(e)(5)(i)(A) applies to air quality analyses only. It does not establish a threshold for analysis for other environmental resources. Accordingly, under 49 CFR § 1105.7 and the CEQ's regulations, SEA should have considered impacts associated with increased traffic on AZER's mainline.

Additionally, as a factual matter, the Draft EA must quantify the rail traffic anticipated with the Airport development or remove it as a purpose and need for the Proposed Action. Without quantification of Airport traffic, SEA cannot determine whether the thresholds for air quality analysis in Section 1105.7(e)(5)(i)(A) have been met.

B. The Draft EA does not sufficiently analyze the Proposed Action's impacts to land use on private lands.

In Graham County, only 7% of land is held in private ownership. The Graham County Comprehensive Plan requires an evaluation of all new projects to determine the impact on private landowners.

FOIA(b)(1)

However, the Draft EA contains only a cursory analysis of existing private land uses and provides no analysis of future land uses, other than identifying potential beneficial impacts associated with the undefined, unanalyzed Airport development.

The Airport is not the only entity planning for the future. Private landowners are doing the same, and the Draft EA should consider the impact of this Proposed Action on current and future land uses. For example, the Claridges plan to develop their properties that front Highway 70 with commercial and industrial development and accordingly have begun the entitlement process with Graham County to effect these developments. The Proposed Action will place half of the rail construction staging areas on the Claridges' land and will sever some of the Claridges' properties from access to the highway. An analysis of the environmental consequences of the project cannot be complete without consideration or mention of such significant impacts.

C. The discussion of the mitigation measures to address flooding on the Gila River is cursory and wholly inadequate.

The Draft EA notes that the Gila has the potential for large and violent floods. 3-23. It also notes that the Proposed Action will cross a 1.5 mile wide section of designated Zone A floodplain. 4-19. It even admits that the Proposed Action may alter natural drainage patterns. *Id.*

Yet, the only mitigation measure proposed in the Draft EA is the Graham County floodplain permitting process. This is not a mitigation measure but an applicable requirement of another jurisdiction. This so-called mitigation will further destroy the ability to use land held in private ownership by making more of it floodplain. As noted in the Draft EA, the purpose of the county permitting process is not to impose environmental mitigation measures, but to make sure that construction activities do not divert or alter flows in a way that would harm public health and safety. 4-19. As a result, the county permitting process cannot be relied on to meet the NEPA obligation to identify impacts to various environmental resources and identify mitigation measures to reduce those impacts. In fact, the proposed "mitigation" does **nothing** to reduce impacts, but merely strives to legalize them.

There are many potential impacts associated with flooding that need to be addressed, including but not limited to, the following:

- Bridges on the Gila in this immediate region have washed out in the past. What mitigation measures can be adopted to ensure that will not occur with this bridge?
- Were adequate hydrological and engineering studies performed in designing and locating the bridge structure?
- Significant construction activities will occur within the Gila River riverbed and floodplain. What mitigation measures can be adopted to reduce the threat to the Proposed Action and surrounding properties as a result of potential flooding during construction and operation of the Proposed Action?

FOIA(b)(1)

- The Draft EA notes historic dumping along the river (3-32), including possible hazardous waste. What effect will bridge construction and operation have on these areas? What mitigation measures can be adopted to reduce potential impacts?

An EIS is required to provide a complete review and discussion of the potential for flooding and the impact of this flooding on surrounding properties as a result of bridge construction. With only an EA, the environmental consequences of the Proposed Action cannot be fully analyzed.

D. More analysis of hydrologic impacts is necessary.

In addition to the concerns with Gila River flooding, there are other hydrological concerns that should be addressed as part of this process, including, but not limited to, the following:

- How will bridge construction and operation affect streamflow in this perennial stretch of the Gila River?
- The underground supports for the bridge will be substantial. How will bridge foundation construction and operation affect subflow in the Gila River? The issue of subflow has been the subject of over 70 years of litigation in the state of Arizona.
- Many landowners rely on groundwater wells for residential and agricultural needs. What effect will the Proposed Action have on groundwater?
- How will the Proposed Action affect property on the east and west banks of the San Simon River?

E. The discussion of visual resources is conclusory and wholly subjective.

According to the Draft EA, visual impacts would be minimal and no mitigation would be required because impacts "would be borne primarily by the private property owner." 4-15. This is a technically insufficient analysis of visual impacts and an unlawful justification for failing to require mitigation.

A visual resources analysis requires objective consideration of the number and type of observers (including private landowners) and the effects of the Proposed Action. Because the visual resources discussion in the Draft EA lacks any scientific basis, STB should use a standard visual resources analysis tool such as BLM's Visual Resources Management System to objectively assess the impacts of the Proposed Action and all the alternatives.

The railroad bridge provides a good example of why an objective assessment is needed. This massive structure will be 1600 feet in length, with 15 piers varying in height from 20 feet to 61 feet, and will require cuts and fills in excess of 40 feet. Given its great size and location near the highway, it will be readily observable to numerous viewers. However, even if the number of observers were small, the contrast of this large structure with the surrounding natural scenery

FOIA(b)(1)

will be strong, and the resulting impact on these observers will be significant, particularly in light of the fact that the Draft EA requires no mitigation to this visual impact.

F. The Draft EA provides no analysis of safety impacts and only a cursory analysis of traffic impacts.

Under 49 CFR §1105.7(c)(7), the environmental analysis must consider fully the effects of the proposed action on public health and safety. The Draft EA fails to do so in multiple respects, including the following.

The traffic analysis is incomplete and unclear. For example, it fails to explain why the Safford projected growth rate is 2.5%, but the traffic growth rate is only 1.85%.

The stated impact also is misleading. According to the Draft EA, the average delay per vehicle would only be 18-19 seconds. 4-9. However, Appendix F notes that the train itself will cause a maximum 163 second delay. The Draft EA does not explain this internal inconsistency. More importantly, the Draft EA fails to analyze or address a three-minute delay on first responders. Will they have alternative routes? How long will they be delayed? Is such a delay life threatening in a medical emergency? These are significant health and safety concerns that reinforce the need for a full EIS analysis of the Proposed Action.

Another concern is that the Draft EA does not consider the eventuality that a train will block the crossing for an extended period of time. This is the only major east-west state transportation artery in the region, the only route between many communities in this rural region of Arizona, and the principal route for commercial and personal transportation in the area. What alternative routes are available to detour traffic? What effect will that traffic have on the surrounding areas? A major blockage with associated traffic delays could have significant financial impacts on the region.

The Arizona Department of Transportation recommended a bridge or underpass for the Highway Crossing. The Draft EA overrules the state agency charged with transportation planning and safety, but does not fully document the reasons for doing so. At a minimum, this requires a comparison of the environmental impacts of the various alternatives, which is properly performed through the EIS process.

The Draft EA asserts that the rail line will result in a reduced potential for accidents when compared to truck traffic. (4-24). This is not a valid or accurate comparison, because there is no analysis in the Draft EA of the current truck traffic associated with the Mine. The proper comparison must include a detailed analysis of the current conditions, travel by truck, travel by rail, and other reasonable alternatives.

FOUR-1

Even if the potential for accidents would be reduced when compared to truck transport, what are the relative impacts and consequences of a train accident or a truck accident? What are the consequences of one or more rail cars of sulfuric acid or copper concentrate derailling, perhaps into a flowing Gila River? The Draft EA does not fully identify and quantify the impacts to land air quality, water quality, and other resources that would occur in the event of such an accident.

Conclusion

On behalf of our clients, we appreciate the opportunity to comment on the Draft EA. We trust that you will review these comments in light of the short time frame available to prepare this response. The concerns expressed herein are weighty. The Proposed Action is significant. This project and the community it will impact deserve the full review afforded by an EIS.

We look forward to working with you and the other impacted parties to ensure the best possible future for this important region of our State. We request that you notify us when a new environmental review document is available for review.

Very truly yours,


Carla Luster

CC:rb
cc: Graham County Board of Supervisors

FIVE-1

March 31, 2008

Diana Wood
Section of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423

RE: Draft Environmental Assessment; STB Finance Docket No. 34836
Arizona Eastern Railway - Construction and Operation- In Graham County, Arizona

Dear Ms. Wood,

On behalf of the City of Safford, it's my pleasure to offer the following comments to the above referenced environmental assessment.

1. You have referenced the City of Safford's Airport Master Plan in the document. Please be aware that the City of Safford is updating the 2000 Master Plan Document. Based on the update, the City of Safford is planning on extending runway 12/30 from its current length of 6,000 feet to 8,000 feet within the next twenty (20) years. The runway extension will be to the northwest, very close to the proposed alignment of the new railroad spur. We request that you consider planning the future alignment with our staff and airport engineer to ensure that the proposed railroad spur will not conflict with our proposed runway extension.
2. The proposed alignment for the railroad spur appears to cross property owned by the City of Safford just west of the Safford Regional Airport. We propose that you discuss this alignment with our staff in detail during the design process.
3. It appears that the proposed railroad spur is planned for construction just east of the Dry Lake Park. Again, we ask that during planning for the alignment, you work closely with our staff to mitigate any concerns or impacts to the Dry Lake Park.

If you have any questions, please contact me at (928) 432-4171.

Sincerely yours,

Robert L. Porter
Special Projects Manager

Copy to: Huey P. Long, Pete Stasiak, Randy Petty, and Georgia Luster

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March 31, 2008

BY EMAIL

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
395 E Street, SW - Room 1106
Washington, DC 20423-0001
Attn: Ms. Diana Wood

RE: STB Finance Docket No. 34836, Arizona Eastern
Railway, Inc., Construction of a Line of Railroad
in Graham County, AZ, Petition for Exemption

Environmental comments

Dear Ms. Rutson:

I am writing on behalf of the Arizona Eastern Railway, Inc. ("AZER"), petition in above-captioned railroad construction proceeding.

AZER's review of the Draft Environmental Assessment ("EA") served by the Board on February 25, 2008, disclosed the following language at page 6-2 of the EA:

"2.2 Construction of at-grade grade crossings are Subject to the review and approval of the Arizona Corporation Commission."

AZER is pleased to work with Arizona agencies including its Corporation Commission in a cooperative manner towards the common good. However, AZER believes that this language could be interpreted as giving the Corporation Commission a veto over the line construction, an interpretation that is both improper and preempted by federal law. We believe that a better statement would be for the SEA to provide that the construction of at-grade road crossings is subject to the reasonable review [emphasis supplied] of the Arizona Corporation Commission.

www.heffnerlaw.com

jheffner@verizon.net

AZER appreciates the opportunity to make its views known.

Sincerely yours,

John D. Heffner

Cc: Ms. Diana Wood
Mr. Jeff Barker
Ed Ellis

COMMISSIONERS
MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HABIB MILLER
KRISTIN K. MAYES
GARY PIERCE



ARIZONA CORPORATION COMMISSION

BRIAN C. MUMEL
Executive Director

April 29, 2008

Diana F. Wood
Section of Environmental Analysis
Surface Transportation Board
395 E Street S.W. 11th Floor
Washington, D.C. 20423

RE: Draft Environmental Assessment, STB Finance Docket No. 34836
Arizona Eastern Railway- Construction and Operation in Graham County, Arizona

Dear Ms. Wood:

The Arizona Corporation Commission (Commission) is the state agency that has jurisdiction over the safety of public crossings by railroads. Arizona Revised Statutes, Section 40-337 gives the Commission authority to approve any modifications to existing crossings or construction of new railroad/highway crossings in Arizona. Further, Commission Safety Division Staff (Staff) is trained and certified by the Federal Railroad Administration (FRA) to inspect all Arizona crossings for compliance with safety requirements. Through an interagency agreement between the Commission and the FRA, Staff inspects track, locomotives/railcars, operating practices, signal/train control devices and the transportation of hazardous material by rail.

Based on our review of the Draft Environmental Assessment referenced above, it is the understanding of Staff that the Arizona Eastern Railway's (AERR) planned construction in Graham County, Arizona includes a new, at-grade crossing over U.S. Highway 70 near Solomon, Arizona. This crossing would be subject to Commission approval.

While the majority of the Draft Environmental Assessment involves environmental factors outside of the Commission's jurisdiction, we do find that a portion of the report relates to traffic and safety. Specifically, we note that the STB Section of Environmental Analysis (SEA) recommends an at-grade crossing where the new spur line will intersect with U.S. Highway 70.

Staff is unable to comment at this early stage as to whether we agree or disagree with the SEA's recommendation. The Commission's application process will include requests for traffic and train data from both the AERR and the road authority (Arizona Department of Transportation). Data will be utilized in analyzing safety measures necessary at this crossing. Any Staff recommendations will be delineated in a staff report and discussed in a hearing before a Commission Administrative Law Judge. Staff recommendations for this crossing, including the need for a grade-separated crossing, will ultimately be determined by a vote of the five elected Commissioners in an Open Meeting of the Commission.

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WWW.AZCC.GOV

April 29, 2008
Ms. Diana F. Wood
Page 2

We appreciate the opportunity to provide comment and clarification of the role we will play as this process unfolds.

Sincerely,

Mike Gleason, Chairman

William A. Mundell, Commissioner

Kristin K. Mayes, Commissioner

Jeff Habib Miller, Commissioner

Gary Pierce, Commissioner

2025493000

Surface Transportation B

04/31/08 p.m. 04-03-2008

2/2



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#E1-7037
Daw
FD-34736

March 25, 2008

Diana Wood
Section of Environmental Analysis
Surface Transportation Board
395 E. Street SW
Washington, DC 20423

Re: Draft Environmental Assessment
Arizona Eastern Railway
Date February 25, 2008

The Arizona Game and Fish Department (Department) has received and reviewed the above referenced Draft EA. The Department has two comments to make in reference to the draft.

1. On page 3-37 you reference surveys conducted within the project area, but you do not reference the protocol used in those surveys. It is important for us to understand which protocols were used before we could concur with your findings.
2. On page 6-8 you refer to "...all measures required by the U.S. Fish and Wildlife Service....". We would like to be informed of those measures, and kept apprized of the progress made in meeting those requirements.

The Department appreciates the opportunity to provide and evaluation of impacts to wildlife or wildlife habitats associated with the project activities. If you have any questions regarding this letter, please contact me at (623) 236-7513.

Sincerely,
Daniel E. Nelson
Daniel E. Nelson
Project Evaluation Specialist

cc: Joan Scott, Habitat Program Manager, Region V
Laura Canaca, Project Evaluation Program Supervisor

AGFD # M06-0801326



Arizona Department of Transportation

Utility & Railroad Engineering Section
205 S. 17th Ave. Mail Drop 618E Phoenix, Arizona 85007
Phone 602.712.6193 Fax 602.712.3229

Janet Napolitano
Governor

Victor M. Mendez
Director

Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
% Diana Wood
Case Control Unit
395 E Street, SW
Washington, DC 20423

Re: STB Docket No. 34836 – Draft Environmental Assessment – Arizona Eastern Railway – Construction and Operation – In Graham County, Arizona

Dear Mrs. Rutson,

On behalf of the ADOT Utility & Railroad Engineering Section and Environmental Planning Sections, I would like to offer the following comments on the Draft Environmental Assessment. ADOT appreciates being able to discuss this application with Mrs. Diana Wood on April 10th, 2008 and for the 30 day extension to the comment period.

The February 25, 2008 draft Environmental Assessment (EA) analyzed an at-grade signalized crossing of a two-lane rural highway for an area of modest population growth. Other foreseeable alternatives suggested by the Arizona Department of Transportation (ADOT) were not discussed or analyzed. This is contrary to the June 13, 2006 Scoping Letter sent by the Surface Transportation Board (STB) to interested parties.

A two-page transmittal letter to the readers of the draft EA speaks to a scoping process and analysis to date by the Surface Transportation Board's Section of Environmental Analysis (SEA). This resulted in a SEA conclusion that "did not appear to warrant grade-separation." We could not find this SEA analysis in the documents provided to ADOT.

The Arizona Department of Transportation (ADOT) has been actively engaged for several years with various alternatives to accommodate the proposed crossing of US Highway 70 near milepost 343, west of the San Simon River by the Arizona Eastern Rail Road (AERR), a privately operated railroad company.

In August of 2006 three basic alternatives discussed with the railroad were:

- 1) Allow AERR to construct an at-grade crossing on US 70.
- 2) Have ADOT construct a grade-separated structure over the new spur (and perhaps the San Simon River) as part of our future five-lane widening project. AERR would pay all costs for this overpass.
- 3) Allow AERR to construct a grade-separated structure over US 70 with sufficient clearance to allow the highway to be widened in the future.

Sincerely,

Robert H. Travis, P.E.
State Railroad Liaison
Arizona Department of Transportation
rtravis@azdot.gov

Richard Travis
Deputy Director

5-1-2008

A December 15, 2006 email from Michael Dasher of the ADOT Environmental Planning Group asked John Cook, the preparer of the environmental document for SEA, for Mr. Dasher to be specifically included on the distribution list for the EA for the Arizona Eastern Railroad, and inquired about public meetings held or being planned.

"Have you have (sic) any public meetings and/or when is the next one planned? ADOT Environmental Planning Group would like to be invited to all meeting and have the opportunity to comment on all documents."

There is currently an active ADOT project for a proposed grade separated railroad spur crossing of the US 70 west of San Simon River Bridge at Milepost 343.4 (ADOT Project Number 70 GH 343 H7305 S10, AERR Spur Crossing). An Initial Feasibility Study Report for this project was issued in September 2007. The feasibility study addresses design alternatives for a project approximately one mile in length. At this point, a design option has yet to be determined, or a construction footprint finalized.

There is also an active ADOT project for shoulder widening, re-striping for turn lanes and pavement preservation of US Highway 70 from Milepost 341.37 to 343.40. This project, (ADOT Project Number 70 GH 341.4 H7094 01C Lone Star Road to San Simon River Bridge) is going to advertise for bid in June 2008 and will end just before the proposed crossing. The project to widen a portion of US 70 has been actively discussed and planned since June 2006 to help accommodate the growth in traffic and population east of Safford, Arizona. Finally, ADOT is in the process of planning to widen the US 70 to 5 lanes (ADOT Project Number 70 GH 340 H5109 01C Safford to Solomon). This project will be directly impacted by the proposed AZER crossing.

The area surrounding the proposed project is experiencing population growth in excess of the data shown in Tables 3.3-1 and 3.3-3. Due to the growth in the Safford area and changes programmed for US 70, ADOT would like to see information and safety analysis included in the EA about train-vehicle collisions at five-lane, three-lane and two-lane highways with at-grade crossings.

Revised traffic counts were provided to the STB by Mr. Paul David, ADOT Safford District Development Engineer on April 24, 2008. This updated traffic data shows a 245 percent increase in AADT on the US 70 from 2000 AADT in 2003 to 6900 AADT in 2007.

The February 25, 2008 draft Environmental Assessment includes some discussion of the benefits of the proposed railroad hauling hazardous materials to the mine and reducing the total number of trucks hauling hazardous cargo. The draft EA should also discuss the number and types of hazardous materials haulers in the region and the number and types of special vehicles that would still be traveling on US 70 through the proposed at-grade crossing.

The February 25, 2008 draft Environmental Assessment did not discuss the total loss of time and delays caused by vehicles that are required by law, regulation and policy to stop at railroad crossings such as school buses and trucks carrying gasoline, acid and other hazardous materials and the slower speeds for all other vehicles as they travel through an at-grade crossing.

The risks of rear-end (and other) accidents that occur while school buses and other vehicles are stopped at or moving slowly through an empty at-grade crossing was also not included within the impact analysis of the draft EA.

ADOT would like to see information included in the EA about traffic delays to emergency responders, especially since this is the only road between Safford and Solomon, Arizona.

We look forward to commenting on the revised draft Environmental Assessment and working with the STB on proposing the appropriate mitigation measures necessitated by the Arizona Eastern Railway crossing US Highway 70 near the San Simon River.



ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

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March 19, 2008

Diana F. Wood
Section of Environmental Analysis
Surface Transportation Board
395 E. Street SW, 11th Floor
Washington, DC 20423

Re: STB Finance Docket No. 34836

Dear Ms. Wood:

The Arizona Department of Environmental Quality (ADEQ) appreciates the opportunity to comment on the Draft Environmental Assessment (EA) for a proposed 12.1 mile rail line construction from Phelps Dodge's San Juan mining operation (under construction) to an existing Arizona Eastern Railway line operating near Safford.

ADEQ's Water Quality Division (WQD) is responsible for ensuring the delivery of safe drinking water to customers of regulated public water systems under the Safe Drinking Water Act, permits for proposed discharges to surface waters of the United States under the Clean Water Act (CWA), permits for discharges that may impact groundwater under the State aquifer protection program and water quality certifications of certain federal licenses and permits. The WQD's comments related to these programs are presented below.

CWA 401 water quality certification: The WQD set out a number of conditions likely to apply in Robert Scalamera's September 27, 2007 letter to WestLand Resources (Appendix E in the draft EA). The WQD would reiterate that an individual state-issued CWA 401 certification will be necessary for the part of the project consisting of the bridge across the Gila River. The U.S. Army Corp of Engineers will determine if a Section 404 nationwide permit is acceptable for other parts of the 12-mile rail line construction (most nationwide permits include specific CWA 401 conditions). The project proponent should contact Robert Scalamera at 602-771-4502 or by e-mail at RS1@azdeq.gov before beginning the CWA 404/401 application process to ensure the most current information and application form. The CWA 401 application form also can be downloaded from the agency website at: <http://www.azdeq.gov/function/forms/appowater.html#dredge>

Stormwater: Stormwater discharges associated with construction activities (clearing, grading, or excavating) which disturb one acre or more must obtain coverage under the Arizona Pollutant Discharge Elimination System (AZPDES) Construction Stormwater General Permit (AZG2008-

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Diana F. Wood
March 19, 2008
Page 2

001). Permittees must develop and implement a Stormwater Pollution Prevention Plan (SWPPP), which includes best management practices that would be implemented to reduce soil erosion and contain and/or minimize the pollutants that might be released to waters of the U.S. Information on the Construction Stormwater General Permit, SWPPP and associated forms, are available on ADEQ's website at:
<http://www.adeq.gov/environ/water/permits/stormwater.html#const>. For questions on stormwater issues or the Construction General Permit for this project, please contact Shirley Conard at 602-771-4632 or by e-mail at sc4@adeq.gov.

MSGP Coverage: The Arizona Eastern Railway may need to explore eligibility requirements for coverage under the Multi-Sector General Permit (MSGP). The MSGP is a separate stormwater permit that is required from certain specified industrial sites. Operators of these industrial sites must develop and implement a SWPPP, which includes best management practices that would be implemented to reduce soil erosion and contain and/or minimize the pollutants that might be released to waters of the U.S. The Arizona Eastern Railway may require MSGP coverage as a Sector P industry, which includes railroads.

The most recent MSGP is the MSGP 2000, which expired October 30, 2005. A new MSGP has not been issued yet. Facilities with coverage under MSGP 2000 prior to its expiration are granted an administrative continuance. Those facilities already covered under MSGP 2000 must continue to implement their SWPPP and comply with the requirements in the MSGP 2000. The administrative continuance will remain in effect until a new permit is issued. Facilities that did not have coverage under MSGP 2000 prior to its expiration will not have general permit coverage available until the EPA issues a new permit. In the interim, ADEQ requests that any facilities that did not have coverage under MSGP 2000 still use the SWPPP and BMPs recommended for that sector. Information on the MSGP can be found at:
<http://www.adeq.gov/environ/water/permits/msgp.html>. For questions on MSGP coverage for this project, please contact Dennis Turner at 602-771-4501 or by e-mail at dt1@adeq.gov.

For further information or for questions, please contact the appropriate program person or contact me directly at (602) 771-4416 or by email at lc1@adeq.gov.

Sincerely,


Linda Taunt, Deputy Director
Water Quality Division

1308-0014

March 31, 2008

Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
% Diana Wood
Case Control Unit
395 E Street, SW
Washington, DC 20423

Re: STB Docket No. 34836 – Draft Environmental Assessment – Arizona Eastern Railway – Construction and Operation – In Graham County, Arizona

Request for Sixty Day Extension of Comment Period and Invitation to an April 2008 Meeting with ADOT and Arizona Eastern Railway

Dear Ms. Rutson:

The Arizona Department of Transportation (ADOT) has received the above referenced February 25, 2008 draft Environmental Assessment in which there is discussion for a proposed railroad crossing U.S. Highway 70 near milepost 343, west of the San Simon River. Unfortunately, the draft EA contained only discussion and analysis of an at-grade signalized crossing of the highway, and not any other reasonable and feasible alternatives as stated in the June 13, 2006 Scoping Letter sent by the Surface Transportation Board (STB) to interested parties.

Perhaps, there must be some miscommunication because those that I have talked with at ADOT have been operating under the assumption that all future railroad crossing proposed by public and private parties in Arizona would include a detailed analysis of the overpass / underpass alternatives to achieve grade separation rather than just an at-grade crossing.

At this point in the NEPA process both our agencies follow, I would not like to spend inordinate amounts of additional time commenting on a document that does not address the appropriate solutions to obvious safety concerns and risks to the motoring public with a signalized at-grade crossing in the area west of the San Simone River.

I believe what has been provided to date by the consultants to the STB is an incomplete draft Environmental Assessment, and therefore would like to propose a minimum of a sixty-day extension of the comment period, during which time a

more complete addendum of corrections to the draft EA could be prepared and distributed.

This extension would also give the Arizona Eastern Railway (AZER), STB and ADOT time to meet and discuss other feasible and reasonable alternatives, such as a railroad overpass or a highway overpass. The STB could then give further direction to their consultant that includes additional appropriate analysis of these options in a subsequent draft EA. Consulting with ADOT and the Arizona Corporation Commission by the AZER on a final design for an at-grade crossing given the current omissions in the draft Environmental Assessment seems problematic at this time.

An April 10, 2008 meeting is in the process of being setup in Phoenix, Arizona so the ADOT Surface District Engineer and the ADOT Railroad Liaison Office can meet with the AZER, and other interested parties such as the Arizona Corporation Commission and the STB.

I and others at ADOT look forward to commenting on a more complete draft Environmental Assessment and working with the STB on proposing the appropriate mitigation measures necessitated by the Arizona Eastern Railway crossing US Highway 70 near the San Simon River.

I have enclosed a short list of Omissions and Defects to the STB Docket No. 34836 – Draft Environmental Assessment – Arizona Eastern Railway – Construction and Operation – In Graham County, Arizona, February 25, 2008

Sincerely,

James J. Lemmon
NEPA Planner
Environmental Planning Group
Arizona Department of Transportation
611 West Jackson Street
Mar. One 6000
Phoenix, Arizona 85001-0007
602-712-6540 voice
602-712-3088 fax

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cc: Victoria Rutson, Chief

Omissions and Defects: Draft Environmental Assessment – Arizona Eastern Railway – Construction and Operation – In Graham County, Arizona, February 25, 2008

Alternative Table 2.3-1 is an Evaluation of Alignment Alternatives – this table omitted the possible grade-separated railroad crossing options for Airport Road and U.S. 70.

Table 3.2-1 Project Area Parcels and Land Uses – does not include property owned by ADOT for US Highway 70.

Chapter on Affected Environment part 3.15 Section 4(f) - The executive summary speaks to the project having the potential to reduce the integrity of three to four historic resources in the Project Area, however only the public park lands are discussed.

Chapter on Potential Environmental Impacts part 4.6 Traffic and Transportation does not include any analysis on grade-separated crossing of U.S. Highway 70 or Airport Road.

Table 4.6-1 Results of Afternoon Peak Hour Intersection Operational Analysis is deficient in that the larger measured peak hour flows of Thursday April 4, 2004 were not used. **This is significant** in that all subsequent calculations including the stopping distance queue from the crossing is calculated from this measurement. The distances cars could be stopped and waiting for the crossing to clear would be even closer to the San Simon River Bridge. The line-of-sight to the stopped vehicles to the west of the San Simon River Bridge may be further reduced and safety concerns are increased if the appropriate peak hour flows are used.

The analysis on page 4-10 and footnote 8 is incorrect in that there are many vehicles that stop before crossing an at-grade railroad crossing, activated signals or not. School buses and hazardous cargo transportation tanker trucks are the most prevalent, and on a two-lane highway even if the railroad crossing warning lights are not flashing, vehicles may queue up without any warning.

Table 4.6-4 Stopping Site Distances at U.S. Highway 70 At-Grade Crossing is deficient and under stated because the calculations are based on the March 2005 data, not the much larger peak volumes of April 2004.

The mitigation measures of raising the crossing elevation on page 4-12 may be ineffective or defective in that vehicles may queue up for a longer distance from the crossing because of incorrect analysis of peak hour flow data and subsequent stopping distance calculations.

The Mitigation Measure 6.1 SEA Recommended Mitigation Measures by Environmental Topic for Transportation and Traffic Safety:

- Item number 2 is for AZER to consult state and local transportation agencies parties to determine final design of an at-grade road crossing and associated warning devices on U.S. Highway 70, **is most likely based on previous miscalculations of safe sight and stopping distance.**
- Item number 5 is for AZER to raise the elevation of the proposed at-grade rail crossing over U.S. Highway 70 to be consistent with the elevation of the adjacent bridge over the San Simon River to ensure visibility will not be a concern, **may still not give west bound traffic approaching the crest of the rise on the San Simon River Bridge adequate time and distance to safely slow before entering the queue of stopped or slower moving vehicles approaching the crossing.**
- Item number 6 is AZER shall install an advanced visual warning (remote flashing signals) on US highway 70 on the down slope moving away from the bridge east of the San Simon River. **Why limit this location only to the east side of the San Simon River Bridge, or should flashing signals be installed on the crest and down slope on both sides of the San Simon River Bridge, if needed. Alternatively, is this mitigation measure for some other bridge location east of the San Simon River Bridge?**



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admitted in Arizona

Diana Wood (408) 410-9287
Diana.F.Wood@LR.com
admitted in Arizona

Our File Number: 4867-00000

May 1, 2008

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
VIA FACSIMILE**

Ms. Diana F. Wood
Surface Transportation Board
Case Control Unit
395 E Street SW
Washington, DC 20423

Re: STB Finance Docket No. 34836

Dear Ms. Wood:

On March 31, 2008, this firm provided comments in the above-referenced docket on behalf of Chris and Debbie Claridge, who own approximately 1300 acres in and around the project study area identified in the "Draft Environmental Assessment for the Arizona Eastern Railway ("AZER") - Construction and Operation - in Graham County, Arizona" (the "Draft EA") prepared by the Surface Transportation Board's ("STB") Section of Environmental Analysis ("SEA").

In those comments and in correspondence submitted March 24, 2008, the Claridges requested an additional 60 days to review the Draft EA, analyze the potential impacts of the Proposed Action, study potential alternatives, and identify additional mitigation measures. On April 1, 2008, the SEA extended the comment period by 30 days. Although a longer comment period extension would have allowed a fuller review and analysis of alternative routes and mitigation measures, the Claridges do appreciate the opportunity to provide these additional comments and trust the SEA will review these supplemental comments in light of the short time frame available to prepare this response.

As noted in their March 31, 2008 comment letter, the Claridges do not oppose the concept of the rail line. Instead, they seek a mutually satisfactory resolution that minimizes impacts to affected landowners and other stakeholders while allowing the project to move forward in a timely and environmentally responsible manner.

To that end, there are better route alternatives through lands owned by the Claridges. The chosen route, as identified in the Draft EA, causes significant impacts to the surrounding community. Additional mitigation measures could reduce the impacts of the project to less than significant levels. The following supplemental comments to the Draft EA, submitted on behalf of the Claridge family, detail these route alternatives and other mitigation measures.

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1002961



Diana Wood
May 1, 2008
Page 2

1. The SEA Should Evaluate Alternative Routes on Lands Owned by the Claridges.

The best way to ensure that a project minimizes impacts to affected landowners is to choose the route through those lands that is preferred by the owners. Landowners are in the best position to know how their land is used, the future plans for the land, and the impact the Proposed Action will have on their land. Yet the Draft EA failed to consider the route proposed by the Claridges in a meeting with AZER representatives and other stakeholders held almost two years ago, June 29, 2006 ("Claridge Alternative," shown in Exhibit A).

This alternative is viable and does not shift impacts from the Claridges to other landowners. Instead, it is a route through the Claridges' properties that the Claridges have determined will minimize impacts to their land within the project study area.

A. The Claridge Alternative Would Mitigate Land Use Impacts.

A fundamental siting principle is to follow existing linear features to reduce environmental impacts on surrounding lands. The Proposed Action does not comport with this principle, and will result in significant impacts to current and future land uses on private lands.

In the southernmost area of the project study area, the Proposed Action will sever the Claridges' land located adjacent to the existing AZER railroad. As a result, farmland will be lost and new concrete irrigation ditches will be required. Further north, the Proposed Action will render unusable approximately ten acres of the Claridges' land located west of the San Simon River, south of the Gila River, and east of the Proposed Action. Additionally, if the Proposed Action incorporates a 500-foot-wide corridor as noted in the biological and cultural assessments for the project, it will require the replacement of approximately 6250 feet of existing irrigation ditch.

In contrast, the Claridge Alternative would follow the San Simon River from the AZER Railroad to the Gila River. By siting the project along this natural linear feature, the project would not sever and unnecessarily encumber private lands. In addition, this alternative would reduce impacts to existing irrigation works by approximately 30%. We urge consideration of this or other similar alternatives along existing linear features between the existing railroad and the Gila River.

B. Siting the Gila River Crossing Further West Would Mitigate Flooding Risks.

The Proposed Action will require a large bridge at the confluence of the Gila and San Simon rivers. While noting that flooding can occur, the Draft EA implied that floods are infrequent and proposed no mitigation measures to address the flood risk.

1002961



Diana Wood
May 1, 2008
Page 3

Periodic flooding is a certainty. According to streamflow data obtained from the USGS, annual peak streamflows for the Gila River at the head of the Safford Valley exceed flood stage (approximately 18,000 cfs) once every five years on average ("Exhibit B"). These floods occur suddenly. On January 27, 2008, the maximum stream flow was 390 cfs. The next day, it was 16,600 cfs ("Exhibit C"). If the Proposed Action is constructed as currently planned, flooding impacts will be exacerbated on upstream lands because debris will collect at the bridge's abutments and piers during periodic floods. (see also, comments of Scott Marvin Larson, incorporated as "Exhibit D").

Siting the crossing downstream of the rivers' confluence would eliminate the flooding risks to the Claridges' upstream neighbors. The railroad infrastructure along the southern bank of the Gila River could serve as a barrier to mitigate flooding on the Claridges' property.

C. Siting the Gila River Crossing Further West Would Mitigate Visual Impacts.

As discussed in Section 7.E of the March 31, 2008, comment letter, visual impacts of the Proposed Action will be significant, and the Draft EA's conclusion that no mitigation is required rests on a faulty legal premise.

The Claridge Alternative, or a similarly located substitute, would mitigate greatly visual impacts. Because the southern and northern abutments would be closer to natural grade, the scale of the fills and cuts otherwise required to construct the bridge approaches and abutments would be reduced.

2. Additional Mitigation Measures Should Be Developed Through a Collaborative Stakeholder Process.

Many of the significant impacts associated with the Proposed Action could be reduced to less than significant levels through the adoption of mitigation measures developed cooperatively among AZER and affected landowners, jurisdictions, and agencies.

For example, as discussed in Section 1, a slight alignment change would reduce land use impacts, flooding impacts, and visual impacts. Specific material and design considerations, such as constructing the bridge with fewer piers, would mitigate further the flooding potential and visual impacts associated with the bridge. Land use and visual impacts would be further mitigated by landscaping the bridge approaches. Overall impacts would be reduced by making the right-of-way as narrow as practicable.

These are just a few examples. A working group could identify many more practical and cost-effective measures. Accordingly, the Claridges propose that the SEA adopt the specific mitigation requirements listed herein and also require AZER to establish a working committee to further identify and implement reasonable mitigation measures.

1002961

3. The SEA should consider the environmental impacts and effects associated with the proposed Sulfur Burning Plant.

Freeport-McMoran recently announced plans to construct and operate a sulfur burning plant at the new Safford Mine. According to local press reports, Freeport-McMoran has decided not to use rail transportation to support the mine "at this time." ("Exhibit E"). The reasons for using truck traffic in lieu of rail were not identified.

Freeport-McMoran's recently announced plans appear inconsistent with the Proposed Action and undercut one of the touted benefits of the Proposed Action, which was the reduction in truck traffic. We therefore request an explanation why, on one hand, Freeport-McMoran wants to use a rail line to reduce truck traffic associated with ore processing, yet on the other, it wants to use trucks instead of rail for the sulfur burning plant.

Additionally, unless Freeport-McMoran commits to never using the rail to support the sulfur burning plant, the potential additional rail traffic should be analyzed in this environmental review.

Finally, regardless of whether the environmental effects associated with construction and operation of the sulfur burning plant are direct or indirect, the impacts will be cumulative, and therefore the sulfur burning plant's environmental impacts, including air emissions associated with plant operation and truck traffic, must be analyzed as part of this environmental review under 40 CFR §§1508.7 and 1508.8.

Conclusion

In its decision to grant a 30-day extension, the SEA cited its desire to balance the needs of the extension requests with the need to move the environmental review process forward without undue delay. The Claridges do not seek delay. Consideration at this time of these alternative routes and additional mitigation measures would result in a project with reduced impacts, perhaps rendering an environmental impact statement unnecessary. In contrast, the Proposed Action will result in further delays. As currently envisioned, the Proposed Action has significant impacts that require additional analysis through an EIS.

ENDPAGE 4

We look forward to working with you and the other impacted parties to ensure the best possible future for this important region of our State. In the event that despite the concerns enumerated in the comments submitted you determine that no further analysis is required, we request that you notify us when the Post EA is available for review.

Very truly yours,

Carla Consoli

CCrb
cc: Graham County Board of Supervisors

ENDPAGE 5

EXHIBIT A

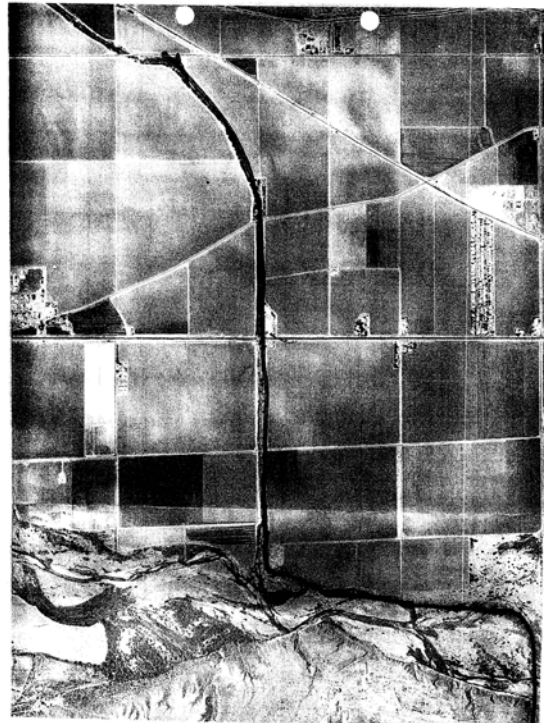
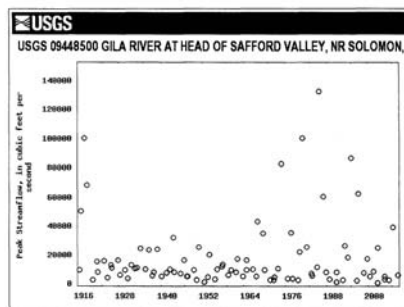


EXHIBIT B

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Peak Streamflow for the Nation USGS 09448500 GILA RIVER AT HEAD OF SAFFORD VALLEY, NR SOLOMON,

Available data for this site

Graham County, Arizona
Hydrologic Unit Code 15040005
Latitude 32°52'06", Longitude 109°30'38" NAD27
Drainage area 7,896 square miles
Gage datum
3,059.92 feet above sea level NGVD29

Output formats

Water Year	Date	Gage Height (feet)	Stream-flow (cfs)	Water Year	Date	Gage Height (feet)	Stream-flow (cfs)
1914	Aug. 21, 1914	4.50	9,000	1960	Jan. 12, 1960	10.80	16,700
1915	Dec. 20, 1914	8.75	50,000	1961	Sep. 10, 1961	7.28	4,800
1916	Jan. 19, 1916	14.00	100,000	1962	Sep. 26, 1962	10.68	16,100
1917	Oct. 14, 1916	3.10	67,900	1963	Oct. 19, 1962	9.00	9,350
1918	Jul. 01, 1918	3.10	2,700	1964	Jul. 15, 1964	9.15	9,880
1919	Aug. 03, 1919	6.60	15,000	1965	Aug. 02, 1965	7.33	4,800
1920	Dec. 05, 1919	5.20	7,620	1966	Dec. 22, 1965	13.70	43,000
1921	Aug. 21, 1921	7.55	15,700	1967	Aug. 12, 1967	13.30	34,800
1922	Aug. 15, 1922	3.60	3,780	1968	Dec. 20, 1967	8.37	9,280
1923	Aug. 12, 1923	6.80	12,600	1969	Sep. 11, 1969	5.68	2,460
1924	Dec. 28, 1923	6.50	10,600	1970	Aug. 06, 1970	5.90	2,250
1925	Sep. 03, 1925	8.10	15,900	1971	Oct. 03, 1970	7.20	4,510
1926	Apr. 07, 1926	4.58	5,660	1972	Oct. 25, 1971	9.10	10,200

http://nwis.waterdata.usgs.gov/nwis/peak?site_no=09448500&agency_cd=USGS&format=... 5/1/2008

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1927	Sep. 13, 1927	6.08	9,320	1973	Oct. 20, 1972	15.60	82,400
1928	Aug. 01, 1928	3.64	3,230	1974	Aug. 16, 1974	6.69	3,280
1929	Jul. 30, 1929	7.15	12,700	1975	Sep. 09, 1975	12.70	35,000
1930	Aug. 11, 1930	6.32	10,100	1976	Feb. 11, 1976	6.65	3,400
1931	Feb. 15, 1931	6.45	10,500	1977	Aug. 13, 1977	6.95	2,540
1932	Feb. 10, 1932	11.05	24,000	1978	Mar. 02, 1978	10.20	21,600
1933	Sep. 09, 1933	15.40	9,600	1979	Dec. 19, 1978	14.40	100,000
1934	Aug. 27, 1934	19.40	23,000	1980	Feb. 16, 1980	8.95	25,300
1935	Sep. 01, 1935	13.50	5,550	1981	Jul. 12, 1981	10.55	7,000
1936	Feb. 17, 1936	13.94	8,000	1982	Oct. 03, 1981	10.15	5,240
1937	Feb. 08, 1937	19.10	23,700	1983	Mar. 25, 1983	12.10	11,300
1938	Mar. 04, 1938	12.85	4,690	1984	Oct. 02, 1983	20.80	132,000
1939	Aug. 06, 1939	14.20	7,370	1985	Dec. 29, 1984	16.95	60,200
1940	Sep. 06, 1940	15.24	9,840	1986	Oct. 17, 1985	10.98	7,690
1941	Sep. 30, 1941	13.43	31,900	1987	Nov. 03, 1986	9.10	3,020
1942	Dec. 12, 1941	6.33	7,730	1988	Sep. 23, 1988	11.02	7,820
1943	Sep. 27, 1943	5.87	6,680	1989	Oct. 15, 1988	7.18	891
1944	Sep. 25, 1944	9.00	15,800	1990	Aug. 16, 1990	8.52	2,240
1945	Aug. 11, 1945	5.70	4,820	1991	Mar. 02, 1991	14.38	26,200
1946	Oct. 09, 1945	5.83	5,100	1992	Feb. 14, 1992	13.42	17,900
1947	Aug. 30, 1947	7.30	9,250	1993	Jan. 19, 1993	18.56	86,200
1948	Jun. 01, 1948	5.56	2,540	1994	Sep. 04, 1994	7.01	1,760
1949	Jan. 14, 1949	11.50	25,200	1995	Jan. 05, 1995	17.50	62,400
1950	Jul. 30, 1950	5.30	1,240	1996	Aug. 10, 1996	13.29	7,470
1951	Aug. 03, 1951	6.98	4,240	1997	Sep. 22, 1997	14.23	16,900
1952	Jan. 19, 1952	10.50	19,700	1998	Jul. 23, 1998	10.11	4,950
1953	Jul. 30, 1953	6.42	3,040	1999	Aug. 05, 1999	11.46	8,240
1954	Mar. 24, 1954	8.24	9,850	2000	Aug. 29, 2000	6.36	506
1955	Jul. 24, 1955	8.95	11,700	2001	Oct. 23, 2000	15.16	24,600
1956	Oct. 04, 1955	9.20	13,300	2002	Sep. 12, 2002	10.76	4,740
1957	Jul. 26, 1957	8.06	5,980	2003	Oct. 08, 2002	9.77	2,780
1958	Mar. 23, 1958	9.18	9,060	2004	Nov. 13, 2003	9.17	2,520
1959	Aug. 28, 1959	8.50	7,860	2005	Feb. 13, 2005	18.44	39,000
				2006	Aug. 23, 2006	11.38	5,870

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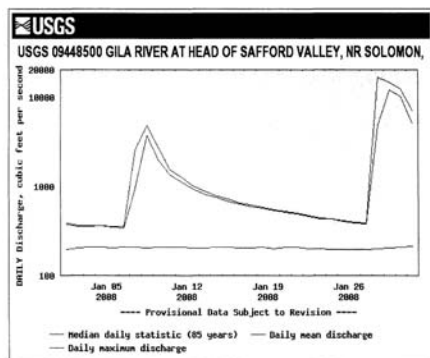
U.S. Department of the Interior | U.S. Geological Survey
 Title: Surface Water for USA: Peak Streamflow
 URL: <http://waterdata.usgs.gov/nwis/peak?>



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EXHIBIT C



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May 1, 2008

Ms. Diana Wood
 Section of Environmental Analysis
 Surface Transportation Board
 Case Control Unit
 395 E Street, S.W.
 Washington, D.C. 20423

RE: STB Finance Docket No. 34836, Arizona Eastern Railway, Inc. – Construction of a Line of Railroad – In Graham County, AZ

Dear Ms. Wood:

On April 2, 2008, the Board's Section of Environmental Analysis (SEA) served a notice extending the public comment period in the above-captioned railroad construction proceeding until May 1, 2008. Petitioner Arizona Eastern Railway, Inc. ("AZER") submits these comments in response to that notice addressing issues raised by certain parties.

Overall Alignment Approach and Alternative Analysis

From the very beginning of the project, it has always been AZER's goal to work with all of the landowners and be sensitive to their needs and desires and to compensate for any land that would be required for railroad right-of-way.

Selection of the railroad right-of-way alignment required consideration of many factors including not only the assembly of land parcels and land ownership, but the length of the railroad to be built, customer needs and the potential for future service development, and the physical attributes of grades, curves, site preparation, etc. AZER has designed this project not only to limit its effect on historical, cultural and biological resources, but also to minimize the impact the railroad would have on the flood plain and other watersheds. And then are the needs and responsibilities of the stakeholders to include and consider as the alignment selection analysis went forward: Arizona DOT ("ADOT"), the City of

Safford, Graham County, the State of Arizona's multiple agencies and authorities, and several federal agencies. The railroad is a stakeholder too.

After analyzing several different alternatives, only the recommended alternative seemed to best achieve these goals.

US70 Crossing Discussions and Long Term Planning

AZER met with ADOT, the Arizona Corporation Commission, the City of Safford and Graham County about the proposed railroad crossings planned for U.S. 70 and Airport Road. AZER is proposing that both roadway crossings be constructed to the level of protection selected and required by the Environmental Assessment ("EA") being prepared for permitting this project by the Surface Transportation Board ("STB"). For both crossings, the Draft report required at-grade crossings with the appropriate signaling devices and signage. As part of the planning process for the U.S. 70 at-grade crossing, ADOT shared its long-term plans for U.S. 70. They include widening the road from the existing 2 lanes to a 4-lane road which would require a new bridge to be built across the San Simon River, just east of where the railroad would cross the existing highway. AZER was asked by ADOT if it would consider contributing for a portion of the costs associated with making the new structure a grade separated bridge at that time ADOT rebuilds it. This would require building the new bridge at a higher elevation with a span long enough to pass over the railroad. AZER has committed to work with ADOT to achieve this goal. ADOT has told AZER that it plans to start designing the new grade separated bridge in 2011 and could commence construction in 2014.

Private Parties: Mr. and Mrs. Christopher Claridge. Mr. and Mrs. Christopher Claridge ("the Claridges"), abutting landowners, submitted the lengthiest and most detailed comments of any of the commenting parties. Pared down to their most basic points, the Claridges requested a 60-day comment period and asserted that 1) the SEA's draft EIS failed to address routing alternatives (i.e. routes that avoided the Claridge's property) and failed to identify the detrimental impacts that the rail line would have on the airport (while identifying the benefit impacts); 2) the SEA's decision to prepare an EA instead of an EIS lacked technical or legal support; 4) the SEA failed to find the Dos Pobres/San Juan Project a "connected action" to be addressed in the SEA's EIS; 5) the SEA failed to identify the circumstances justifying the issuance of a nationwide permit or include the US Army Corps of Engineers ("USACE") in the process; and 6) the SEA

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failed to find that this rail line construction project presents significant impacts on biological and cultural resources, air and water quality, adjoining landowners and land uses, area hydrology (flooding), safety, and quality of life issues all of which mandate the preparation of an EIS.

The 60 day comment period

In response, AZER notes that the SEA has effectively granted the Claridges' first request by extending the initial 35-day comment period from March 31 until May 1, thus giving the public a total of 66 days in which to submit comments. This 66 day period is longer than most comment periods granted by the SEA.

Routing Alternatives

Regarding routing alternatives, the SEA considered 5 potential options. Each of the options including the chosen route offered advantages and disadvantages. In conducting its analysis the SEA chose the alternative that presented the fewest adverse impacts as well as the opportunity to serve the airport location should industry locate there at some future date. As the SEA noted in Section 2.0 of its report, it rejected Alternative A because it presented the largest study area and therefore the greatest number of impacts. The SEA rejected Alternatives B and C because those routings would have required crossing public lands that were unavailable or committed to incompatible land uses. The SEA rejected Alternative D because that option entailed the construction of bridges over two bodies of water instead of one. Accordingly, the SEA concluded that the last construction alternative, the chosen one, presented the fewest overall impact issues other than the fact that it crosses the Claridges' property.

The Claridges assert that the SEA's analysis was in some way deficient because it ignored the potential negative impacts associated with the chosen Alternative. The Claridges could have identified any such negative impacts in their comments; however, they did not identify any negative comments. By implication, the only negative impact is the fact that a rail line crossing their property might in some unspecified way adversely affect their ability to sell or develop their land. However, the SEA must discount this assertion in view of the many years the Claridges have owned their property and the lack of sale activity or development to date.

Environmental Impact Statement (EIS) versus Environmental Assessment (EA)

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The Claridges' third argument -- that the SEA is required to prepare an EIS for this project -- misreads the applicable law and should be rejected out of hand. The Claridges argue that the SEA is *normally* [emphasis supplied] required to prepare an EIS because this project does not entail the construction of a connecting track on an existing railroad right-of-way or property owned by connecting railroads. However, this argument ignores both past Board precedent and the Board's regulation at 49 CFR 1105.7 *et al.*

The term "significant" for the purposes of the National Environmental Policy Act ("NEPA") requires considerations of both the context and the intensity of a project's impacts. 40 CFR 1508.27. While the project must be analyzed in terms of direct, indirect, and cumulative impacts and actions, the SEA is also required to consider the severity of the project's impacts on a variety of matters involving the environment, historic and cultural resources, and safety and the "quality of life" in a community. The fact is that every project, however major or minor, has some impacts. But the simple fact is that this project has very limited impacts as railroad construction projects go.

In that regard, the Board's environmental regulations identify a series of criteria for determining the intensity of the community impact of a railroad construction project. 49 CFR 1105.7(e). Among other matters, the regulations identify the number of train frequencies, the amount of truck traffic generated by a rail facility, whether the project will divert traffic from motor carrier to rail transportation, and whether the affected area is in an attainment or a nonattainment area. In this case the projected traffic level, one round trip per day in an attainment area is well under the Board's jurisdictional threshold. Moreover, this construction project will divert to rail about 15,000-20,000 truckloads (5,000 rail car loads) of traffic that would otherwise move by highway over U.S. Highway 70, the *only* east-west highway in the area.

The Claridges cite several other railroad construction projects entailing the preparation of an Environmental Impact Statement for the proposition that an EIS is required here. Those "precedents" are inapplicable here. The Alaska Railroad-Port MacKenzie Rail Extension case involves the construction of 30-45 miles of railroad into an area with significant ecological impacts unlike the modest impacts here. While the Southwest Gulf Railroad and Bayport Loop cases superficially appear to be more comparable to the AZER case, they involve the construction of rail

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lines in populated areas that present significant environmental impacts. The Bayport Loop case involved the construction of a new rail line that crossed numerous other lines and roads, handled hazardous commodities, and significant community participation and opposition in the environmental scoping proceeding. As a general matter, it is SEA and Board policy to require a full Environmental Impact Statement only for those actions that may significantly affect the environment. 40 CFR 1105.4(f), 1105.6(a). For those actions that would not have a significant environmental impact with appropriate mitigation, the SEA and the Board will find that an Environmental Assessment is sufficient. 49 CFR 1105.4(d), 1105.6(b). *Morristown & Erie Railway, Inc. Modified Rail Certificate*, STB FD No. 34054, served June 22, 2004, *aff'd sub. nom. Town of Springfield v. the Surface Transportation Board*, ___ F.3d ___, (D.C. Cir. 2005).

The simple fact is that the Board has frequently found that an EA is adequate to meet the requirements of NEPA. See, e.g., *Itasca County Regional Rail Authority-Petition for Exemption*, et al, FD No. 34992, served March 28, 2008; *Pemissot County Port Authority - Construction Exemption - Pemissot County, MO*, FD No. 34117, served May 7, 2003; *Ellis County Rural Rail Transportation District-Construction and Operation Exemption*, *Ellis County, TX*, FD No. 33731, served April 24, 2000.

In granting AZER's EIS waiver request, the SEA found, among other things, that the proposed right-of-way alignment would cross only two public roads (U.S. Highway 70 and Airport Road) with an average daily traffic volume of 5,900 and 425 vehicles, respectively; that the existing land use is largely agricultural; that the projected traffic is two daily trains or 730 trains per year with no diversions of existing traffic to or from other systems or modes; that there would be no significant impact on local or regional air quality; that there would be minimal impacts on flora and fauna and AZER would comply with any permit conditions issued by the USACE; that while the preferred alignment would cross 100-year flood zones at five locations, AZER's bridge would be designed and sized to comply with the requirements of the Graham County Engineer to minimize any flood-related impacts; and that the SEA did consult and is continuing to consult with other state and federal agencies and has not to date identified any significant issues during the agency consultation process. Accordingly, there is no need for an EIS.

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The rail construction project and the Dos Pobres/San Juan Mine Project as connected actions

There is no basis for finding that the construction of the subject rail line is a connected action with the construction of the mine. Although the new mine being constructed by FCX Freeport McMoran Copper and Gold, Inc.¹ will utilize Petitioner's rail service, they are not connected actions because each can exist independent of the other. The Dos Pobres/San Juan mine facility is substantially complete and in operation well before the commencement of rail service. Accordingly, that facility will initially rely on motor carrier service for its transportation needs until the railroad is ready for service. While truck is inferior to rail transportation from the perspectives of cost, energy consumption, and emissions, it is an adequate and feasible way to handle Freeport's transportation needs until rail service becomes available. The STB does not analyze the direct impacts of a customer facility proposed to be served by a new rail line where the line and the facility are otherwise independent of each other. *Vaughn RR Co., Construction Exemption-Nicholas and Fayette Counties, WV, ICC FD No. 32322* (served Nov. 4, 1993).

There is no need for the issuance of a nationwide permit or the Army Corps of Engineers should be a cooperating agency

Whether or not there is a need for issuance of a nationwide permit is an issue that will be examined in discussions between AZER's own environmental consultant (WestLand Resources, Inc.), the US Fish & Wildlife Service, and the USACE. As to whether the USACE should be a cooperating agency, the USACE was invited to participate in this project as a cooperating agency and declined to do so.

The SEA's analyses of resource impacts are conclusory and inadequate

Finally, the Claridges devote the remainder of their presentation to a discussion of how the SEA's analysis of this project is deficient in numerous respects including, among others, biological and cultural resources, air and water quality, visual resources, noise, potential for flooding, safety and traffic impacts.

As a preliminary matter, the Claridges erroneously maintain that the SEA should have considered impacts associated with increased traffic on

¹ Formerly Phelps-Dodge

AZER's mainline. Although the Board has licensing authority over the construction of new rail lines, that approval power does not extend to proposals to rebuild or increase traffic on existing rail lines. *Dakota, Minnesota & Eastern Railroad Corporation Construction into the Powder River Basin*, FD No. 33407, January 30, 2002. However, the Board in that case did perform an environmental analysis of the increased amount of traffic that would move over the existing DM&E railroad system should the construction approved there be completed. But there is a significant difference between the DM&E case and this proceeding insofar as that applicant proposed to move *thirty-seven daily coal trains* [emphasis supplied] versus Petitioner's plan to handle one daily round trip of about 30 rail cars.

In other respects, the amount of rail traffic to be generated by this line is not sufficient to trigger the SEA's jurisdictional thresholds for certain environmental impacts. For example, under the Board's environmental regulations at 49 CFR 1105.7, the applicant is required to provide information on and the SEA is required to review impacts on transportation systems, land use, energy consumption, air and noise impacts, safety, biological resources, and water quality. Insofar as air and noise impacts are concerned, the construction and operation of this rail does not even meet the SEA's minimum thresholds for the agency to grant relief. Because this part of Arizona is in an attainment area, the applicable air quality standard is an increase of rail traffic of at least 100% or an increase of at least eight trains per day on any segment of rail line affected by the construction proposal, an increase in rail yard activity of at least 100%, or an average increase in truck traffic of more than 10% or 50 trucks per day. AZER anticipates operating but one round trip per day seven days per week over the subject line to be constructed. Once the train reached AZER's mainline, this traffic will be incorporated into AZER's existing rail line. The increase in train traffic will be less than 100%. Moreover, handling the mine's traffic by train instead of truck will have the result of decreasing, not increasing the amount of truck traffic over area roads.

Regarding noise impacts, the regulation requires analysis if [emphasis supplied] any of the impacts in 49 CFR 1105.7(e) (5) (i) is surpassed. But as noted above, those thresholds have not been met.

Other Private Property Considerations

Regarding locating the railroad on privately held lands, specifically the Claridge properties and the Anderson properties, the alignment was developed to minimize the total number of acres affecting their lands, oriented to run parallel to property lines to minimize the severance of any parcels, preserve for the landowners acreage that has the greatest future potential for development, and to engineer the design of the railroad to be as floodplain neutral as possible, i.e., that it neither improves nor worsens flooding conditions on any adjacent properties the railroad would use. Additionally, AZER has mentioned to both property owners, that if they so desire, AZER could help find rail-served developments for their properties and AZER remains committed to working with them to explore this concept further if they would like to do so.

Addressing specific comments regarding the design of the railroad alignment, some explanation is appropriate. The five hundred foot wide corridor was studied in detail only for the purpose of performing the environmental analysis. The railroad right-of-way will be much narrower, with some exceptions, requiring a strip of land no more than about 50' wide for its operating and maintenance needs and in many locations, narrower than that. When during the detailed engineering design state of the project any wells, utilities, or other key structures are identified that are likely to be in the railroad right-of-way, they will be, to the greatest extent practicable, avoided by the final alignment or be relocated.

Based on hydrology studies, it was determined that the Gila River bridge should span about 1,500 linear feet. This length provides for spanning the 800 foot (plus or minus) wide river bank-to-bank distance, but also for about 700 feet across the flood plain to the south to allow for the free flow of the Gila River should there be a flood event. Pier distances for the bridge are calculated to be about 100 feet pier-to-pier to create the smallest possible footprint for the bridge and therefore to minimize flow interference.

Building a railroad embankment on the south bank of the Gila River to have the railroad cross the river one mile to the West is not practicable because it would inhibit the natural flow of a Gila River flood event. Additionally, a bridge at that location would be about the same length as the proposed bridge to minimize flow interference on the flood plain, would require significantly more land to be acquired, require more earth work (i.e.,

cuts and fills), sever additional parcels of land on the north and south sides of the river, and increase the overall length of the railroad alignment.

AZER's comments regarding the SEA mitigation measures

AZER has reviewed the SEA's proposed mitigation measures in Sec. 6.0 of the EA and has the following responses:

Transportation/traffic safety item 1. The third line of the SEA's comment refers to completion before construction work within the roadway occurs. AZER believes this is a typo with the correction work being railway or railroad instead of roadway.

Transportation/traffic safety item 2.2

AZER has already responded to the requirement that the construction of at-grade road crossings shall be subject to the review and approval of the Arizona Corporation Commission.

Land Use Agricultural Resources items 8 and 9

AZER has already committed to working with farmers and other property owners to remedy actual damage to property caused by the railroad construction and to negotiating with affected property owners to minimize severance impacts.

Historic properties item 12.2

This provision is open-ended. AZER is agreeable to any reasonable conditions sought by the SHPO in the section 106 consultation process.

Applicable requirements of other agencies item 17

AZER believes this requirement pertaining to a floodplain development permit is unclear.

Applicable requirements of other agencies items 20, 20.1 through 20.3

The reference in item 20.1 to an unnamed viaduct is vague. AZER's construction shall adhere to railroad industry (AREMA) construction standards and well as best engineering practices and shall comply with applicable FRA safety requirements.

Biological resources item 35

AZER shall comply with all reasonable measures required by the U.S. Fish and Wildlife Service.

Signature	Print	Address
<i>Patricia A. Bell</i>	<i>Patricia A. Bell</i>	3301 E Hwy 70 #53 3/18/00
<i>Esther Burgham</i>	<i>Esther Burgham</i>	3201 S. 115 20 #45 3/18/00
<i>Mary Moore</i>	<i>Mary Moore</i>	3301 E Hwy 70 #27 3/18/00
<i>Helen Beckley</i>	<i>Helen Beckley</i>	3201 E 115 Hwy 70 #61 3/18/00
<i>Dave Beckley</i>	<i>Dave Beckley</i>	3201 E US Hwy 70 #61 3/18/00
<i>Marie Knides</i>	<i>Marie Knides</i>	3508 E 101 Ave 3/18/00

Regarding STB Finance Docket No. 34836

March 31, 2008

#E-7226
DAW
FD 34836

Diana Wood
Section of Environmental Analysis
Surface Transportation Board
395 East Street SW
Washington, DC 20423

Dear Ms. Wood:

There are some concerning aspects of the proposal to run a rail line to the copper mining operations north of Safford. The rail link is obviously needed, and would have many benefits in getting truck traffic off the area highways; but the present proposals on the bridge construction and the U. S. Highway 70 crossing are the two points which need additional scrutiny and revision.

In the area where the rail would cross US 70, there is a significant amount of traffic, and this volume is increasing to the point where ADOT is planning a five lane segment through that area. A grade crossing on a highway with this traffic load would create a considerable bottleneck and possible hazard due to restrictions on HAZMAT trucks and buses. From many years experience as a trucker, I am very aware of all the consequences of a string of traffic flowing at around 65 miles per hour, then a heavy truck or bus having to come to a complete stop at the crossing, and then gear back up to regain traffic speed. The resulting backups are inconvenient and irritating to drivers, and there is always the risk of an inattentive driver rear-ending in the slowdown, or some impatient driver performing an unsafe pass. These crossings congest traffic all day, every day, not just the few minutes a train is in the crossing. In this location of high current use and certain additional traffic load in the future, I think the rail should definitely be required to overpass the highway.

The design of the river crossing has some elements which it seems have not been adequately addressed; these being that no bridges in the area have been able to contain the large flood flows, and that this river carries tremendous amounts of debris at flood stage. These details require that an adequate design have a maximum allowance for the passage of debris as well as ample spill areas around the approaches so as not to create a dam and back up floodwater over large amounts of surrounding land.

Thank You;
Robert Rogers
Robert Rogers
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