

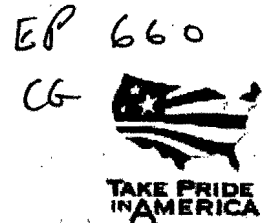
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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
1430/1791(P)
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AUG 21 2009

U.S. Department of Transportation
Federal Railroad Administration
Attn: David Valenstein
Environmental Program Manager
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Mr. Valenstein:

Thank you for the Federal Railroad Administration (FRA) letter dated June 18, 2009, in response to the Bureau of Land Management (BLM) comments of May 29, 2009, on the Draft Environmental Impact Statement for the DesertXpress High-Speed Passenger Train (DXE) project. I apologize for the delay in this response.

Your response of June 18, 2009 was very helpful to us in clarifying a number of important points. First, we appreciate your feedback regarding your consultations with other governmental and external agencies and groups. We recognize your primary role in such consultations as the lead Federal agency under NEPA and will refer any future contacts to FRA.

The BLM's responsibilities for issuing rights-of-way across public lands pursuant to Title V of the Federal Land Policy and Management Act of 1976 (FLPMA) are implemented according to BLM's right-of-way regulations (43 CFR 2800). Those regulations (43 CFR 2801.2) state that the BLM will grant a right-of-way in a manner that "(A) Protects the natural resources associated with public lands and adjacent lands, whether private or administered by a government entity" This provides an important context for the level of detail required when the BLM evaluates an application for a right-of-way across public lands.

In the FRA response to BLM comments, you indicated that FRA is adopting strategies to address several of the issues BLM raised in our letter. The BLM appreciates this step and would like to work with you to focus on strategies to address remaining issues. Briefly summarized these include the following items:

- The availability and level of data necessary for BLM to adequately evaluate granting a right-of-way for a passenger train across BLM-managed public lands;

- The level of analysis necessary for BLM to issue a decision on the application for a right-of-way grant for use of public lands issued under the authority of the Title V of the Federal Land Policy and Management Act of 1976 (FLPMA); and
- Alternatives and other mitigation strategies now under consideration and how best to carry these forward in the joint EIS process.

In addition, I would like to discuss whether a Memorandum of Understanding (MOU) between the BLM and the FRA may be a useful instrument to clarify roles and responsibilities of each agency so that we will be better able to assure continued progress on this project.

We have requested a Plan of Development (POD) from DesertXpress, currently anticipated for receipt by August 31, 2009. A POD is a document that provides the level of information needed by BLM to complete a substantive analysis of a proposed project under BLM's right-of-way regulations.

As a next step to assist the BLM and the FRA in resolving the remaining issues, I propose that we arrange a meeting between the BLM and the FRA to discuss these issues and to develop a coordinated approach to moving forward on the joint EIS process. In order to meet your needs as well as BLM's, I would like to request FRA to propose additional agenda topics which you see as outstanding issues.

I'd also like to request that FRA propose one or more possible dates for this follow-up meeting, and identify your point of contact in this matter. Please contact Rich Rotte of the Barstow Field Office to coordinate the follow-up meeting. We hope this response clarifies the BLM's comments in this matter.

Sincerely,

Roxie C. Trost

Roxie C. Trost
Field Manager

c.c. Needles Field Manager (Attn: George Meckfessel)
Las Vegas Field Manager (Attn: Phil Rhinehart)
Surface Transportation Board (Attn. Catherine Glidden)