



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

October 16, 2008

John D. Heffner, PLLC
1750 K Street N.W.
Washington, DC 20006

RE: STB Finance Docket No. 34836, Arizona Eastern Railway – Construction and Operation – In Graham County, Arizona; **Request for Review of Draft Memorandum of Agreement**

Dear Mr. Heffner:

As the lead Federal agency charged with complying with Section 106 of the National Historic Preservation Act, we are informing you that a draft treatment plan for historic properties, entitled *Historic Properties Treatment Plan for Historic Properties Affected by the Arizona Eastern Railroad*, dated September 26, 2008, has been prepared and sent to Agencies and Tribes for comment. In addition, we have prepared the enclosed draft Memorandum of Agreement (MOA) for your review. This MOA details a process for the identification and treatment of cultural resources, including archeological, architectural, historic, and cultural properties. It ensures that impacts to cultural and historic resources (as discussed in the treatment plan) will be minimized to the extent possible. The draft MOA is being circulated to all signatory and concurring parties and must be fully executed by the signatory parties¹ before the Post EA can be finalized.²

You will recall that a Class III cultural resources inventory was conducted of the area of potential effect (APE) of the proposed rail line. The report of the inventory, A

¹ Parties who have participated in the consultations but do not have responsibilities under the MOA may be invited to sign as concurring parties. If a party was invited to sign or concur in the agreement declines to sign, the agreement will still go into effect once the signatories have executed the document (see 36 CFR 800.6). Once we have received comments on the draft MOA, we will revise the MOA as appropriate and circulate it for signature.

² The Board will consider the environmental record, including SEA's final recommended mitigation measures and all environmental comments received in this proceeding in making its final decision as to whether to allow the Proposed Action to proceed, and if so, what mitigation to impose.

Class III Cultural Resources Inventory of the Arizona Eastern Railroad Extension of Service Right-of-Way near Solomonville, Graham County, Arizona, and a supplementary inventory report, *A Class III Cultural Resources Inventory of the Arizona Eastern Railroad Extension of Service Right-of-Way near Solomonville, Graham County, Arizona: Supplementary Archaeological Survey* (both by WestLand Resources, Inc.), have been reviewed by the Arizona State Historic Preservation Office (SHPO). Ten historic properties and one stone scatter identified in the Class III inventory as a possible grave feature would require treatment before the start of the construction project; all eleven properties are discussed in the draft treatment plan.

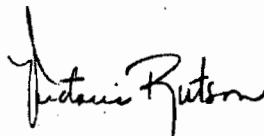
Following review of the Class III inventory reports, the Arizona SHPO requested that three properties recorded in the original inventory as isolated features — and hence recommended as ineligible for listing in the National Register of Historic Places (NRHP) — be reevaluated for NRHP eligibility as archaeological sites. WestLand Resources, Inc., has since reevaluated the three sites and assigned each an Arizona State Museum (ASM) archaeological site number. The reevaluation, which recommends that all three sites are NRHP eligible, is reported in the draft *National Register of Historic Places Evaluation of Soil Conservation Service and Civilian Conservation Corps Checkdam Sites in the Proposed Arizona Eastern Railroad Construction Corridor*, a copy of which has been sent to Agencies and Tribes. The three sites are among the ten historic properties covered by the treatment plan.

We would appreciate receiving your comments on the MOA within 30 days after receipt of this letter. Please send your comments to:

John C. Raveslout, Ph.D.
William Self Associates, Inc.
2424 E. Broadway Blvd., Suite 100
Tucson, Arizona 85719

If you have any questions regarding this letter or require further information, please do not hesitate to contact Diana Wood, SEA Project Manager, at 202-245-0302 or woodd@stb.dot.gov. If you prefer, you may also contact John Raveslout of William Self Associates at 520-624-0101 or jraveslout@williamsself.com.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis