

Preserving America's Heritage

#E1-12648
FD-34836
D7W

September 24, 2008

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
Washington, DC 20423

Ref: *STB Finance Docket No. 34836, Arizona Eastern Railway—Construction and Operation
Graham County, Arizona*

Dear Ms. Rutson:

On September 2, 2008, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the Arizona State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and you determine that our participation is needed to conclude the consultation process, please notify us.

We note that eligibility determinations for three properties within the Area of Potential Effects (APE) for this undertaking are pending additional research. We urge the Surface Transportation Board (STB) to complete its evaluation of historic properties and assessment of adverse effects, in consultation with the SHPO and other consulting parties, before evaluating alternatives to avoid, minimize, or mitigate adverse effects. The STB should also clarify the involvement of other federal agencies, including the Federal Railroad Administration (FRA), in this undertaking and whether such agencies are coordinating with the STB to comply with Section 106. Finally, the STB should ensure that all reasonably foreseeable adverse effects from the undertaking are considered in the development of a Memorandum of Agreement (MOA).

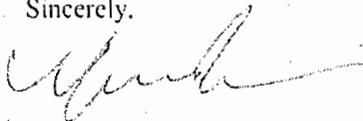
Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final MOA, developed in consultation with the Arizona SHPO and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Thank you for providing us with your notification of adverse effect. If you have any questions, please contact Blythe Semmer at 202-606-8552 or via e-mail at bsemmer@achp.gov.

Sincerely,



Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing, and Assistance Section