

JOHN D. HEFFNER, PLLC  
1920 N STREET, N.W.  
SUITE 800  
WASHINGTON, D.C. 20036  
(202) 263-4180  
FAX (202) 296-3939  
j.heffner@verizon.net

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February 3, 2006

Ms. Diana F. Wood  
Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423



**RE: STB Finance Docket No. 34836, Arizona Eastern Railway, Inc., Petition for waiver under 49 CFR 1105.10(a).**

Dear Ms. Wood:

Pursuant to 49 CFR 1105.10(c)(2) I am writing on behalf of Arizona Eastern Railway, Inc. (hereafter "AZER"), to request a waiver of the six months pre-filing notice required by the Board's environmental regulations at 49 CFR 1105.10(a)(1). Within the next several months AZER plans to petition the Board for an individual exemption under 49 U.S.C. 10502 from the requirements of 49 U.S.C. 10901 to permit it to construct a new line of railroad, 10 miles in length to serve a customer [Phelps Dodge Company] at Sulfur, AZ. AZER submits that a waiver of the 6 months' advance notice requirement is consistent with the regulations of the Section of Energy and Environment ("SEA") and the Board's policies. Because Phelps Dodge requires that the rail line be constructed and ready for operation by the time its plant is ready in June 2008, a grant of this waiver is critical to meeting Phelps Dodge's service needs.

For your information, AZER is a 133.5-mile long existing class III short line railroad originally established in 1988 by shortline railroad holding company Kyle Railways, Inc., pursuant to an exemption originally granted by the Board in FD No. 31341 on October 31, 1988. Prior to that time, the subject railroad had been the Globe Branch of the former Southern Pacific Transportation Company, now part of the Union Pacific Railroad. Subsequently, shortline railroad holding company, Kyle Railways (Kyle), acquired the line. Shortline holding

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company StatesRail, Inc., acquired Kyle's portfolio of properties in 1997 and then again in early 2002, short line holding company RailAmerica, Inc., acquired the States' Rail properties including the subject line. In late 2004, shortline owner Permian Basin Railways, Inc., a noncarrier railroad holding company and subsidiary of Iowa Pacific Holdings, Inc., acquired stock control of AZER through an exemption granted by the Board in FD No. 34614.

As relevant, AZER operates between Miami and Bowie, AZ, where it connects with a line of the Union Pacific Railroad. AZER proposes to construct a new rail line approximately ten miles in length from a point near Safford (where it would connect with AZER's existing line) to the proposed location of Phelps Dodge's new mine at San Juan. Because AZER believes that this line is a "line of railroad" under 49 U.S.C. 10901, it plans to seek an exemption from the Board in the near future to enable it to construct this line.

The waiver provisions of the Board's environmental rules require a party seeking a waiver to describe as completely as possible the environmental effects and timing of the proposed action and to show that all or part of the six month lead period is not appropriate. Moreover, the regulations require a party seeking a waiver to indicate (1) whether the area affected is a nonattainment area, (2) the number of trains per day that would be involved and the commodities and tonnage that would be handled, and (3) the impacts, if any, on endangered species.

In response to these inquiries, AZER anticipates that the environmental effects of its proposed construction project will be minimal. Regarding the questions identified above, the subject area is an attainment area. Based on information supplied by Phelps Dodge, AZER anticipates that the line would handle about 5,000 carloads annually. AZER will move this traffic utilizing one train making a single daily roundtrip, at 15-20 carloads per trip, 6 days per week. Commodities handled will include sulfur and sulfuric acid in tank cars and copper cathodes in boxcars. This traffic represents new business, which would move directly by rail from Phelps Dodge's mine and

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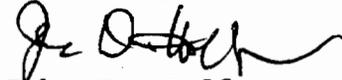
processing facility.

Regarding environmental impacts, movement of this traffic by rail instead of truck will be very beneficial due to reduced highway congestion and associated air and noise pollution and energy consumption. The line will be built on land owned in large part by Phelps Dodge. The only anticipated crossing of a U.S. public highway will be that of US Highway 70. The only body of water crossed will be the Gila River, a nonnavigable waterway. The only animal or plant species potentially affected by this project will be the Southwest Willow Flycatcher, and the facility as constructed will mitigate effects.

Because the environmental effects of this project have are negligible, AZER does not believe that an environmental impact statement would be necessary. Accordingly, the six month lead time is unnecessary and should be waived.

Please date stamp and return one copy of this letter.

Sincerely yours,



John D. Heffner

cc: Mr. Edwin Ellis