



**SURFACE TRANSPORTATION BOARD**  
**Washington, DC 20423**

*Office of Economics, Environmental Analysis and Administration*

#EO-801  
FD 34836  
DTW

February 14, 2008

Steve Spangle  
Field Supervisor  
U.S. Fish and Wildlife Service  
2321 West Royal Palm Road, Suite 103  
Phoenix, AZ 85021

RE: STB Finance Docket No. 34836, Arizona Eastern Railway—Construction and Operation—In Graham County, Arizona. Endangered Species Act Coordination and Consultation for the Arizona Eastern Railway Safford Branch Project and Gila River Bridge Crossing, Request for Concurrence on Determinations

Dear Mr. Spangle:

On August 4, 2006, the Arizona Eastern Railway (AZER) filed a petition with the Surface Transportation Board (Board) seeking an exemption under 49 United States Code (U.S.C.) 10502 from prior approval requirements of 49 U.S.C. 10901 for authority to construct and operate 12 miles of new rail line facilities in Graham County, Arizona. The Proposed Action is the construction and operation of a new rail line to connect commercial properties north of the Gila River, notably the Dos Pobres/San Juan Mine and Safford Regional Airport commercial park, with the existing 133.5-mile AZER line operating between Miami and Bowie, AZ. The Proposed Action includes a bridge over the Gila River and other unnamed ephemeral tributaries to the Gila River. A detailed description of the Proposed Action can be found in the attached Biological Assessment (BA).

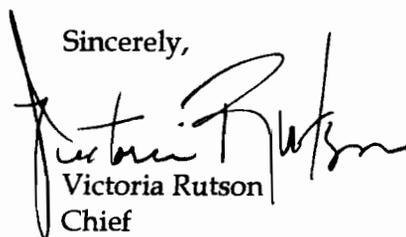
The Board, pursuant to 49 U.S.C. 10901, is the agency responsible for granting authority for the construction, operation, and maintenance of new rail line facilities. The Board, through its Section of Environmental Analysis (SEA), is responsible for compliance with the National Environmental Policy Act (NEPA) as well as Section 7 of the Endangered Species Act (ESA). SEA is in the process of completing an Environmental Assessment (EA) for this project pursuant to NEPA and other Federal laws including the ESA. We have added your agency to the service list to ensure that you receive a copy of the EA.

The U.S. Army Corps of Engineers has agreed that SEA is the lead Federal agency for ESA compliance (See attached email). The attached BA evaluated the potential for occurrence of 18 species listed threatened, endangered, or candidates for listing in Graham County by the U.S. Fish & Wildlife Service (USFWS). Initial screening analysis and a species specific survey determined that no listed species were present along the 12.4-mile corridor. The Gila River and adjacent lands have been designated Critical Habitat for two listed endangered species, the southwestern willow flycatcher (*Empidonax extimus traillii*) and the razorback sucker (*Xyrauchen texanus*). The proposed alignment crosses this area. The BA addresses the temporary disturbance to designated critical habitat during construction of the bridge, as well as permanent changes.

Based on this and other documentation provided in the BA, SEA has determined that the proposed project may affect, *but is not likely to adversely affect*, either the southwestern willow flycatcher or razorback sucker. SEA has further determined that, with the implementation of the possible Clean Water Act 401 Water Quality Certification Conditions from the Arizona Department of Environmental Quality (See Appendix E), the proposed project *would not adversely modify* critical habitat for the southwestern willow flycatcher or razorback sucker. SEA requests concurrence from USFWS on these findings. If we do not hear from you within 30 days, we will assume you have sufficient information to initiate consultation and provide a biological opinion.

The draft BA was completed by WestLand Resources, Inc. on December 19, 2007 (consultants for the railroad) and peer reviewed by CH2M HILL. If you have any questions regarding this letter or require further information, please do not hesitate to call Diana Wood, SEA Project Manager, at 202-245-0302 ([woodd@stb.dot.gov](mailto:woodd@stb.dot.gov)) or Mark Cochran of CH2M HILL at 520-293-5054 ([mcochran@ch2m.com](mailto:mcochran@ch2m.com)) if you have questions or require further information.

Sincerely,



Victoria Rutson  
Chief

Section of Environmental Analysis

Enclosures (2)

cc: Robert Dummer, ACOE  
John Cook, CirclePoint  
Kim Otero, WestLand Resources  
Mark Cochran, CH2M HILL