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March 31, 2008

BY EMAIL

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
395 E Street, SW - Room 1106
Washington, DC 20423-0001
Attn: Ms. Diana Wood

**RE: STB Finance Docket No. 34836, Arizona Eastern
Railway, Inc., Construction of a Line of Railroad
in Graham County, AZ, Petition for Exemption**

Environmental comments

Dear Ms. Rutson:

I am writing on behalf of the Arizona Eastern Railway, Inc. ("AZER"), petition in above-captioned railroad construction proceeding.

AZER's review of the Draft Environmental Assessment ("EA") served by the Board on February 25, 2008, disclosed the following language at page 6-2 of the EA:

"2.2 Construction of at-grade grade crossings are Subject to the review and approval of the Arizona Corporation Commission."

AZER is pleased to work with Arizona agencies including its Corporation Commission in a cooperative manner towards the common good. However, AZER believes that this language could be interpreted as giving the Corporation Commission a veto over the line construction, an interpretation that is both improper and preempted by federal law. We believe that a better statement would be for the SEA to provide that the construction of at-grade road crossings is subject to the *reasonable review* [emphasis supplied] of the Arizona Corporation Commission.

AZER appreciates the opportunity to make its views known.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner

Cc: Ms. Diana Wood
Mr. Jeff Barker
Ed Ellis