



# CENTER FOR BIOLOGICAL DIVERSITY

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BECAUSE LIFE IS GOOD.

March 31, 2006

Vernon A. Williams, Secretary  
Surface Transportation Board  
1925 K. Street, NW  
Washington, D.C. 20423

**Re: Request for Expanded Environmental Review for the Proposed Abandonment of the San Pedro Railroad Operating Company, LLC, in Cochise County, Arizona, STB Docket No. AB-1081-X, and the Potential Approval of an Offer of Financial Assistance made by Sonora-Arizona International, LLC**

Dear Mr. Williams:

This letter serves as official notice of the Center for Biological Diversity's (CBD) request for an expanded environmental review for the above referenced proposal. The proceedings are ongoing, and new information exists that should be considered by the Surface Transportation Board (STB) before issuing a final decision. This letter of request and comments is made on behalf of CBD's 22,500 members, many of whom recreate and enjoy the San Pedro River and National Conservation Area.

CBD fully supports the abandonment of the rail as originally proposed by the San Pedro Railroad Operating Company (SPROC). Alternately, CBD strongly recommends to the STB that a full Environmental Impact Statement (EIS) be prepared before any decision on the terms and conditions of a sale/transfer of the rail line to Sonora-Arizona International, LLC (SAI) that approves such action.

The San Pedro River is the last living river in the Southwest. It is home to the most extensive surviving expanse of one of the rarest forest types in North America, the cottonwood/willow gallery or broadleaf riparian association forest.

The San Pedro River is one of the last great relatively intact, surviving ecosystems on Earth. Millions of Neotropical birds use the San Pedro, not only as their final migratory destination, but also as a resting stop on their way to other locations to the North or South. Four hundred and eighty-nine species of birds, mammals, fish, amphibians, and reptiles reside there. Twenty-four of the species are so rare that they now need federal and/or state protection. Nearly one half of

the 800 total North American bird species frequent the San Pedro River at some point in their lives.

The San Pedro River supports the second highest number of mammal species in the world. This is second only to the montane forests of Costa Rica.

In 1989, Congress designated the upper San Pedro as the San Pedro Riparian National Conservation Area (SPRNCA). The SPRNCA has been designated Critical Habitat for the most endangered songbird in North America, the Southwestern Willow Flycatcher. The SPRNCA is Critical Habitat for the Huachuca Water Umbel. Most of the Huachuca Water Umbel on earth live along the upper San Pedro River.

The Jaguar was listed as an endangered species in 1997. They once roamed the borderland states from southern California to Louisiana. A small population of Jaguars was known to exist in Arizona and New Mexico, as far north as the Grand Canyon. As late as the 1960's, Jaguar reproduction was documented in Arizona. The big spotted cats continue to roam up into their ancestral U.S. range from Mexico with recent sightings indicating more than one animal in southeastern Arizona. The San Pedro River is mapped as important Jaguar recovery habitat.

Ninety percent of Arizona's original 35 native fish species are struggling. One is already extinct. Three have been extirpated. All of the surviving native fish species are either federally listed or are in need of being listed. The survival of many of these fish ultimately depends on the fate of the San Pedro. The upper San Pedro River basin (above Saint David) is among the most promising recovery habitat for native Gila River fishes, including Gila Topminnow, Desert Pupfish, Spikedace, Loach Minnow, and Razorback Sucker.

The San Pedro River is truly a national, as well as an international, treasure. The American Bird Conservancy recognizes the San Pedro River as a "Globally Important Bird Area."

There are no permanent dams on the San Pedro. This is extremely rare in the Southwest. Dams prevent desert rivers from flooding which replenishes the vegetation lining the banks. In areas where cattle have been removed and flows exist year round, the San Pedro River still sustains lush, bank-lining vegetation.

For more than 11,000 years humans have inhabited the San Pedro Basin. Clovis, Mogollon, Babocomari and Sobaipuri were among the earliest. The Sobaipuri are relatives of the Tohono O'Odham. Burial sites within the SPRNCA belong to relatives of the Tohono O'Odham and to the Apache.

A decision against abandonment and in favor of the Offer of Financial Assistance (OFA) by SAI threatens the environment of the San Pedro River and SPRNCA. SAI, in repeated public statements made by SAI representative Charles Sotelo, indicate their intention to transport hazardous materials through the SPRNCA and adjacent watershed, including but likely not limited to sulfuric acid. Mishandling of hazardous materials or accidental release to the San Pedro River could potentially be devastating to the river and wildlife. These impacts should be examined in the EIS.

Mr. Sotelo publicly stated in the Bisbee Observer (March 2, 2006) that only 14 miles of the railroad run along the San Pedro. The BLM believes that the over 45 miles of the rail corridor passes through the SPRNCA. With such a large discrepancy, we question if SAI has really even considered the extent to which its proposal would impact the San Pedro River and whether its assertions of safety are probable or even possible. An EIS would resolve this inconsistency and provide accurate information to the agency, the corporation, and the public.

Green Bush Draw is an arroyo that begins in Naco and drains into the San Pedro River. Green Bush Draw has been heavily impacted by the land use and management of the area, but it is an important tributary that flows during monsoons and provides functional riparian habitat in the otherwise arid landscape. The impacts of a chemical or cargo spill on Green Bush Draw should not be ignored and should be included in the EIS.

The transport of toxic cargo proposed by SAI presents a change in operation sufficient by itself to warrant an EIS. Full disclosure of potential cargo and additional information must also be sought to understand the nature of and full range of cumulative direct and indirect impacts of the SAI proposal.

For example, SAI proposes a transload and rail operation from the Port of Guaymas in Sonora, Mexico, through a partnership with Sonora-Arizona Internacional S.A. de C.V. This arrangement involves the transshipment of as yet unidentified goods between ocean going ships and rail/intermodal carriers on both sides of the border.

Mr. Sotelo has made clear his intentions of developing a new transportation route to handle increasing trade activity, which will increase rail traffic through the SPRNCA. He is the owner of Valle Realty and Development located in Bisbee, Arizona, specializing in cross-border development. The SAI proposal represents substantial economic profits for Mr. Sotelo as the transportation route and adjacent lands are developed. From the Valle Realty website, <http://www.vallerealty.com>, "The Naco Rail Crossing Project is an inexpensive and immediately attainable link in providing rail service for Mexico and South/Central America import/export traffic with the United States."

The SAI proposal would involve further development of the Port of Guaymas and development of the Naco Port of Entry as a major transportation hub. Naco, Arizona, has 880 residents (240 households/2000 census), and Naco, Sonora, Mexico, has 7,500 residents plus 1,000-2,000 temporary residents (migrants) at any time. The increase in development will strain current infrastructure, induce significant housing and industrial expansion, increase traffic, increase power needs, increase pollution, increase light pollution, impact washes and uplands, and impact numerous wildlife and plant species. The proposed increase in rail traffic, development and other impacts is substantial, represents a significant change in operation, and is further evidence of the need for a full environmental review provided by an EIS. The EIS should address the cumulative direct and indirect impacts to these communities and the environment.

SAI was incorporated in Arizona on July 7, 2004 per the Arizona Corporation Commission website. It should be worth noting that this start-up company has no other officers listed with the Arizona Corporation Commission and that many of the LLC's financial backers are unidentified.

Little or no evidence is available that the proposed venture will be properly managed, safe, or successful.

CBD strongly supports honoring the original abandonment request by SPROC. Conversion of the rail corridor to a public trail, as proposed by the Trust for Public Land and supported by the Bureau of Land Management and City of Sierra Vista, would provide exceptional recreational opportunities in the region and alleviate concerns brought by the SAI proposal.

The San Pedro Rail has not been in regular operation for some time. CBD is concerned that any return to operation will introduce environmental impacts that have not been adequately addressed in the past. In addition, numerous new cumulative direct and indirect impacts will occur under SAI operations. Abandonment is clearly the preferred alternative. Alternately, given all of the facts and concerns presented herein, CBD requests the STB to require an expanded environmental review in the form of an EIS be prepared before a decision that determines the terms and conditions of a sale of the rail to SAI.

Thank you for considering this request and comments. Should you have any questions or concerns, please do not hesitate to contact Michelle Harrington, Rivers Program Director, by phone at 602-628-9909, or by email at [mharrington@biologicaldiversity.org](mailto:mharrington@biologicaldiversity.org), or Robin Silver, Board Chair, by phone at 602-246-4170, or by email, [rsilver@biologicaldiversity.org](mailto:rsilver@biologicaldiversity.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle T. Harrington". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michelle T. Harrington  
Rivers Program Director

## Certificate of Service

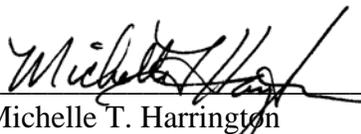
I hereby certify that I have this 31<sup>st</sup> day of March 2006, caused to be served a copy of the Center for Biological Diversity's letter regarding the proposed abandonment of the San Pedro Railroad Operating Company, LLC, in Cochise County, Arizona, STB Docket No. AB-1081-X, and the potential approval of an Offer of Financial Assistance made by Sonora-Arizona International, LLC, to be served by first class mail for those counsel upon the following:

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