



DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
3636 N CENTRAL AVENUE, SUITE 900  
PHOENIX, ARIZONA 85012-1939

September 25, 2017

Steve Spangle  
Field Supervisor, Arizona Ecological Services  
U.S. Fish and Wildlife Service  
Phoenix, Arizona 85021

Dear Mr. Spangle:

I am writing in regards to our ongoing consultation pursuant to section 7 of the Endangered Species Act regarding Consultation No. 02EAAZ00-2015-1-0660 and 02EAAZ00-2015-CPA-0021. During our interagency consultation, your office requested clarification as to whether the applicant, El Dorado Holdings Inc., will carry out the no Federal action alternative described in Appendix I of the biological evaluation we submitted to your office on May 26, 2017 in the event the Corps decides to not reinstate the Department of the Army (DA) permit. In response, El Dorado Holdings provided the Corps with the enclosed letter dated September 14, 2017, for your consideration during the consultation. El Dorado Holding's letter indicates they will develop the property whether they have a DA permit or not. The no Federal action alternative described in Appendix I will occur in the event the Corps decides to not reinstate the DA permit. I hope this clarifies the Corps' position regarding the no Federal action alternative.

With this clarification on the certainty of the no Federal action alternative and very limited federal control and responsibility of the Corps' section 404 Clean Water Act permit authority over the proposed development project, we believe the views expressed in your letter dated October 14, 2016, incorrectly characterizes the direct and indirect effects of the proposed federal action. As such, we request that you retract that letter.

Finally, we hereby reiterate our determination that the proposed Federal action within the onsite action area will not affect listed species or designated critical habitat, and the proposed action at the offsite compensatory mitigation area may affect, but is not likely to adversely affect the yellow-billed cuckoo, southwestern willow flycatcher and the northern Mexican gartersnake, is not likely to result in the destruction or adverse modification of proposed critical habitat for cuckoo or gartersnake, and would have no effect on any other listed species.

Sincerely,

A handwritten signature in blue ink that reads "Sallie Diebolt".

Sallie Diebolt  
Chief, Arizona Branch  
Regulatory Division

# Sample Letter To The Board

**Anne Roberts**



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## **Table of Contents Sample Letter To The Board**

1. Understanding the eBook Sample Letter To The Board
  - The Rise of Digital Reading Sample Letter To The Board
  - Advantages of eBooks Over Traditional Books
2. Identifying Sample Letter To The Board
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Sample Letter To The Board
  - User-Friendly Interface
4. Exploring eBook Recommendations from Sample Letter To The Board
  - Personalized Recommendations
  - Sample Letter To The Board User Reviews and Ratings
  - Sample Letter To The Board and Bestseller Lists
5. Accessing Sample Letter To The Board Free and Paid eBooks
  - Sample Letter To The Board Public Domain eBooks
  - Sample Letter To The Board eBook Subscription Services
  - Sample Letter To The Board Budget-Friendly Options
6. Navigating Sample Letter To The Board eBook Formats

- ePub, PDF, MOBI, and More
- Sample Letter To The Board Compatibility with Devices
- Sample Letter To The Board Enhanced eBook Features
- 7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Sample Letter To The Board
  - Highlighting and Note-Taking Sample Letter To The Board
  - Interactive Elements Sample Letter To The Board
- 8. Staying Engaged with Sample Letter To The Board
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Sample Letter To The Board
- 9. Balancing eBooks and Physical Books Sample Letter To The Board
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Sample Letter To The Board
- 10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
- 11. Cultivating a Reading Routine Sample Letter To The Board
  - Setting Reading Goals Sample Letter To The Board
  - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Sample Letter To The Board
  - Fact-Checking eBook Content of Sample Letter To The Board
  - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
- 14. Embracing eBook Trends
  - Integration of Multimedia Elements
  - Interactive and Gamified eBooks

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