



SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office Environmental Analysis

February 25, 2013

Kathryn Kusske Floyd, Esq.
Venable LLP
575 7th Street, NW
Washington, D.C. 20004

Re: Docket No. FD 35095, Alaska Railroad Corporation - Construction and Operation
Exemption - A Rail Line Extension to Port MacKenzie, Alaska: Comments on
Quarterly Report No. 4

Dear Ms. Floyd:

In its November 17, 2011 decision granting the Alaska Railroad Corporation (ARRC) the authority to construct and operate the Port MacKenzie rail line extension, the Board imposed 100 mitigation measures on the project. Mitigation Measure #98 requires ARRC to submit quarterly reports to the Board's Office of Environmental Analysis (OEA) on the progress of, implementation of, and compliance with the Board-imposed mitigation measures. On February 4, 2013, ARRC submitted Quarterly Report No. 4 for the quarter ending December 31, 2012.

OEA has reviewed Quarterly Report No. 4 and has no new comments. However, OEA has identified several of its comments on Quarterly Reports No. 2 and No. 3 that remain **unresolved or unaddressed by ARRC** (see attachment). OEA expects ARRC to address these comments in Quarterly Report No. 5, or alternatively, to explain precisely why it is unable to address these comments from the agency responsible for oversight in this matter.

If you have any questions, please contact Dave Navecky, OEA's Project Manager, at 202-245-0294.

Sincerely,

Victoria Rutson
Director
Office of Environmental Analysis

cc: Jay Johnson, Venable LLP

ATTACHMENT
Docket No. FD 35095
Port MacKenzie Rail Line Extension

I. OEA Comments on Quarterly Report No. 4
(Quarter Ending December 31, 2012)

OEA does not have any comments on Quarterly Report No. 4 other than those that have been made on prior reports and have not been addressed, as noted below.

II. OEA Comments on Quarterly Report No. 3
(Quarter Ending September 30, 2012) Not Addressed in Quarterly Report 4

The following discussion pertains to OEA's comments on Quarterly Report No. 3 that were not addressed in Quarterly Report No. 4. Please address in Quarterly Report No. 5 (i.e., report on the first quarter of 2013).

Mitigation Measure (MM) #3: With the issuance of the Clean Water Act, Section 404 permit for wetland fill, and associated 401 Water Quality Certification, additional conditions and mitigation measures have been added to the project. Some of these measures are similar to the mitigation measures that Alaska Railroad Corporation (ARRC) is already required to implement through the Board's final decision. However, there are some more detailed measures in the permit/certification. MM#3 requires that ARRC incorporate permit stipulations into construction contract specifications. It would be beneficial for the additional mitigation measures to be included as an addendum to future quarterly reports.

MM #6: Please delete the second sentence describing the mitigation measure because the sentence repeats the first sentence.

MM #38: Please delete the last two sentences describing the mitigation measure because they repeat the first two sentences.

MM #38, 39, 42, 48, 50, 68, 83: In the next and subsequent quarterly reports, the Board's Office of Environmental Analysis (OEA) requests that ARRC provide more detail on the status of mitigation plans, such as the Bear Interaction Plan, Reclamation Plan, Invasive Species Control and Management Plan, and Maintenance of Navigable and Public Water Rights Plan. All of these plans were submitted in the first quarter of 2012 to the appropriate state and federal agencies. However, in the second and third quarter reports there is no updated status information for the plans. The status information provided for MM #47 (Moose Mitigation Strategy Plan) is an example of the type of additional status information that OEA is requesting.

MM #76: Please delete the second sentence in the "Status Comments" column because the sentence repeats the first sentence.

MM #85: OEA requests a copy of the letter from Ken Bullman of the Alaska Department of Natural Resources, Division of Forestry stating that ARRC is exempt from filing a "detailed plan of operations" for Segments 1 and 6.

**III. OEA Comments on Quarterly Report No. 2
(Quarter Ending June 30, 2012) Not Addressed in Quarterly Report 3 or 4**

The following discussion pertains to OEA's comments on Quarterly Report No. 2 that were not addressed in Quarterly Report No. 3 or 4. Please address in Quarterly Report No. 5 (i.e., report on the first quarter of 2013).

MM #10, 12, 33 and 34: As stated in OEA's comments on Quarterly Report No. 2 and 3, the list of fish habitat permits acquired does not appear to be consistent with the list of anticipated fish habitat permits in the Final Environmental Impact Statement (EIS). (See in particular crossings identified as H-2.8 and H-1.2 in the Final EIS and also crossing identified as K22.2 in the quarterly report but not in the Final EIS.) Please clarify or explain the discrepancies.