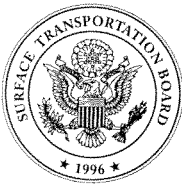


EO-1962



SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office Environmental Analysis

September 28, 2012

Kathryn Kusske Floyd, Esq.
Dorsey & Whitney LLP
1801 K Street, Suite 750
Washington, D.C. 20006

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. 2

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 August 3, 2012, ARRC submitted Quarterly Report No. 2 for the quarter ending June 30, 2012.

OEA has reviewed Quarterly Report No. 2 and has a number of comments (see attachment). OEA requests that these comments be addressed in Quarterly Report No. 3, which will cover July 1, 2012 through September 30, 2012.

OEA has also identified several of its comments on the Quarterly Report No. 1 that have not been resolved or addressed, as appropriate (see attachment). OEA requests that these comments also be addressed in Quarterly Report No. 3.

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, Dorsey & Whitney LLP

Docket No. FD 35095
Port MacKenzie Rail Extension

I. OEA Comments on Quarterly Report No. 2
(Quarter Ending June 30, 2012)¹

Mitigation Measures (MM) #2, 8, 24, 53, 70, and 80: Please make stormwater pollution prevention plans (SWPPP) and Matanuska-Susitna Borough (MSB) floodplain development permits available on ARRC's project website.

MM #3: In response to OEA's comments on Quarterly Report No. 1, ARRC attached a list of permits to Quarterly Report No. 2. The list includes permits obtained and permits currently in review. Because the rail line will be built in six segments (i.e., phases), please specify permit status for each segment in future quarterly reports. This approach will assist OEA in assessing whether permits obtained or in review are for the entire rail line or for a particular segment of the rail line.

MM #35: According to the "Project Progress" section of Quarterly Report No. 2, construction on Segment 1 commenced in April, and according to the "Schedule" section of the report, continued to July 1. Therefore, construction activities occurred during the breeding/nesting season. What did ARRC do to comply with the Migratory Bird Treaty Act (MBTA)? If vegetation was cleared, were nest surveys conducted? If not, what was done to "ensure compliance with the Migratory Bird Treaty Act"? Please clarify Segment 1 MBTA compliance activities in the next quarterly report.

MM #36: In response to OEA's comments on Quarterly Report No. 1, ARRC states in the new report that no bald eagle nests were identified in Segment 1 or Segment 6. Please clarify if these determinations were based on new raptor surveys or the 2008 raptor survey conducted for the Final Environmental Impact Statement (EIS).

MM #47: According to MM #47 in the Board's decision, the following text appears after "ADNR" in the first sentence of the mitigation measure language - "and other appropriate stakeholders." Please add the missing text to the mitigation checklist of future quarterly reports.

MM #57: Did the Community Liaison receive any requests for "quiet zones" to be established during the construction of Segment 1? Please clarify in the next quarterly report.

MM #63: Construction started on Segment 1 in April - were the Project Office, website and hotline made available to the public, as of April 1, as required by MM #63? ARRC's "Status Comments" in the "Mitigation Checklist" states that the Project Office, website and hotline "will be" available. Please clarify in the next quarterly report.

MM #66: ARRC states that they do not actually need a bridge permit from the Coast Guard per 33 C.F.R. § 115.70. Please update permit status and the Coast Guard's position on this issue in the next quarterly report.

¹ OEA's comments refer to the Quarterly Report's Mitigation Checklist unless stated otherwise.

MM #69: This measure requires that a spill prevention, control and countermeasures (SPCC) plan be developed prior to the start of construction. Please place the SPCC plan for Segment 1 on ARRC's project website.

MM #85: It is unclear what "compliance" means in the "Status Comments." In the next quarterly report, please clarify how compliance with the Alaska Forest Resources and Practices Act was achieved and specify what was entailed in "coordination with ADNR Division of Forestry."

II. OEA Comments on Quarterly Report No. 1 (Quarter Ending March 31, 2012) Not Addressed

The following discussion pertains to OEA's comments on Quarterly Report No. 1 that were not addressed in Quarterly Report No. 2. Please address in Quarterly Report No. 3.

MM #10, 12, 33 and 34: As stated in OEA's comments on Quarterly Report No. 1, the list of fish habitat permits acquired does not appear to be consistent with the list of anticipated fish habitat permits in the Final EIS. Please clarify or explain the discrepancy. Please post acquired fish habitat permits on ARRC's project website.

MM #14: Is there a delineation report that documents this "permit-level" delineation? If yes, please post the report on ARRC's project website.