



SURFACE TRANSPORTATION BOARD

Washington, DC 20423

EO-2007

Office Environmental Analysis

December 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. 3

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 October 31, 2012, ARRC submitted Quarterly Report No. 3 for the quarter ending September 30, 2012.

OEA has reviewed Quarterly Report No. 3 and has a number of comments (see attachment). OEA requests that these comments be addressed in Quarterly Report No. 4, which will cover October 1, 2012 through December 31, 2012.

OEA has also identified several of its comments on the Quarterly Report No. 2 that have not been resolved or addressed (see attachment). OEA requests that these comments also be addressed in Quarterly Report No. 4.

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 Line Extension

I. OEA Comments on Quarterly Report No. 3
(Quarter Ending September 30, 2012)¹

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 #39, 42, 48: 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.

I. OEA Comments on Quarterly Report No. 2
(Quarter Ending June 30, 2012) Not Addressed

The following discussion pertains to OEA's comments on Quarterly Report No. 2 that were not addressed in Quarterly Report No. 3. Please address in Quarterly Report No. 4.

MM #10, 12, 33 and 34: As stated in OEA's comments on Quarterly Report No. 2, the list of fish habitat permits acquired does not appear to be consistent with the list of anticipated fish

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

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.) Please clarify or explain the discrepancy.

MM #35: As stated in OEA comments on Quarterly Report No. 2, OEA requests that ARRC expand on the statement that the “project is progressing in accordance with this mitigation measure” and explain what measures were taken to comply with this mitigation measure. If vegetation clearing took place during the breeding season, which the second quarter report indicates, then nesting surveys should have taken place and the USFWS consulted. Was this measure followed?