



SURFACE TRANSPORTATION BOARD

Washington, DC 20423

EO-1902

Office Environmental Analysis

May 25, 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. 1

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 May 1, 2012, ARRC submitted Quarterly Report No. 1 for the period ending March 31, 2012.

OEA has reviewed the quarterly report and has a number of comments (see attachment). OEA requests that these comments be addressed in Quarterly Report No. 2, which will cover April 1, 2012 through June 30, 2012.

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
OEA Comments on Quarterly Report No. 1
(Quarter Ending March 31, 2012)

Page 2: The listing of fish habitat permits acquired may not be consistent with Alaska Railroad Corporation's (ARRC) status comment from the table attached to Quarterly Report No.

1(Mitigation Measure [MM] #10), which states that all fish habitat permits have been issued, except one that is pending (MP175). According to the Final EIS, there are two additional fish-bearing streams along the approved route that would require this permit -- the Houston 1.2 and Houston 2.8 crossings. These crossings are not mentioned in ARRC's Quarterly Report No. 1. In addition, the Houston 5.6 crossing on ARRC's list does not appear in the Final EIS (although the Final EIS does include a crossing at 5.8 that was considered non-fish bearing). It may be that minor adjustments in the alignment and/or decisions by Alaska Department of Fish and Game about the presence/absence of fish and the resulting need for a permit explain the differences, but it would be helpful for ARRC to include this explanation (and/or make corrections to provide consistency with MM #10 status comments) along with the list of permits. Please clarify in future quarterly reports. Also, a permit for Houston 9.6 is included in your list in Quarterly Report No. 1, but this stream crossing would be avoided by the re-route around Muleshoe Lake.¹ Please clarify or explain whether this permit should be removed from the list in ARRC's future quarterly reports.

In addition, it would help inform the public and the Board's Office of Environmental Analysis (OEA) if ARRC would post the fish habitat permits on its website. All other permits that ARRC lists in the mitigation checklist as having been obtained (e.g., for MM #8) and other project documents such as the SWPPP (MM #2) also should be posted on ARRC's website.

MM #1: The status comment does not provide any context or explanation. Please identify the codes or standards being followed to address the mitigation requirement in ARRC's future quarterly reports.

MM #3 & #33: Please provide a list of the permits being acquired in ARRC's future quarterly reports.

MM #6 & #38: In the "Mitigation Measure" column, the first sentence in MM #6 is stated twice, and the first two sentences in MM #38 are stated twice. Please delete the redundant sentences in ARRC's future quarterly reports.

MM #14: OEA has not been provided the wetland delineations for associated facilities outside the right-of-way. It would be helpful to have a copy on ARRC's project website.

MM #16: Because the mitigation measure is dependent on the time of year, please specify the time period in which the measure was implemented in ARRC's future quarterly reports.

¹ See March 1, 2012 letter from Kathryn Kusske Floyd, Dorsey & Whitney, to Victoria Rutson, OEA, explaining a realignment of the approved route around Muleshoe Lake (ECT #18834).

MM #31: The status comments address water habitats but not other types of sensitive habitats or the locations of staging areas on previously disturbed sites. Please clarify in ARRC's future quarterly reports.

MM #36: Future status comments should specify if, when and where bald eagle nests are encountered during project-related construction. If none, please clarify this fact in ARRC's future quarterly reports.

MM #41: Future status comments should acknowledge the need to comply with the moose mitigation strategy plan (MM #47) also.

MM #44 & #45: See comment above regarding page 2 of Quarterly Report No. 1 and MM #10; revision may be needed in future reports.

MM #66 & #67: Status comments are not consistent with letter dated 4/4/2012 from the U.S. Coast Guard to ARRC. Please clarify in ARRC's future quarterly reports.