

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF COASTAL AND OCEAN MANAGEMENT

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SEAN PARNELL
GOVERNOR

2/16/2010

Surface Transportation Board
395 E Street, SW
Washington, DC 20423
Attn: Victoria Rutson

SUBJECT: Alaska Railroad Petition to Construct & Operate a Rail Line Extension to Port MacKenzie, Alaska, STB Finance Docket No. 35095

Dear Ms. Rutson:

The Division of Coastal and Ocean Management (DCOM) has reviewed the letter submitted by your agency on August 12, 2009. Your letter explained that the Surface Transportation Board is the lead agency in the preparation of an Environmental Impact Statement (EIS) for the Alaska Railroad Corporation's (ARRC) proposed rail line extension to Port MacKenzie. Your letter indicated that your agency wishes to initiate consultation with the DCOM regarding the consistency of the proposed project.

The purpose of this letter is to inform you that it is our determination that ACMP review is not required at this stage of the proposed project. While Federal agency activities affecting any coastal use or resource are subject to consistency review per 15 CFR 930 Subpart C, the Surface Transportation Board is not the applicant for the proposed rail extension. The act of serving as the lead agency for an Environmental Impact Statement does not constitute a "federal agency activity" as that term is applied under Subpart C.

Although the Surface Transportation Board is considering issuing a federal license to the ARRC for the proposed rail extension, that license is not on the list of federal permits in regulation subject to ACMP review under Subpart D of 15 CFR 930. This project would ultimately be reviewed for consistency with the ACMP under Subpart D with the ARRC as the applicant and with other federal permits subject to ACMP review.

For purposes of compliance with NEPA, the STB could generally describe the CZMA, ACMP, and relevant coastal district policies, and reflect that the appropriate time for the proposed railroad extension to undergo an ACMP consistency review is when a route has been selected, design is finalized and permit applications are submitted for review.

The ARRC may profit from consulting your SEA and considering the ACMP standards you addressed in your letter when they submit a Coastal Project Questionnaire to being the ACMP process after a route has been selected and design is finalized. DCOM would expect a greater level of detail in the consistency evaluation when ARRC submits an application. Additional notes we can provide on the consistency evaluation in the interests of a more complete future ARRC application appear below:

1. **Coastal Development:** This standard prioritizes developments in or adjacent to (near but not necessarily touching) coastal (salt) waters. Future submittals would contain descriptions about how the railroad extension is either water-dependent, water-related or neither water-dependent or water-related.
2. **Natural Hazard Areas:** The Matanuska Susitna Borough coastal management plan does not currently contain any designated natural hazard areas, but natural hazards can be designated during the course of an individual consistency review.
3. **Subsistence Designated Areas:** The Matanuska Susitna Borough coastal management plan does not currently contain any designated subsistence use areas, but these areas can be designated during the course of an individual consistency review.
4. **Habitats:** Future submittals would break out each individual habitat type the project occurs in and give a detailed description of how the railroad extension is designed to avoid, minimize and lastly mitigate significant adverse impacts to habitat types managed by the ACMP. The ARRC would describe all efforts/design considerations made to avoid adverse impacts, then describe efforts to minimize impacts.
5. **Matanuska Susitna Borough Coastal District Enforceable Policies:** Future submittals will need to address any Matanuska Susitna Borough district enforceable policies that apply.

DCOM applauds your decision to include the ACMP standards in your NEPA analysis and very much appreciates the spirit of coordination. Thank you for your cooperation with the ACMP. Please contact me if you have any questions at 907-269-7480 or Melinda.ODonnell@alaska.gov.

Sincerely,



Melinda O'Donnell
Project Review Supervisor

cc: ARRC