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January 26, 2009

Victoria J. Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
395 E Street, SW
Washington, DC 20423



Re: Finance Docket No. 35095, The Alaska Railroad Corp. – Petition for An Exemption From 49 U.S.C. § 10901 To Construct and Operate a Rail Line Extension to Port MacKenzie, Alaska

Dear Ms. Rutson:

Several weeks ago, the Matanuska-Borough (“Borough”) sent you a letter and verified statement explaining the details of its plans for a new Bulk Materials Facility (“BMF”) at Port Mackenzie (“Port”). That letter indicates that the purpose of the BMF project is to facilitate the transport of bulk materials to the Port in heavy-haul trucks. The project contemplates a new facility for bulk materials, as well as upgrades to truck roads, staging and storage areas at the Port. To avoid any confusion between the Borough’s separate plans for its BMF and The Alaska Railroad Corporation’s proposal for a line extension to the Port proposal from Wasilla to the Port, I am providing some additional information demonstrating the independent utility of two projects. First, I will address the nature of the traffic that can be expected to be carried on the rail line. Next, this letter summarizes the different infrastructure being proposed for the two projects.

As you are aware, the objective of the Port MacKenzie Rail Extension Project is “to establish a rail link between Port MacKenzie and the Alaska Railroad.” Preliminary Environmental and Alternatives Report (“PEAR”) at 1-1. If this new rail link were established, it would provide an economical alternative mode of transportation for a variety of different shipments and traffic, including but not limited to bulk materials. *See id.* As with any new rail line, the rail shipments which the new rail would carry are dependent on shippers’ needs. While it is possible that some bulk materials may in the future shift from truck to rail if the line is built in the future, not all bulk materials destined to/from the Port would lend themselves to shipment by rail due to distances, logistics and other factors.

With respect to the physical infrastructure of the ARRC project, the endpoint of ARRC’s ownership at the Port would be a rail terminal yard or reserve that is anticipated to include siding

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tracks and a building to be used for loading, equipment maintenance and crew assignments.¹ *See id.* at 3-5. The plans contained in the PEAR call for this rail terminal yard or reserve to be located approximately one mile from the Port MacKenzie dock facility. *See id.* Since the PEAR, ARRC has developed a new location for the “Mac East” terminal reserve that is slightly farther from the dock. The “Mac West” terminal reserve remains at the location depicted in the PEAR. Whichever terminal reserve is ultimately used, no infrastructure connecting the rail line or terminal reserve to any other Port facility is planned as part of ARRC’s project.

As noted in ARRC’s PEAR, any future plans by the Borough to connect the terminal yard with the Port-owned dock would require development of “additional rail facilities” that do not currently exist at the Port. *Id.* at 4-46. The particulars of these new rail facilities to be owned by the Port would depend on what types of rail traffic use the new line in the future, but they would likely include “roads, industrial spurs, sidings, loading/unloading tracks, and other ancillary facilities throughout the upland port district.” *See id.* The important point is that any future facilities connecting the dock to the ARRC terminal yard would be developed by the Port, independent of the rail line and ARRC, and regardless of any other development at the Port—including the BMF. Put differently, if the rail line is built, the Port in the future would have to consider building whatever connection might be needed between the Port’s dock and ARRC’s rail terminal reserve based on the rail traffic that materializes, “with or without” the BMF.

As demonstrated by these facts, the independent utility of the Port’s BMF project and ARRC’s rail line extension to the Port is clear. The Port’s BMF is designed to improve its ability to handle heavy-haul truck traffic carrying bulk materials, whereas ARRC’s rail line extension aims to provide freight rail service to the Port for all types of traffic, including bulk materials. The Port’s BMF is valuable in its own right for handling bulk materials that are likely to come to the Port by truck into the future (whether or not a rail line is ever built), and its development is in no way contingent on the new rail line. At the same time, the new rail line extension can and will be built regardless of whether or when the BMF is constructed.

Courts have repeatedly determined that projects with this sort of independent utility are not connected actions. For example, in *Morongo Band of Mission Indians v. Federal Aviation Admin.*, 161 F.3d 569, 590 (9th Cir. 1998), the Court of Appeals found independent utility where one project at an airport was meant to address existing congestion problems, and a separate project was planned to address future growth at the same airport. Thus, the fact that two projects are planned in the same location does not necessarily make those projects connected actions. The Court of Appeals in *Northwest Resource Information Ctr., Inc. v. National Marine Fisheries Serv.*, 56 F.3d 1060, 1068 (9th Cir. 1995), further concluded that two projects had independent utility if “each could exist without the other,” even if “each would benefit from the other’s presence.” The facts discussed above clearly demonstrate that both the Port’s BMF and ARRC’s

¹ A map in the PEAR Conceptual Plan Set shows milepost T0.0 at a point just beyond the terminal reserve. *See* Conceptual Plan Set at 5 of 48. This terminus was used in the PEAR as a “conceptual” endpoint for purposes of ARRC’s mapping software, and was not intended to suggest a connection to the Port’s facilities.

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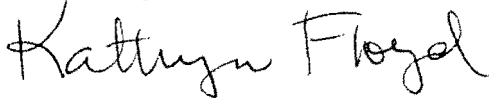
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rail line extension "could exist" apart from the other project. At some time in the future, the Borough may determine to build additional infrastructure at the Port including a connection of the Port's BMF to the ARRC's terminal; however, ARRC is not proposing any such infrastructure as part of its proposal, nor does the Borough have plans for such facilities at this time.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn Floyd".

Kathryn Kusske Floyd