

EI- 18008

STATE OF ALASKA

SEAN PARNELL, Governor

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OFFICE OF PROJECT MANAGEMENT AND PERMITTING

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Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

December 31, 2009

Dear Ms. Rutson:

Re: STB Finance Docket No. 35095, Alaska Railroad Corporation Northern Rail – Petition for Exemption to Construct and Operate a Rail Line Extension to Port Mackenzie Alaska; Request for Information Regarding 4(f) Applicability, Measures to Minimize Harm, and *de minimis* Findings

The State of Alaska has reviewed the November 9th letter requesting input on section 4(f) resources that could be affected by the Port Mackenzie Rail Extension project. In response to the listed items 1-3 we offer the following comments.

- (1) We concur that the properties listed on page 2 of the memo meet the 4(f) criteria as explained in the memo.
- (2) Please add the following 4(f) resources not identified your letter.

RST 149, Nancy Lake – Susitna Trail

The Nancy Lake - Susitna trailhead is located in southcentral Alaska, at mile 67 of the parks highway. From the south shore of Nancy Lake, the trail heads southwestward to Susitna Landing. The route is located in the USGS 1:63,360 Anchorage C-8 and Tyonek C-1 and C-2 quadrangles and is approximately 26 miles long.

RST 118, Knik – Susitna Trail

The Knik-Susitna section of the Iditarod Trail begins in the town of Knik, on the north side of Knik Arm north of Anchorage. The trail heads northwest, joining ADL 200644, a 200 foot right of way which runs through T16N, R3W, Seward Meridian. This easement becomes ADL 222930, a 400 foot right-of-way which heads west to the trail's terminus at the Susitna River within T17N, R7E, SM. Total trail length is approximately 30 miles. The trail is shown on USGS 1:63,360 Anchorage B-8 and Tyonek C-2. These trails are a valid state interest for their historical and recreational values.

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

(3) "Whether proposed mitigation and measures to minimize harm would support a finding of *de minimis* use"

We have reviewed and considered the proposed mitigation and measures provided in your letter. While these mitigations and measures may be appropriate for initial analysis in mitigating potential impacts to any resource of the state, not just 4(f), we do not concur that implementation of these measures would result in *de minimis* impacts to the identified 4(f) resources. Moreover, there is no reasonably conceivable assemblage of mitigation measures that we could determine would render overall impacts to refuge lands and park lands *de minimis*.

These refuge areas, parks and recreational lands, typically with legislatively designated boundaries, were specifically designated in state law for the purposes of conserving the land and the values associated with that land. The replacement of impacted refuge lands with similar lands in other locations does not mitigate or restore habitat loss or other attributes within these 4(f) areas to a *de minimis* level. The listed mitigation and measures do not address the potential for direct or indirect harm to fish and wildlife, such as moose collisions along these routes. Further, they do not address the potential for damage from activities directly associated with railroad use, such as toxic spills or noise impacts. The existence of and the routine operation of a railroad in areas so closely associated with legislatively protected lands could directly alter the movement, migration and behavior of various fish and wildlife populations that rely on these largely undeveloped habitat areas.

The intent of the formative laws for these lands and current management directives contained in governing management plans and in regulation further demonstrates the impracticality of achieving a *de minimis* finding through mitigation, compensatory or otherwise. The comments below are in response to the proposed segment specific mitigation and measures listed in your letter.

If the Surface Transportation Board authorizes the Mac West segment, the Applicant shall consult with the ADF&G to develop and implement measures, including consideration of replacing refuge acreage used for project-related rail right-of-way, to minimize impacts to the Susitna Flats State Game Refuge to the extent practicable.

The Susitna Flats State Game Refuge (SFSGR) was established by the Alaska State Legislature in 1976 to protect (1) fish and wildlife habitat and populations, particularly waterfowl nesting, feeding and migration areas; moose calving areas; spring and fall bear feeding areas; salmon spawning and rearing habitats; and (2) public uses of fish and wildlife particularly waterfowl, moose and bear hunting; viewing; photography; and general recreation in a high quality environment. Mitigating the impact of the Mac West route alignment with replacement land in a different location would not make the impacts *de minimis* because the SFSGR was created specifically to protect the resources located in the Susitna Flats, not wildlife or habitat resources generally, or in another area. Land purchased as mitigation could not be added to the refuge and would not be under ADF&G management authority without legislative approval.

In addition, the ability of ADF&G to manage the SFSGR consistent with the goals, objectives, and policies of the SFSGR Management Plan would be compromised if the Mac West route was selected.

The plan directs ADF&G to manage the refuge (1) for the protection, preservation, and enhancement of fish and wildlife populations; and (2) to protect maintain and enhance public use of fish and wildlife and their habitat and general recreation in a high quality environment. All activities within the refuge must be consistent with these goals and compatible with the purposes for which the refuge was established.

This alignment along the eastern boundary of the SFSGR would act as a barrier to east/west movement of moose between the SFSGR and land outside the refuge including the Goose Bay State Game Refuge, which was established to protect natural habitat and game populations. It would make habitat that was protected specifically to benefit wildlife, including moose, inaccessible to moose. (SFSGR Management Plan Objective I.2. – Maintain natural movement corridors for moose to and from the refuge.)

The Mac West alignment affects all current overland access to the SFSGR from the Mat-Su Borough road system, including the Horseshoe Lake access road at the end of Holstein Ave., the Enstar pipeline trail, Ayrshire Ave/Little-Su River Road, Middle Lake Trail, Guernsey Road, and the South Trail. The only legal constructed road access, Ayrshire Ave/Little-Su River Road, into SFSGR, is in the NE corner of the refuge providing access to the Little Susitna Public Use Facility. The access road to Horseshoe Lake and the boat launch at the lake are located in the same section line easement and parallel the route of the Mac West alignment (at approximately mile 10). Restricting public access into the refuge to only these routes will only minimally maintain public access and most certainly will not enhance public access (SFSGR Objective II.1. – Maintain and where appropriate enhance public access to the refuge.) The impacts of restricting access into the refuge will not be mitigated through acreage replacement because the access is located in those particular locations in the northeast corner and down the east boundary of SFSGR because practical legal access does not exist elsewhere.

If the Surface Transportation Board authorizes the Willow segment, the Applicant shall consult with ADF&G and ADNR to develop and implement measures, including consideration of replacing acreage used for project-related rail right-of-way, to minimize potential impacts to the Willow Creek State Recreation Area, Nancy Lakes State Recreation Area and Little Susitna River State Recreation River Area. The Applicant shall identify any additional trails, campsites, or other uses within the recreation areas that could be potentially affected by the project and shall coordinate with ADNR Division of Parks and Recreation (DPOR) to craft a site-specific crossing plan to eliminate or decrease potential impacts to the extent practicable.

The Willow segment crosses both the Little Susitna State Recreational River and the Willow Creek State Recreation Area, and would impact the Nancy Lake State Park.

DNR does not concur that this measure would support a finding of *de minimis* use. The Willow segment would bi-sect the Willow Creek State Recreation Area. Impacts caused by a ~1/2-mile long by 50+ feet tall structure necessary to cross the Willow Creek Valley will alter the landscape significantly, irreparably and could adversely affect the activities, features, and attributes of the park. Such impacts cannot be mitigated through traditional means (such as acreage replacement) since the primary feature of the park is the Willow Creek Valley. Additionally, soundscape impacts cannot be eliminated and will permeate throughout a much greater area than the rail belt footprint, especially when elevated above grade. State Recreation Areas are usually large enough resource parks that noise attenuation is

accomplished by virtue of their size. The same noise premise holds true for all three conservation units in the Willow Corridor.

*If the Surface Transportation Board authorizes the **Houston North** segment, the Applicant shall consult with the ADNR to develop and implement measures to minimize potential impacts to the Little Susitna State Recreation River and the Nancy Lake Creek Junction public use site including replacement of any camping or other facilities within the right-of-way.*

DNR does not concur that the mitigation proposals for this segment would support a *de minimis* finding. The Houston North segment crosses the Little Susitna State Recreational River. The rail corridor could have substantial impact to the Little Susitna State Recreational River designation within the corridor footprint and could materially affect the ability to use the recreation corridor as designated. Though construction of a bridge would continue to allow for access on both sides of the river, the proposed rail corridor would likely cut off and isolate the associated uses. The acreage is linear for the most part and therefore, susceptible to substantial alteration by linear developments (e.g., a rail line) that would materially divide a narrow resource. Additionally, trails within a recreation designation are not individually protected; they are generally protected by virtue of occurring within the designation. A rail line may render portions of the recreational area unusable for recreation by virtue of isolating them from access. By virtue of it being a corridor, the protected area is wider than just the river and free access within the corridor could be compromised by the proposed rail line.

The Recreation Rivers were established by statute primarily for recreation (AS 41.23.400) and the primary purpose for management includes continued recreational and economic use while ensuring the scenic and natural integrity of the recreation river (AS 41.23.400(c)(2)). A railroad crossing the corridor would not be consistent with this management purpose.

*If the Surface Transportation Board authorizes the **Connector 1** segment, the Applicant shall consult with ADF&G and ADNR to determine if any trails in addition to official recognized trails within and surrounding the Little Susitna Public Use Facility have high enough levels of use to merit consideration for a grade-separated crossing.*

The Connector 1 route would impact the Susitna Flats State Game Refuge. See Mac West segment comments above.

*If the Surface Transportation Board authorizes the **Willow** segment, the Applicant shall provide two grade-separated crossings for the Lucky Shot Trail within the Willow Creek State Recreation Area and shall construct a bridge over Willow Creek with adequate clearance to ensure public access along the waterway during winter as well as summer conditions.*

See above discussion regarding Willow segment.

*If the Surface Transportation Board authorizes the **Willow segment**, the Applicant shall determine whether access would be made available to the parkland in the Nancy Lakes State Recreation Area west of the proposed right-of-way; if such accommodation is warranted but not practicable, the Applicant shall consult with ADNRP DPOR to determine appropriate mitigation for the loss of public access to this area.*

See above discussion regarding Willow segment.

*If the Surface Transportation Board authorizes the **Willow or Houston North** segments, the Applicant shall construct a bridge over the Little Susitna River with adequate clearance to ensure public access along the waterway during winter as well as summer conditions.*

See above discussions regarding Willow and Houston North segments.

*If the Surface Transportation Board authorizes the **Mac West, Connector 1, and/or Willow** segments, the Applicant shall consult with ADFG to identify trails, campsites or other uses within the Susitna Flats State Game Refuge that would be affected and develop a site-specific crossing plan to maintain public access for Susitna Flats State Game Refuge.*

See above discussions regarding Mac West, Connector 1, and Willow segment.

Thank you for the opportunity to review the proposed 4(f) resources and mitigation measures for this project. We remain available to discuss our comments with you at your convenience. Please contact me at (907) 269-7476 or by email at donald.perrin@alaska.gov if you have questions regarding these comments or the State's management of these areas.

Sincerely,



Don Perrin
Project Management and Permit Coordinator
Alaska Department of Natural Resources

cc: Wayne Biessel, DNR
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