



ET - 18901

April 25, 2012

ENGINEERING SERVICES

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James Helfinstine
District Bridge Program Manager
U.S. Coast Guard
P.O. Box 25517
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Subject: ARRC Northern Rail Extension, Bridge over the Tanana River

Dear Mr. Helfinstine:

The Alaska Railroad Corporation (ARRC) received your letter dated April 4th, 2012 rejecting ARRC's position that the construction of the bridge over the Tanana River as part of the Northern Rail Extension project can move forward under the provisions of 33 CFR 115.70. You provided two arguments in support of your assertion, both of which are fundamentally flawed. These arguments are addressed individually below.

1. *This project is a major federal action as stated in Figure 2-1, 32(f) of the Environmental Policy Act (NEPA) Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1"*

As you know, the USCG participated in preparation of an Environmental Impact Statement (EIS) as a Cooperating Agency because of the potential for regulatory action by your agency during the execution of the project. The fact that Figure 2-1, 32(f) allows the agency to employ Advance Approval using a Categorical Exclusion does not mean that Advance Approval is inappropriate when additional environmental review has occurred. Agencies are always free to participate in more thorough reviews, even when they are not required to do so. See 40 C.F.R. §§ 1501.6, 1508.4. Put differently, the Surface Transportation Board's preparation of an EIS for the entire Northern Rail Extension project, with the USCG participating as a Cooperating Agency, has fully satisfied all of your agency's obligations under NEPA, and in no way precludes Advance Approval under 33 C.F.R. § 115.70. Indeed, one of the primary purposes of acting as a cooperating agency was to use the EIS to fulfill the Coast Guard's NEPA requirements.

2. *Navigational use of this waterway exceeds that identified in 33 CFR 115.70.*

As a result of the now-completed NEPA process, and as explained in my prior letter, it has been determined that the river traffic through this portion of the Tanana River is relatively light, and consist of small crafts well within the definitions of 33 CFR 115.70. Your letter nonetheless asserts, without pointing to any evidence, that navigational use of the Tanana River exceeds the requirements for Advance Approval. Because the NEPA process has brought information forward demonstrating that the project as proposed qualifies for Advance Approval, we cannot accept your claim to the contrary in the absence of any evidence.



Based upon the foregoing, ARRC is proceeding with project construction. You may either 1) concur with this intention, formally or passively; 2) issue the permit based upon the application that has been in your office for two years; or 3) provide some new and meaningful data that shows that the river traffic on the Tanana River near Houston is different than what has been characterized, and issue the permit.

Sincerely,

Brian Lindamood, PE
Director, Capital Projects

Cc:

Admiral Robert J. Papp, JR (USCG)
Rear Admiral Thomas P. Ostebo (USCG)
Rear Admiral Christopher Colvin (USCG)
Hala Elgaaly (USCG)
Col. Reinhard W. Koenig (USACE)
Ellen Lyons (USACE)
David Navecky (Surface Transportation Board)
Randy Ruaro (State of Alaska)
Commissioner Marc Luiken (State of Alaska DOT&PF)
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