

EI-18575



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October 5, 2010

**VIA ELECTRONIC MAIL AND POSTAL
SERVICE**

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

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

Dear Ms. Rutson:

Thank you for providing the Alaska Railroad Corporation (ARRC) with the opportunity to review and comment on the Port MacKenzie Rail Extension Draft Environmental Impact Statement (DEIS). This letter contains ARRC's comments and concerns relating to Section 6.0 of the DEIS, Cultural Resources, and Appendix J, the Draft Programmatic Agreement (PA). These comments and concerns also implicate the reports prepared by Stephen R. Braund & Associates (SRBA) on cultural resources field work conducted in 2008 and 2009.

The Alaska State Historic Preservation Office (SHPO) has already concurred in the SRBA recommendation and STB finding that the Iditarod Dog Sledding Historic District/Historic Vernacular Landscape is eligible for listing in the National Register of Historic Places (NRHP). The SHPO's September 1, 2010 letter recommends "further refinement" of boundaries using the *National Register Bulletin: Guidelines for Evaluating and Documenting Rural Historic Landscapes (Guidelines)*. For the reasons discussed below, ARRC agrees that additional refinement of the boundaries of the proposed historic landscape is needed.

As an initial matter, ARRC is not convinced that the proposed historic Iditarod Dog Sledding Cultural Landscape qualifies as eligible National Register of Historic Places (NRHP) under Criterion A for association with the gold rush era of Alaska (1898-1925). At least some of the area may qualify for NRHP eligibility under Criterion G for its association with the Iditarod Race (1967-1978). We strongly believe that the boundaries of the identified historic landscape, which currently encompass over 476,000 acres, are excessive. Revised boundaries should be identified to encompass concentrations/areas of contributing features that best meet the requirements for significance and integrity. .

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As the SHPO has rightly suggested, any historic cultural landscape should be delineated using the Park Service's *Guidelines*, which contains an entire section devoted to "Selecting Boundaries." According to the *Guidelines*, boundaries should be limited to "areas having historic significance, rather than just scenic values" Furthermore, "recent changes that have erased historic characteristics, and do not have exceptional importance, make a property ineligible, even if scenic qualities are still present." Due to several changes in the location of the Iditarod Trail and external changes that have "erased" the original trail's historic characteristics, the actual areas of potential "historic significance" within the study area are relatively few and far between. The viewscape from those areas, while vast, cannot independently qualify as a historic landscape under the *Guidelines*.

With regard to the type of historic landscape potentially at issue here—"[t]rails and roads"—the *Guidelines* "require[s] verification that the land nominated be the actual location of the trail," as well as "integrity of setting and location." Even where the location of the trail can be verified, and sufficient historic integrity is present, the boundary of the historic landscape should be limited to "the length and width of the byway and a margin of land" alongside that byway. Adherence to the *Guidelines* accordingly would not lead to the designation of the entire study area as a historic landscape. Rather, a narrow strip of land tracing the path of the portions of the Iditarod that remain historically significant should be the limit of any historic designation.

Although the 1986 comprehensive management plan for the Iditarod National Historic Trail (NHT) suggests that the entire Trail is considered as potentially eligible for inclusion into the NRHP, it is more accurate to say that certain segments probably deserve such status. ARRC contends that nominations to the NRHP should be made for those specific Trail sites and segments that best represent the historic values of the Trail. The comprehensive plan therefore recommended a thematic nomination to the NRHP. This thematic nomination is still underway. It is beyond the scope of this project to complete such an effort. Nonetheless, ARRC considers it unlikely that the segment of the Trail near the alternative alignments would be considered eligible, since no one knows exactly where the trail is or was, and no remnants of it are likely to be found given the nature of a winter trail that primarily traverses wetland/treeless areas.

One or more smaller areas within the study area may, after further review and careful delineation of boundaries, be determined to be eligible for the NRHP. But any further efforts by STB to define those boundaries should only be conducted after a final alignment for the rail extension has been selected.

No determination of effect regarding impacts on the Iditarod Dog Sledding Cultural Landscape should be made until the preferred alignment is selected and analysis shows that the refined boundaries of the landscape extend within the APE of the preferred alignment. The following design features should still support a finding of no adverse effect:

- Crossings with the Iditarod Trail, and other potential contributing trails, would be grade-separated.

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- Although some noise from train operations would be audible, the grade-separated crossings would prevent noise levels from reaching levels considered to be moderate or severe impacts per FTA and FRA noise guidance. FRA guidance specifically supports a finding that noise is not a critical element of integrity for the contributing trails. Noise sensitivity of parks—and presumably trails—depends on how they are being used. The trails in the study area are multi-use, and regularly subjected to frequent high noise levels associated with snowmobiles.
- Any noise impacts would be limited to about 200 feet at each trail-track intersection, in the location of separated grade crossings. Because the trails are often 15 to 20 miles long, such an impact should be considered negligible, and not one that affects the historic integrity of the property.
- Visual impacts would also be minimized by keeping the height of the embankment low, to the extent possible, throughout the approved alignment. Separated grade crossings and stream crossings would necessarily require the grade to be raised to provide adequate clearance. Importantly, dogs and mushers use the trails for their functionality, not the viewshed. While some features of the landscape are important landmarks, the project would not prevent continued use of the landscape features identified in the 2009 report as a means for way-finding.
- The functionality and connectivity of the trails would be maintained, and their continued use as a circulation system would not be changed by the project. Especially in light of the documented fact that many of the trail routes have likely changed somewhat over the years, the functionality of the trails is more important than their exact route.

The draft Programmatic Agreement (PA) included in Appendix J could lead to some of the same problems that have been present in the Northern Rail Extension PA. For example, various statements in the PA require that the SHPO concur with most plans and reports. Usually, if a federal agency satisfies all of the steps of the Section 106 process, it has the final determination on how to follow the regulations after considering SHPO comments. The PA in Appendix J, however, seems to require SHPO concurrence. ARRC accordingly recommends changing the wording of the PA from "SHPO concurrence" to "SHPO comment."

More broadly, a PA is supposed to either substitute a different process for the standard Section 106 process, or make adjustments to the standard Section 106 process. The PA in Appendix J does not do either of these things. The PA would be substantially improved if, consistent with 36 CFR 800 Sec. 800.14(b), it was structured to tailor future Section 106 efforts and mitigation to the specific needs of this project. Because this project involves a long linear corridor that extends through two potentially historic landscapes and has many issues related to trails and access, circumstances warrant a departure from the usual Section 106 process.

Furthermore, the draft PA (Section IV.A.1.) specifies the need for additional identification and evaluation efforts for historic properties in any areas of surface/subsurface disturbance along the selected alignment that are outside the portion of the APE surveyed during the NEPA

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process. ARRC disagrees that a 100 percent ground survey is needed along the selected alignment. SRBA developed a probability model to identify areas of low, medium and high probability model and then surveyed many areas to ground-truth that model. Consistent with the Identification Plan (SRBA 2008) provided in Attachment C of the draft PA, the PA should be revised to clarify that any additional survey efforts needed for the selected alignment will be in areas not surveyed during the ground truthing surveys conducted during the EIS process, but only in areas that are determined to be high or medium probability for cultural resources.

We are gratified to hear that a meeting will be held later this month between STB and SHPO later this month to discuss the PA. We urge you to invite all consulting parties, including ARRC, the MSB, and tribal organizations to participate in this meeting in accordance with 36 CFR 800.14(b)(2).

Finally, despite extensive efforts by STB, ICF, and SRBA, the Dena'ina Cultural Landscape issue remains unresolved, and SRBA recommends continued consultation and documentation of the landscape. Any Dena'ina Cultural Landscape would extend far beyond the limits of the study area for this project, and it is thus beyond the scope of this project to complete such an effort. Consultation is needed between the parties (including ARRC) to identify any design changes that could be implemented to minimize any impacts from the rail extension. Such consultation could lead to additional mitigation, potentially including some level of funding to the Knik Tribal Council to conduct additional documentation of the Dena'ina cultural landscape, which may be needed more in areas beyond the project limits, or development of means to bridge the prehistoric with contemporary cultural practices to spur the cultural revitalization process.

As usual, please let me know if you have any questions about this material. Thank you again for your time and attention to this matter.

Sincerely,



Kathryn Kusske Floyd

**Additional Comments on Cultural Resources
Including the Programmatic Agreement**

Page	Paragraph	Comment
6-15	2, 3, 4	The definition of archaeological sites, historic sites, cultural landscapes, and TCP are not entirely accurate. They should be clarified, and a definition of historic properties should be included.
S-20 2-27 6-15	Various	These pages state that "... Traditional cultural properties are likely to be found or have been found within the study area, project area, and ROW in the course of research for the propose Port MacKenzie Road Extension". This is inconsistent with the last sentence, 4th paragraph, Page 6-15, which states that "Consulting parties did not identify any traditional cultural properties in the study area during government-to-government or NHPA Section 106 consultation for the proposed action."
6-17 Table I-3	2	The 1917 ARRC bridge at MP 180.8 no longer exists. It was fully replaced by a concrete ballast deck (CBD) bridge. The former bridge at MP 187.7 (should be 187.6) also no longer exists, and was replaced with a CBD. ARRC provided a revised AHRS card for this bridge to SHPO to update the AHRS database. A copy is attached. Although these sites will remain listed in the AHRS, it is incorrect to refer to them as historic properties. Furthermore, many sites listed in the AHRS are not actually historic properties, since determinations of eligibility have not been conducted.
J-7	V.B	This stipulation states that a Treatment Plan is considered final when concurrence is given by SHPO and Tribes. Why are only Tribes being asked for concurrence, and not other consulting parties? What if the historic property is not a resource that has significance for the Tribe? Also, "scared" should be changed to "sacred"
J-7	V.B.2	This stipulation assumes that all of the historic sites identified in the 2008 field survey are eligible for the National Register. To our knowledge, no determinations of eligibility have been completed for archaeological resources. This stipulation should also include previously identified archaeological resources that are eligible for the National Register, if any exist within the APE of the selected alignment, and not just properties discovered in 2008.
J-8	VII.B	This stipulation requires that a curation arrangement be part of any treatment plan. Please clarify that this applies only to treatment plans that include data recovery. It should not apply if the treatment plan involves alternative approached to mitigation (refer to V.C.).
J-8	VII.C	It seems unfair that ARRC will be responsible for "reasonable costs" for curation, but does not get any input into what might be considered reasonable. There should be a dispute resolution procedure that ARRC could appeal to if they do not find the costs fair or if the quantity of materials sent for curation results in excessive costs.
J-9-10	VIII	There are quite a few reports included in this section - many of them seem duplicative to reports required in Stipulations IV and V. Reporting requirements should be streamlined? In addition, the schedule for final reports between Stipulations IV and V and Stipulation VII.D.4 seem to disagree.

Page	Paragraph	Comment
J-11-12	XII	Dispute resolution is not adequately addressed. PA Section XII allows a "party to the agreement" to object to "any treatment plan or report provided for review or actions proposed," and it provides a means for resolving a dispute that does not require SHPO concurrence. However, this section is not clearly related to all the "SHPO concurrence" stipulations, and it is not clear what happens if the SHPO (rather than another "party to the agreement") refuses to concur. Also, what happens if a party wishes to object to a determination of eligibility?
J-12	Item 2	Who are the "parties to the agreement"? Is it just the participating signatories and invited signatories, or does it include concurring parties? Terminology needs to be consistent and clear.
J-14	J.3.3	Patrick Gamble is no longer the President and CEO of the Alaska Railroad. The new President and CEO is Christopher Aadnesen.
J-15		It is not clear why the concurring parties are limited to federally recognized tribes and do not include the Native corporations (who have been consulting parties for Section 106). Also, what about other historic associations included such as the Dorothy Page Museum, Wasilla-Knik Historical Society, etc.?
J-25	Item 2	This section stipulates a minimum 20-m, no-work buffer around unanticipated discoveries. This may result in areas where construction cannot get around a discovery that could be adequately protected with a smaller buffer. We suggest inserting "or as otherwise agreed upon by the signatories" so there is some flexibility in establishing a buffer sufficient to ensure the discoveries are fully protected and can be investigated while still allowing construction to proceed.
J-28+	Attachment B	The Plan for Tribal Consultation appears to be a summary of tribal consultation during the EIS process. It is of limited value for describing consultation procedures during implementation of the PA.

Alaska Heritage Resources Survey

AHRS# TYO-00096

Aliquot: Sec.5, T19N, R4W

Lat./Long.:

Acreage

Map sheet: Tyonek D-1

UTM:

Site name (s): ARR Bridge MP 187.6 Iron Creek

Site description: Bridge 187.6 over Iron Creek was replaced in 2003 with a concrete ballast deck bridge with two 28-foot spans and steel piles, and is now 56 feet long. It was formerly a 70-foot timber trestle with five spans.

Significance: The original timber structure was built by the Alaska Engineering Commission in September 1917 as "Bridge #72 Mainline". Although component parts had been replaced over the years, the former bridge was determined eligible for the National Register of Historic Places under Criteria A in that it was a component part of the Alaska Railroad and under Criteria C in it characterized the type, period, and method of construction that the property represented.

Location: At Willow Creek MP 187.6 of the Alaska Railroad c. 2.5 miles north of Willow

Citations: Alaska RR Records Anchorage, Yarrowborough 2002

Danger of Destruction: Replaced in 2003

Condition:

Associated Date: 1917

Environment:

Period: Historic

Resource Nature: Structure

Cultural Affiliation: EuroAmerican

Preservation Status :

NHR Date

Property Owner: State of Alaska/Alaska Railroad

Repository:

Accession #:

BIA/BLM # :

OTHER # (specify)

RELIABILITY # :

CODED BY:

Date of Entry:

Last updated: 4/30/02

Date of printout:



Oct. 21 meeting specifics

Starzak, Richard to: Kathryn Kusske-Floyd

Cc: "Summerville, Alan", Dave Navecky

10/06/2010 12:56 PM

From: "Starzak, Richard" <RStarzak@icfi.com>
To: Kathryn Kusske-Floyd <kusske.floyd.kathryn@dorsey.com>
Cc: "Summerville, Alan" <ASummerville@icfi.com>, Dave Navecky <naveckyd@stb.dot.gov>

Hi Kathryn,

I hope you are doing well. FYI, the meeting with SHPO will be held on October 21, 2010, at 1:30 PM Alaska time, and will be held in Room 240 of the Atwood Building, 550 W. 7th Avenue, Anchorage. Please let Brian and Barb know. I'm still making calls to determine who else is planning to attend, and will get an agenda out as the time approaches.

Let me know if you have any questions.

Rick

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