



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

E0-1292

Office of Economics, Environmental Analysis and Administration

May 28, 2009

Ms. Christy Everett
US Army Corps of Engineers (USACE), Alaska District
2175 University Avenue, Ste. 201 E
Fairbanks, AK 99709-4910

Re: STB Finance Docket No. 34658, The Alaska Railroad Corporation – Petition for
Exemption to Construct and Operate a Rail Line Between North Pole and Delta
Junction, Alaska

Dear Ms. Everett:

I am writing to request concurrence of USACE with a *de minimis* impact finding for the Chena River Lakes Flood Control Project, a Section 4(f) property. Below, I have set forth the background, status, and rationale for the *de minimis* finding. At the conclusion of this letter, I have included a signature line. If you concur with the *de minimis* findings for impacts to the Chena Lakes Flood Control Project recreational areas from the proposed Northern Rail Extension project by providing your signature below and returning this letter to Dave Navecky of my staff at the letterhead address.

Section 4(f) Background

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) published the Draft Environmental Impact Statement (EIS) for the above-referenced project (also referred to as the Northern Rail Extension) on December 12, 2008. The Draft EIS determined that the Northern Rail Extension project could have an effect on recreational resources located within the Chena River Lakes Flood Control Project, Management Units I2 and I4, protected under Section 4(f) of the U.S. Department of Transportation Act of 1966 *et seq.*

The EIS process for the project includes a Section 4(f) evaluation because it is a requirement of the Federal Railroad Administration (FRA), and potentially a requirement of the Federal Transit Administration (FTA), both of which are agencies of the Department of Transportation and cooperating agencies for preparation of the Northern Rail Extension EIS. Section 4(f) mandates that the Secretary of Transportation shall not approve any transportation project requiring the use of publicly owned parks, recreation areas, wildlife and waterfowl refuges, or significant historic sites unless there is no prudent and feasible alternative to using that land and the project includes all possible planning to minimize harm to the Section 4(f) resources. The Board is an independent agency and not subject to the requirements of Section 4(f).

Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 303), also known as SAFETEA-LU, amended Section 4(f) statutory requirements to include an exception for uses of protected land that would have a “*de minimis*” impact on that land. The Secretary of Transportation may make a finding of *de minimis* impact if the project “will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection” under Section 4(f), and if the “Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.” Therefore, to complete the Section 4(f) evaluation, SEA, on behalf of FRA and FTA, is requesting concurrence of USACE with a *de minimis* impact finding for the Chena River Lakes Flood Control Project, for the reasons described below:

- The recreational resources associated with the Chena River Lakes Flood Control Project within Flood Control Management Units I2 and I4 are qualifying Section 4(f) resources.
- The proposed Northern Rail Extension, including measures to minimize harm, would result in *de minimis* impacts to the Section 4(f) resources.

Chena River Lakes Flood Control Project recreational areas are qualifying Section 4(f) resources

The Chena River Lakes Flood Control Project includes approximately 20,000 acres owned by the U.S. Army Corps of Engineers. The flood control project serves to control flooding, provide public recreational opportunities, and to manage fish and wildlife. The Chena River Lakes Master Plan for Resource Use designates Flood Management Units I2 and I4 for recreation and wildlife management. Flood Management Unit I2 crosses the Diverson Dike Access Road (Chena Flood Road) and is managed to provide public recreation access to Piledriver Slough and low density uses including canoeing, wildlife viewing, and fishing. Flood Management Unit I4 does not maintain a permanent pool of water and flooding events in this area are infrequent (the last flooding event that inundated this area occurred in 1992). Flooding events in this area typically cause pool impoundment for a short duration. These characteristics allow Flood Management Unit I4 to be used extensively for recreational purposes. Between periods of the year known as “break up to freeze up,” roughly May to September, all lands within the Federal boundary are off limits to motorized vehicles and motorized recreational vehicles. During the remainder of the year, these lands are open and frequented by snowmobiles and some ATV traffic, dog sledding, skiing and ski-joring. Summer recreational activities in Flood Management Unit I4 include running, walking, and hiking. Hunting is allowed in this management unit, for in-season game. Other uses for the management unit include hosting cross-country meets, fun runs, marathons, and access to Piledriver Slough for fishing, hunting, hiking, float trips, and other recreational activities. For these reasons and pursuant to 49 USC 303 and 23 CFR 774, Flood Management Units I2 and I4 within the Chena River Lakes Flood Control Project are considered qualifying section 4(f) resources.

The Northern Rail Extension would result in *de minimis* impacts to Chena River Lakes Flood Control Project recreational areas

The proposed rail line (North Common Segment) would be located within Flood Management Units I2 and I4 (see enclosed figure). The proposed rail line would affect approximately 14.3 acres within Flood Management Units I2 and I4. In addition, the Applicant

could require a construction staging area near ARRC's existing Eielson Branch and North Common Alternative Segment, within Flood Management Unit I4, to store material and otherwise support rail construction activities. The staging area would cover approximately 140 acres south of the Chena Overflow Bridge and would have road access to Richardson Highway and the existing Eielson Branch rail line.

Construction and operation of the proposed rail line would occur largely within a 200-foot-wide right-of-way. The associated vegetation clearing would result in a visible line of deforestation through the recreational area, which could affect user enjoyment of the area, and could decrease the populations of some animals and increase the populations of others. However, the area is already similarly affected by maintained vegetation lines along the flood project, and is also subject to other visual features such as roads, electric transmission lines, levees, and ARRC's existing Eielson Branch. The visual impact of the new right-of-way to this recreational area would be consistent with other features that currently make this area uncharacteristic of a natural or wilderness setting.

Avoidance of this resource would not be possible, as the North Common Segment would connect to ARRC's existing Eielson Branch within the boundaries of the Chena River Lakes Flood Control Project. Construction would result in a temporary suspension of recreational activities and temporarily affect access along Chena Flood Road. Eielson Farm Road is located just south of Flood Management Units I2 and I4 and is a commonly used access point for the Piledriver Slough Area trails and recreational resources. The Applicant has proposed at-grade crossings of Chena Flood Road and Eielson Farm Road.

Several mitigation measures, outlined in Chapter 20 of the Draft EIS, have been volunteered by the Applicant or proposed by SEA to minimize the effects of the proposed rail line, including construction-period impacts (increased noise, dust and visual effects, including presence of construction vehicles and vegetation clearance). Preliminary mitigation measures 55, 64, and 65 in the Draft EIS, which SEA anticipates including with revisions as recommended mitigation measures in the Final EIS, would require the Applicant to develop a plan to ensure construction activities occur during the most appropriate timeframe, designate temporary access points if main access routes must be obstructed during construction, and consult with appropriate government agencies and user groups to limit potential impacts on recreation activities. Preliminary mitigation measure 63 in the Draft EIS, which SEA anticipates including with revisions as a recommended mitigation measure in the Final EIS, directs the Applicant, in collaboration with applicable resource management agencies, to make provisions for trail crossings for Piledriver Slough area trails, among others. Further, best practices for noise and dust control would be implemented during construction as described in ARRC's voluntary mitigation measures VM-26, VM-27, and VM-28 in the Draft EIS, which SEA anticipates including as recommended mitigation measures in the Final EIS.

Concurrence

If the Board were to authorize the construction and operation of the Northern Rail Extension with the North Common Segment and impose the mitigation measures detailed above, the FRA and FTA have determined, and SEA concurs that the impacts to these Section 4(f) resources under the jurisdiction of the U.S. Army Corps of Engineers would not be adversely affected and qualify for a *de minimis* finding for impacts from the proposed Northern Rail Extension.

Please indicate your concurrence with the *de minimis* findings for impacts to the Chena River Lakes Flood Control Project recreational areas from the proposed Northern Rail Extension project by providing your signature below and returning this letter to Dave Navecky of my staff at the letterhead address. Concurrence with this finding implies neither your endorsement of nor objection to the North Common Segment.

I CONCUR WITH THE *DI MINIMIS* FINDING

Authorized Signature

OR

I DO NOT CONCUR WITH THE *DI MINIMIS* FINDING

Authorized Signature

Printed Name and Title

U.S. Army Corps of Engineers

Next Steps

Your concurrence or non-concurrence of this *de minimis* finding will be summarized in the Final EIS. If you concur, the North Common Segment would remain an option for consideration by the Board and the cooperating agencies in any decision granting the Applicant authority to construct and operate the Northern Rail Extension. If you do not concur, further discussions on potential mitigation measures to achieve a *de minimis* finding could be warranted, or because the North Common Segment is the only alternative for this section of the proposed Northern Rail Extension, the FRA and FTA could determine that there is no feasible and prudent alternative to the use of the Chena River Lakes Flood Control Project recreational areas for the

project and that the project as proposed includes all possible planning to minimize harm to the recreational areas.

Thank you for your prompt response and continued cooperation in this case. If you have any questions, please contact Dave Navecky, SEA's Project Manager, at 202-245-0294, or Alan Summerville of ICF International, Project Manager for SEA's third-party contracting team, at 703-934-3616. We would appreciate your reply by June 15, 2009.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

Enclosure

cc:

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