

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34658

ALASKA RAILROAD CORPORATION—CONSTRUCTION AND OPERATION
EXEMPTION—RAIL LINE BETWEEN EIELSON AIR FORCE BASE (NORTH POLE) AND
FORT GREELY (DELTA JUNCTION), AK

Decided: October 2, 2007

By petition filed on July 6, 2007, Alaska Railroad Corporation (ARRC), a Class III rail carrier incorporated in, and owned by, the State of Alaska, seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for authority to construct and operate approximately 80 miles of new main line track in the State of Alaska. The new line would extend southeasterly from Mile 20 on ARRC's existing Eielson Branch near North Pole (located just south of Fairbanks) to the Delta Junction/Fort Greely area.

ARRC provides freight and passenger service to communities from the Gulf of Alaska, in the south, to the greater Fairbanks area, in the north. According to ARRC, the purpose of the proposed construction, referred to as the Northern Rail Extension Project, is to expand ARRC's freight and passenger rail service in the region. The project is intended to support: (1) commercial freight service for businesses and communities on and near the proposed rail corridor; (2) passenger rail service, with scheduled station stops between North Pole and Delta Junction; (3) additional opportunities for tourists in this area of Alaska; and (4) land access for the Department of Defense Tanana Flats and Donnelly training areas. ARRC states that it will be the exclusive operator of, and will assume all common carrier obligations with respect to, the new line.

ARRC requests that we conditionally grant the requested exemption authority by addressing the transportation aspects of the project in advance of the environmental issues. Even though no construction could begin until the environmental review is completed and the Board issued a final decision allowing construction to begin, if appropriate, ARRC asserts that a preliminary decision on the transportation merits would enhance its ability to secure funding and allow it to finalize details relating to the engineering of the project, procure equipment and materials, plan and arrange construction contracts, and work on permitting requirements. Additionally, ARRC maintains that conditional approval would permit new shippers to evaluate the option of rail service and permit ARRC to plan for and commit to contractual arrangements with shippers. Asserting that each of these tasks requires a substantial commitment and expenditure of resources, ARRC states that it must be confident that regulatory approval for the project is obtainable before it undertakes these tasks.

While the Board has made conditional grants of construction exemption authority in the past, the benefits to a construction applicant have always been subject to question, given the fact that the Board must consider the environmental effects of the construction proposal before any final approval can be given and before any construction may begin. A possible outcome of that environmental review is denial of the construction proposal notwithstanding a prior conditional grant. That is one of the reasons the Board has made no conditional grants of construction exemption authority since before issuance of the decision in Ameren Energy Generating Company—Construction and Operation Exemption—in Coffeen and Walshville, IL, STB Finance Docket No. 34435 (STB served May 5, 2004) (Ameren).¹ Therefore, while we will not rule out a future conditional grant in a case of some unique or compelling circumstances, in the absence of a showing of such circumstances, we believe that the better course is that we not decide the transportation merits of a construction proposal until a complete record, including the environmental record, is before us.

The case before us reflects no unique or compelling circumstances. ARRC has not demonstrated that a two-step decisional process is needed for it to obtain the necessary funding. Nor has ARRC demonstrated that the engineering, procurement, contracting, and permitting processes related to the construction project cannot move forward while the environmental review progresses.² Accordingly, ARRC's request for a conditional grant of the requested exemption authority, subject to the completion of the environmental review process, will be denied. By this decision, we are instituting a proceeding under 49 U.S.C. 10502(b).

It is ordered:

1. ARRC's request for a conditional construction exemption is denied.
2. A proceeding is instituted under 49 U.S.C. 10502(b).

¹ In Ameren, a similar request for a conditional grant of a construction exemption was tacitly denied in a decision that instituted a proceeding under 49 U.S.C. 10502(b).

² The Board's Section of Environmental Analysis (SEA) served and published a notice of intent to prepare an Environmental Impact Statement (EIS) in the Federal Register, 70 FR 65976, on November 1, 2005. SEA is currently preparing a Draft EIS, which will be issued for public review and comment. A Final EIS then will be issued addressing the comments that are received.

3. This decision is effective on its service date.

By the Board, Chairman Nottingham, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams
Secretary