

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 34658 (Sub-No. 1)

ALASKA RAILROAD CORPORATION—PETITION FOR DECLARATORY ORDER

Decided: August 12, 2011

In a decision served on January 6, 2010, the Board granted Alaska Railroad Corporation (ARRC), a rail carrier owned by the State of Alaska, an exemption to construct and operate an 80-mile rail line in the State of Alaska (referred to as the Northern Rail Extension), extending southeasterly from ARRC's existing Eielson Branch near the community of North Pole (located just south of Fairbanks) to the community of Delta Junction. The grant was made subject to 121 environmental conditions, including the condition that ARRC obtain Federal permits (required by section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act) from the U.S. Army Corps of Engineers (the Corps) prior to initiating project-related construction activities, and the condition that ARRC build only the alternative routes and segments designated as environmentally preferable in the Board's decision. Alaska R.R.—Constr. & Operation Exemption—Rail Line Between North Pole and Delta Junction, Alaska, FD 34658 (STB served Jan. 6, 2010).

On January 28, 2011, ARRC filed a petition requesting that the Board issue an order declaring that the U.S. Environmental Protection Agency (EPA) may not impede the Corps from issuing construction permits under section 404 of the Clean Water Act. On August 2, 2011, ARRC filed a letter seeking to withdraw its petition for a declaratory order. ARRC states that the Corps' Alaska District, in a letter dated June 10, 2011, transmitted to ARRC a signed section 404 permit. ARRC adds that the Administrator of EPA's Region 10 in Alaska did not seek additional review of the permit and communicated to ARRC that EPA would not seek a higher level review. Accordingly, ARRC states that there is no longer a need for the declaratory order.

ARRC will be granted leave to withdraw its petition for a declaratory order, and the proceeding will be discontinued.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. ARRC's request to withdraw its petition for a declaratory order is granted.
2. This proceeding is discontinued.

3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.