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July 6, 2007

BY HAND-DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

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Re: Finance Docket No. 34658, Alaska Railroad Corporation –
Petition For An Exemption From 49 U.S.C. § 10901 – To
Construct And Operate A Rail Line Between North Pole,
Alaska And The Delta Junction, Alaska Area

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are the original and ten (10) copies of Alaska Railroad Corporation's Petition for Waiver of Filing Fee and Petition for Exemption. Also enclosed is a check in the amount of \$63,800 for the Petition for Exemption filing fee which we understand will be returned to Alaska Railroad Corporation should its Petition for Waiver of Filing Fee be granted.

I would appreciate it if you would date-stamp the enclosed extra copy and return it to the messenger for our files. Please let me know if you have any questions. Thank you for your assistance.

Sincerely yours,

Adrian L. Steel, Jr.

Enclosures

cc: Sarah Palin, Governor, State of Alaska
Leo von Scheiben, P.E., L.S., M.B.A.,
Kathryn Kusske Floyd, Esq.

BEFORE THE
SURFACE TRANSPORTATION BOARD

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Finance Docket No. 34658

Petition of Alaska Railroad Corporation For Waiver of Filing Fee

Alaska Railroad Corporation ("ARRC") is filing concurrently herewith in this proceeding a Petition for Exemption from 49 U.S.C. § 10901 to Construct and Operate a Rail Line between North Pole, Alaska and the Delta Junction, Alaska Area. ARRC submits this Petition pursuant to 49 C.F.R. § 1002.2(e)(1) and (2) for waiver of the filing fee set forth in 49 C.F.R. § 1002.2(f) for the filing of a petition for exemption under 49 U.S.C. § 10502 involving construction of a rail line.

A. Historical Background of ARRC

The Alaska Railroad was created by a 1914 Act of Congress after the efforts of several private companies to build a railroad in the territory ended in bankruptcy. The 1914 Act directed and empowered the President to establish a railroad connecting a warm water harbor on the southern coast of Alaska with navigable waters in the interior of the territory. Act of March 12, 1914, 38 Stat. 305, 43 U.S.C. § 975 et seq., repealed, P.L. 97-468, Title VI, § 615(a)(1) (January 14, 1983). From its inception, the operation of the Alaska Railroad was explicitly identified as a governmental function undertaken to advance development of the sparsely settled territory and to further national security interests. Congress specified that the Alaska Railroad was to be constructed to:

best aid in the development of the agricultural and mineral or other resources of Alaska, and the settlement of the public lands therein, and so as to provide transportation of coal for the army and navy, transportation of troops, arms, munitions of war, the mails and for other governmental and public uses, and for the transportation of passengers and property

43 U.S.C. § 975.

The Alaska Railroad began operation in 1923 and, in the intervening years, served the interests of the federal government by opening up the territory and providing transportation for vital government, military and civilian cargo to meet the settlement and resource development needs of the emerging state. After Alaska became a state in 1959, the federal government began transferring federally owned transportation facilities such as airports and highways to the State. In the late 1970s, Congress determined that Alaska was going to experience tremendous future growth as newly discovered deposits of oil, natural gas, coal and other natural resources were developed. Congress believed that the Alaska Railroad's operations needed to be improved and expanded in order to ensure that the railroad would play an essential role in sustaining this growth and that such improvement and expansion were matters primarily of State concern. Accordingly, Congress passed the Alaska Railroad Transfer Act of 1982 ("ARTA"), P.L. 97-468, Title VI, 45 U.S.C. 1201 et seq., which formally transferred the Alaska Railroad to the State of Alaska. Congress further provided in ARTA that the Alaska Railroad's continued operation by the State would provide "an essential governmental service" in Alaska by continuing the historic "public use" of the Alaska rail system to serve the "general welfare" of its residents and visitors. Section 602(5) of ARTA provides in part that:

[T]he state's continued operation of the Alaska Railroad following the transfer contemplated by this chapter . . . will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors.

45 U.S.C. § 1201(5) (emphasis added).

On May 19, 1984, by enactment of Chapter 54, 1984 SLA, the State accepted the United States' offer to transfer the Alaska Railroad. During the 1984 session, the Alaska Legislature also enacted the Alaska Railroad Corporation Act ("ARCA"), Chapter 153, 1984 SLA, codified in large part at AS 42.40. ARCA established ARRC as the entity to operate the Alaska Railroad. Thus, ARRC became the "State-owned railroad" that Congress contemplated would provide the "essential government service" of ensuring continued "public use" of the rail system after transfer.

ARCA established ARRC as a public corporation and instrumentality of the State within the Executive Branch's Department of Commerce, Community and Economic Development with a mandate to perform an "essential governmental function of the State." AS 42.40.010. Perhaps most importantly for purposes of the present petition, the legislature also expressly and unambiguously extended to ARRC exactly the same rights, privileges, and immunities as the State of Alaska possesses with regard to the payment of fees and similar matters related to legal actions undertaken by the corporation. AS 42.40.900(b). In addition to sharing the State's immunities and privileges with respect to legal actions, ARRC is also exempt from federal income taxes and all state and local taxes because it acts to benefit the people of the state through its operations. 45 U.S.C. § 1207(a)(6)(A); AS 42.40.910

B. ARRC Qualifies For Waiver of Filing Fees as a Public Corporation

ARRC is a public corporation and instrumentality of the State of Alaska -- as it developed historically and is structured and functions today -- performing an essential government function in the continued operation of the Alaska Railroad. Thus, consistent with STB Ex Parte No. (Sub-No. 6), ARRC is a public corporation created by state statute "for public

purposes only and the interests of the public corporation[] are the exclusive property and domain of the government.” STB Ex Parte No. 542 (Sub-No. 6) at 3 (served Dec. 6, 2000).

As set forth in ARRC’s Petition for Exemption, ARRC is a Class III short line rail carrier headquartered in Anchorage, Alaska. ARRC provides freight and passenger services to communities from the Gulf of Alaska to the greater Fairbanks area in the interior of the state. ARRC is owned by the State of Alaska, and one component of ARRC’s mission statement provides that it should foster the development of the State’s economy. As part of that effort, ARRC continuously seeks out and evaluates opportunities to expand and improve transportation infrastructure and services that will benefit the people of the State.

The proposed new rail construction project under consideration by the STB in this proceeding is known as the Northern Rail Line Extension Project. It is intended to: (i) provide for common carrier rail service; (ii) provide an additional link between interior Alaska and tidewater ports in support of the military and other public needs; (iii) provide passenger train service between Fairbanks and the Delta Junction area; and (iv) support tourism in the region. Thus, in constructing a new line, ARRC is serving a number of identified public purposes.

Specifically, consistent with STB Ex Parte No. 542 (Sub-No. 6), the benefits of this proceeding will flow to the general public residing in Alaska and in the specific area of the new line construction by providing an alternative to surface transportation along the two-lane, shoulderless Richardson Highway between Fairbanks and Delta Junction, nearby the missile defense installation at Ft. Greely. This public need for the project is evidenced by actions of the United States Army when in 2002 it commissioned an extensive study by the University of Fairbanks, AK to identify reliable transportation alternatives for access to the Tanana Flats

Training Area¹ for the deployment of military personnel and equipment (including Stryker Brigades) associated with Fort Wainwright, Alaska. This public purpose for the project was further recognized in 2004 and 2006, when Congress authorized grants totaling approximately \$16.5 million to evaluate the engineering and environmental feasibility of an extension of the ARRC system to provide freight and passenger services.² P.L. 108-287 and P.L. 109-289.

Accordingly, because ARRC qualifies as a public corporation, waiver of the fee is appropriate under 49 C.F.R. § 1002.2(e)(1).

C. Waiver or Reduction of the Filing Fee Should Be Granted As In the Best Interest of the Public

Notwithstanding its status as a state instrumentality, and in the event that the Board does not agree that ARRC is eligible for waiver of the fee pursuant to 49 C.F.R. § 1002.2(e)(1) under STB Ex Parte No. 542 (Sub-No. 6), ARRC submits that waiver (or reduction) of the fee would nonetheless be in the best interest of the public and should be granted. As indicated above, the proposed new line stems from various public needs in the State of Alaska including the provision of freight and passenger opportunities for the general public and existing agricultural, natural resource, and business developments in the area. There is also the identified need by the military for reliable alternative transportation service to the Tanana Flats Training area and the desire to establish a permanent crossing of the Tanana River. Moreover, if the STB were to require ARRC to pay the filing fee, the funds used would come from the federal appropriation that were intended to be used for the feasibility studies. This would mean effectively a transfer of monies

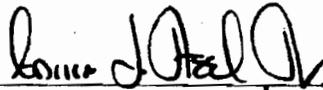
¹ The Tanana Flats is a military training area accessible only by air or by use of temporary and unpredictable ice bridges constructed across the Tanana River during cold winter months.

² The proceeds of the federal appropriations are being used to fund ongoing engineering and environmental aspects of the Northern Rail Extension Project including payment of the services of the third party contractor supporting the EIS process being conducted by the Board's Section of Environmental Analysis.

from one federal account to another federal account, thus diminishing the resources available to ARRC to cover the costs of the ongoing environmental and engineering work necessary to complete this critical federally funded project. Accordingly, because of the best interest of the public, waiver of the fee is appropriate under 49 C.F.R. § 1002.2(e)(2).

Wherefore, ARRC respectfully requests that the filing fee otherwise required for its Petition for Exemption be waived (or reduced).³

Respectfully submitted,



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Attorneys for Alaska Railroad Corporation

July 6, 2007

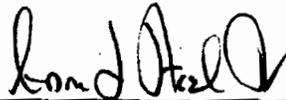
³ Consistent with the procedure identified in Ex Parte No. 542 (Sub-No. 6), ARRC is submitting with the Petition for Exemption the applicable filing fee so that the Petition can be processed immediately. ARRC understands that, if its waiver request is granted, it will receive a refund from the U.S. Department of the Treasury.

CERTIFICATE OF SERVICE

I do hereby certify that copies of Petition of Alaska Railroad Corporation For Waiver of Filing Fee are being served on the following by First-Class Mail, postage prepaid:

Sarah Palin, Governor
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

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BEFORE THE
SURFACE TRANSPORTATION BOARD

JUL 6 2007
RECEIVED

Finance Docket No. 34658

**Alaska Railroad Corporation – Petition For An Exemption
From 49 U.S.C. § 10901 – To Construct And Operate A Rail Line
Between North Pole, Alaska And The Delta Junction, Alaska Area**

Pursuant to 49 U.S.C. § 10502, Alaska Railroad Corporation (“ARRC”) hereby petitions the Surface Transportation Board (“Board”) for an exemption from the prior approval requirements of 49 U.S.C. § 10901 for the construction and operation by ARRC of approximately 80 miles of new rail line between North Pole, Alaska (just south of Fairbanks, Alaska) and the Delta Junction, Alaska area that will connect geographically distinct areas of interior Alaska by rail, meeting a growing need for safe, reliable, and efficient year-round transportation for the military, residents, businesses, and commercial shippers.

The exemption would be subject to the completion of environmental review by the Board’s Section of Environmental Analysis (“SEA”). Consistent with the Board’s established practice, ARRC requests that the Board conditionally grant the requested exemption subject to the entry of a final decision after completion of such environmental review.

This Petition is supported by the attached Verified Statement of Patrick K. Gamble, President and Chief Executive Officer of ARRC.

INTRODUCTION

As established below, the goals of the Rail Transportation Policy will be furthered by exempting the proposed line from regulation under Section 10901. The transaction is clearly

limited in scope. It involves the straightforward construction and operation of approximately 80 miles of new rail line. Further, regulation is not needed to protect shippers from the abuse of market power. Indeed, as the Board and its predecessor, the Interstate Commerce Commission (“ICC”), have often recognized, the construction of new rail lines provides rail options to shippers and enhances competition. Accordingly, under the standards for exemption set forth in Section 10502, this Petition should be granted.

BACKGROUND

A. *Petitioner*

ARRC is a Class III short line rail carrier incorporated in Alaska and headquartered in Anchorage, Alaska. ARRC provides freight and passenger services to communities from the Gulf of Alaska to the greater Fairbanks area in the interior of the state. ARRC is owned by the State of Alaska, and one component of ARRC’s mission statement says it should foster the development of the state’s economy. As part of that effort, ARRC continuously seeks out and evaluates opportunities to expand and improve transportation infrastructure and services within the state.

B. *Description and Purpose of Proposed Line and Planned Operations*

In August 2002, the United States Army, Alaska (“USARAK”) agreed that a need existed to evaluate reliable transportation alternatives for access to the Tanana Flats Training Area (“TFTA”) associated with Fort Wainwright, Alaska. The training area is located southwest of the Tanana River and is currently accessible only by air or by use of temporary and unpredictable ice bridges constructed across the Tanana River during cold winter months (typically January to early March). Subsequently, USARAK awarded the University of Alaska Fairbanks (“UAF”) a contract in 2003 to study potential means of transporting Stryker Combat Teams to and from the TFTA. The UAF study determined that USARAK would benefit from the construction of a

permanent bridge and railroad across the Tanana River to transport military equipment, supplies, and personnel to and from the TFTA. The UAF study also looked at extending rail service beyond the TFTA to support deployments to the Donnelly Training Area, Fort Greely, and the Delta Junction area to support additional military missions and needs.

In 2004 and 2006, ARRC received federal grants from the Department of Defense to evaluate the feasibility of an extension of the ARRC system to the Delta Junction area. P.L. 108-287 and P.L. 109-289. This extension—known as the Northern Rail Extension Project—would provide freight and passenger opportunities for the general public and existing agricultural, natural resource, and business developments in the area. In addition, should freight rail services meet USARAK's identified needs, it would provide a reliable transportation alternative for the deployment of military personnel and equipment to the Tanana Flats and Donnelly training areas.

As reflected in Exhibit A, ARRC proposes to extend its system from a point on its existing Eielson Branch near North Pole to the Delta Junction area, a distance of approximately 80 miles. The project would start near North Pole at the Chena River overflow structure (approximately Mile 20 on the Eielson Branch) and terminate in the Delta Junction area. In order to avoid mountainous terrain along the northeast bank of the Tanana River, crossing the Tanana River would be required. Such crossing looks to meet the needs of USARAK to access training areas. Other major rivers the new rail line would or could cross include the Salcha, Little Delta, and Delta Rivers and Delta Creek. The project may include a spur line out to the Blair Lakes Range and/or other local facilities that support military operations (sidings, off-load facilities, and end-of-track facilities).

To meet the purposes discussed above, the Northern Rail Extension Project would develop infrastructure with the potential to support transportation and freight mobility in the region. The overall purpose is further reflected in the following:

- *The need for common carrier rail service.* The current over-the-road hauling of commercial freight by truck via the Richardson Highway is inefficient and leaves the Delta Junction area underserved and reliant on a single mode of freight service. Currently, fuel, agricultural products, fertilizer, basic supplies and other commodities, and bulk freight are hauled by truck to and from the Delta Junction area. Capacity to haul bulk materials, agricultural products, and equipment in support of existing agricultural activities and mineral resource development industries would be increased. Rail shipment of consumer goods would also be available to communities in and near the rail corridor. The rail infrastructure could support continued development of the natural resource-based industry and possible future development. There is also the potential to support construction of a new pipeline that would bring natural gas southward from the North Slope area of Alaska if efforts to develop the pipeline go forward.
- *The need to provide an additional link between Interior Alaska and tidewater ports.* Interior Alaska communities are connected to tidewater ports only by road or air service. Rail would provide a supplemental ground transportation link for commercial and military shipments between installations and communities in the proposed rail corridor and the ports of Anchorage, Seward, and Whittier, Alaska. A port-to-rail cargo link could also enhance Alaska's status as a world-class military training location and serve future training needs that are currently being evaluated by the U.S. military.
- *The need to provide passenger train service between Fairbanks and Delta Junction.* Passenger service would expand options for housing and movement of goods and services between Delta Junction and Fairbanks. Safe, year-round rail transit service between Fairbanks and Delta Junction would allow workers and residents to take advantage of the housing options, goods, and services available in the Fairbanks area. The availability of a safe, convenient transportation alternative to driving the Richardson Highway would afford access to the wider variety of options available in the Fairbanks area.
- *The need to support tourism in the region.* The railroad provides one of the best ways to see the state, offering unparalleled views of the Alaskan wilderness. By providing direct access to Alaska's public lands, including national and state parks and forests and other scenic areas, the railroad is attracting increasing numbers of passengers. The rail extension would expand the current rail tourism from the Fairbanks area through the Tanana River Valley to Delta Junction, improving access to recreation opportunities in this remote region.
- *The need to support the military.* Depending on military requirements, the rail line could provide broad access to some 1,500 square miles of military property west of the Tanana River and provide transportation alternatives to support extensive military training and large scale exercises. Future training requirements for these training lands are currently being evaluated.

ARRC will operate the line exclusively and will assume and bear all common carrier obligations for the line. Gamble V.S. at 3. ARRC intends to offer common carrier and contract service to all shippers located at cities (such as Salcha and Delta Junction) and in adjoining areas that access the new line.

The expected freight traffic over the line will vary, depending on the success ARRC has in marketing its offerings. Currently, it is anticipated that ARRC will start off running an average one train of approximately 32 cars each way per day on the proposed line, with a total of approximately 13,000 loaded rail cars per year. Gamble V.S. at 3-4. Most of the shipments will consist of military equipment, fuel, construction materials, agricultural material and supplies.

Initial passenger service is anticipated to consist of four round trips per day (two in the morning and two in the evening) between Fairbanks and Delta Junction, with possible intermediate stops at locations to be determined. Gamble V.S. at 4. Equipment used will be either traditional locomotive with passenger equipment or a diesel motor unit ("DMU").

Interest from potential shippers has been positive. Gamble V.S. at 4. The Whitestone Farm District is especially interested due to the isolated nature of their present location. Without roadway access, the movement of bulk material in or out of the farm area is limited except in winter when the frozen Delta River allows for crossings. There has also been interest shown from the Delta Junction area for the movement of farm goods, construction material, and fuel. Discussions with military range complex planners have similarly been positive. Both the Army and Air Force recognize that all-weather access to rail transportation will make the movement of equipment and supplies to and from the large training areas south of the Tanana River more effective and predictable.

D. *Environmental Review*

Representatives of ARRC have consulted with SEA on the environmental review process. By letter dated May 4, 2005, SEA granted ARRC's request for a waiver of the required six-month notice to SEA. On November 1, 2005, SEA issued a notice of intent to prepare an EIS, notice of availability of draft scope of study for the EIS, a notice of meetings and opportunity for public comment. 70 Fed. Reg. 65976 (Nov. 1, 2005). Public meetings were held on December 6, 7, and 8, 2005, in North Pole, Delta Junction and Anchorage. Extensive field work was conducted last summer by ARRC and SEA's third party contractor to gather environmental data, and more field work is being completed this summer.

ARRC identified its Preferred Route Alternative and submitted a report to SEA in March 2007 that compared and evaluated various route alternatives. It is anticipated that SEA, in consultation with the cooperating agencies, will issue a final scope of study that will identify the alternatives to be carried forward in the Draft EIS for the project.¹

DISCUSSION

A. *The Proposed Construction and Operation are Presumptively in the Public Interest*

As a result of the liberalization of the "public convenience and necessity" standard by the ICC Termination Act of 1995, the Board has adopted a general presumption that construction projects will be approved. *See Class Exemption for the Construction of Connecting Track Under*

¹ The STB is the lead agency under the National Environmental Policy Act ("NEPA") for preparing the EIS. SEA is responsible for conducting the environmental review process and making recommendations to the STB. Cooperating federal agencies include the Federal Railroad Administration ("FRA"), Bureau of Land Management ("BLM"), Federal Transit Administration ("FTA"), U.S. Air Force 354th Fighter Wing Command, U.S. Army Corps of Engineers ("USCOE"), U.S. Coast Guard ("USCG"), U.S. Department of Defense Alaskan Command ("ALCOM"). SEA, together with the cooperating agencies, will decide which alternatives will be studied in the EIS.

49 U.S.C. 10901, 1 S.T.B. 75, 79 (1996); accord *Dakota, Minnesota & Eastern R.R. Corp.*

Construction into the Powder River Basin, Fin. Dkt. No. 33407, at 17 (Dec. 10, 1998).

As the Board recently stated:

[I]n enacting the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, Congress intended to facilitate rail construction by changing the statutory standard from requiring approval if the agency finds that a project is consistent with the public convenience and necessity (PC&N) to requiring approval unless the agency finds the project is inconsistent with the PC&N. Under this new standard, proposed rail construction projects are to be given the benefit of the doubt.

The Burlington Northern and Santa Fe Railway Co. — Construction and Operation Exemption

— *Seadrift and Kamey, TX*, Fin. Dkt. No. 34003, at 4 (June 19, 2001) (citation omitted).

B. *The Proposed Construction and Operation Meet the § 10502 Exemption Criteria for Line Construction and Operation Under § 10901*

Construction and operation of a new rail line require prior Board approval pursuant to 49 U.S.C. § 10901. Under 49 U.S.C. § 10502(a), however, the Board must exempt such construction from the prior approval requirements of Section 10901 if it finds that: (1) continued regulation is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. § 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

The legislative history of the exemption provisions, as well as ICC, Board and court decisions, demonstrate that the Board should apply the exemption provision broadly, and that the proposed line is the type of transaction for which the exemption provision was designed. See, e.g., *American Trucking Ass'ns v. ICC.*, 656 F.2d 1115, 1119 (5th Cir. 1981) (the ICC is charged with the responsibility of actively pursuing exemptions for transportation and service that comply with the section's standards); H.R. Rep. No. 96-1430, at 105 (1980) (the ICC is charged with removing "as many as possible of the Commission's restrictions . . .").

As explained in detail below, the proposed rail line construction and operation comply with the Section 10502 exemption criteria and accordingly should be exempted from the requirements of obtaining Board approval under Section 10901.

1. An Exemption Will Promote the Rail Transportation Policy

Regulation of the construction and operation of this approximately 80 mile rail line is not necessary to carry out the Rail Transportation Policy expressed in Section 10101. Rather, granting an exemption (as opposed to subjecting the proposed project to burdensome regulation) will promote significant provisions of the Rail Transportation Policy and will not run counter to any of the Rail Transportation Policy's goals.

First, the granting an exemption for the construction of the proposed rail line is consistent with the mandate of Sections 10101(1), 10101(4), and 10101(5) that the Board ensure the development and continuation of a sound rail transportation system. Specifically, the proposed line will provide the area with a freight transportation option and will enhance intermodal competition as well as new passenger service. Second, consistent with Sections 10101(2) and 10101(7), an exemption will minimize the need for federal regulatory control over the rail transportation system and reduce regulatory barriers to entry. Specifically, an exemption here will promote these policies by minimizing the time and administrative expense associated with the construction and commencement of operations. Regulatory barriers to new capacity and infrastructure improvements in particular should be minimized where possible in order to promote and maintain stable economic growth in this sector of the economy.

The Board and its predecessor the ICC have repeatedly found that rail construction and operation projects promote the Rail Transportation Policy by providing rail service options, allowing for competition, and encouraging the provision of more efficient transportation service.

*See, e.g., Southwest Gulf R.R. Co. – Construction and Operation Exemption – Medina County, TX, Fin. Dkt. No. 34284, at 2 (May 19, 2003); The Burlington Northern and Santa Fe Railway Co. – Construction and Operation Exemption – Seadrift and Kamey, TX, Fin. Dkt. No. 34003, at 4 (June 19, 2001) (citation omitted); Entergy Arkansas and Entergy Rail – Construction and Operation Exemption – White Bluff to Pine Bluff, AR, Fin. Dkt. No. 33782 (May 4, 2000); Missouri Pacific R.R. Co. – Construction and Operation Exemption – Harris and Chambers Counties, TX, Fin. Dkt. No. 32571 (June 30, 1995); Gateway Western Ry. Co. – Construction Exemption – St. Clair County, IL, Gateway Western Ry. Co. – Petition Under 49 U.S.C. 10901(d), Fin. Dkt. Nos. 32158 and 32158 (Sub-No. 1), at 10 (May 11, 1993) (noting that the Board has “made findings in a series of construction [exemption] cases that the rail transportation policy favors the construction of new rail lines”); accord Burlington Northern R.R. Co. – Construction and Operation Exemption – Macon and Randolph Counties, MO, 9 I.C.C. 2d 1161, 1166-1169 (1993), *aff’d sub nom. Missouri Mining, Inc. v. ICC*, 33 F.3d 980 (8th Cir. 1994).*

Additionally, in today’s competitive environment, the market adequately determines the value of a potential rail construction project. As a result, there is no need for regulatory oversight to determine if the proposed project is economically sound and meets a transportation need. *See Illinois Central R.R. Co. – Construction and Operation Exemption – In East Baton Rouge Parish, LA, Fin. Dkt. No. 33877 (May 25, 2001); Missouri Pacific R.R. Co. – Construction and Operation Exemption – Harris and Chambers Counties, TX, supra, at 4.*

The proposed line construction is a straightforward transportation project. It involves approximately 80 miles of new track. Construction and operation of the line raise no concerns which might justify Board scrutiny under Section 10901. As with most construction and

operation projects, an exemption from regulatory review (excepting environmental review and regulation) will advance a number of goals of the Rail Transportation Policy, including minimizing the need for federal regulatory control, ensuring the development and continuation of a sound rail transportation system, allowing competition and demand for service to establish transportation rates and service terms, and encouraging the efficient management of railroads. None of the goals of the Rail Transportation Policy will be hindered by the granting of this Petition.

In conclusion, formal and potentially protracted Board approval pursuant to Section 10901 is not necessary to carry out the goals of the Rail Transportation Policy. In fact, to require such approval by means other than exemption, with its attendant expense and risk of delay, will undermine the aims of the Rail Transportation Policy.

2. *The Transaction is Limited in Scope and Regulation is Not Needed to Protect Shippers from the Abuse of Market Power*

The second test for exemption is stated in the alternative — either the transaction must be of limited scope or the Board must find that regulation of the transaction is not needed to protect shippers from the abuse of market power. Although required to satisfy just one of these alternatives, the proposed new line satisfies both.

First, the proposed construction is limited in scope. The entire amount of rail line to be constructed and operated is approximately 80 miles in total length. The line will be located entirely within the State of Alaska and will provide a direct connection between two points. There will be no regional or national impacts.

Second, the proposed line is designed in principal part to enhance rail service to shippers, and therefore regulation of the construction and operation is not needed to protect shippers from the abuse of market power. The proposed line, when completed, will provide freight shippers

C. *The Exemption Should Be Conditionally Granted*

ARRC requests that the Board conditionally grant the requested exemption.

exemption with the effective date to coincide with the completion of the Board's environmental review is necessary for several reasons. For instance, conditional approval will enhance ARRC's ability to secure the funding necessary to finance the project. The approval will provide potential funding sources with confidence that, subject to environmental review, the building of the line is authorized. Further, ARRC must finalize details relating to the engineering of the project, procure equipment and materials for the project, plan and arrange construction contracts, and work towards the completion of permitting requirements for the project. *Gamble V.S.* at 4-5. Because each of these tasks involves substantial commitment and expenditure of resources by ARRC, it must be confident that regulatory approval is obtainable before undertaking those tasks. In addition, conditional exemption will also provide ARRC with the certainty to plan for and commit to contractual arrangements with shippers or for new shippers to evaluate the option of rail service. *Ibid.*

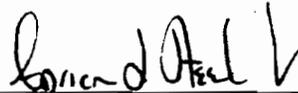
A conditional approval of the exemption would also be in accord with the law and Board precedent. See *Illinois Commerce Comm'n v. ICC*, 848 F.2d 1246 (D.C. Cir. 1988); *The Burlington Northern and Santa Fe Railway Co. – Construction and Operation Exemption – Seadrift and Kamey, TX, supra*, at 3 (The Board has “consistently handled rail construction applications or exemption requests by first considering the transportation issues and later addressing the environmental issues”); *Entergy Arkansas and Entergy Rail – Construction and Operation Exemption – White Bluff to Pine Bluff, AR, supra*. The Board has reaffirmed its policy in this regard on several occasions. See *Southwest Gulf R.R. Co. – Construction and Operation Exemption – Medina County, TX, supra*; *Great Salt Lake and Southern R.R., L.L.C. – Construction and Operation – In Tooele County, UT, Fin. Dkt. No. 33824*, at 5-6 (Dec. 15, 2000).

Accordingly, ARRC respectfully requests the Board to issue an order conditionally granting this Petition, subject to the issuance of a final Board decision after all environmental reviews have been completed.

CONCLUSION

For the foregoing reasons, ARRC respectfully requests that the Board grant this Petition for Exemption to authorize ARRC to construct and operate the approximately 80 miles of rail line without the need of a full application pursuant to 49 U.S.C. § 10901. ARRC also requests that the Petition be conditionally granted subject to the completion of the environmental review process.

Respectfully submitted,



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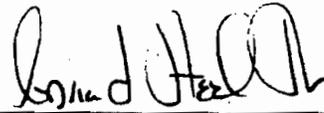
July 6, 2007

CERTIFICATE OF SERVICE

I do hereby certify that copies of Alaska Railroad Corporation's Petition For An Exemption From 49 U.S.C. § 10901 To Construct And Operate A Rail Line Between North Pole, Alaska And The Delta Junction, Alaska Area are being served on the following by First-Class Mail, postage prepaid:

Sarah Palin, Governor
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

Leo von Scheben, P.E., L.S., M.B.A.
Office of the Commissioner
Transportation & Public Facilities
State of Alaska
3132 Channel Drive
PO Box 112500
Juneau, AK 99811-2500



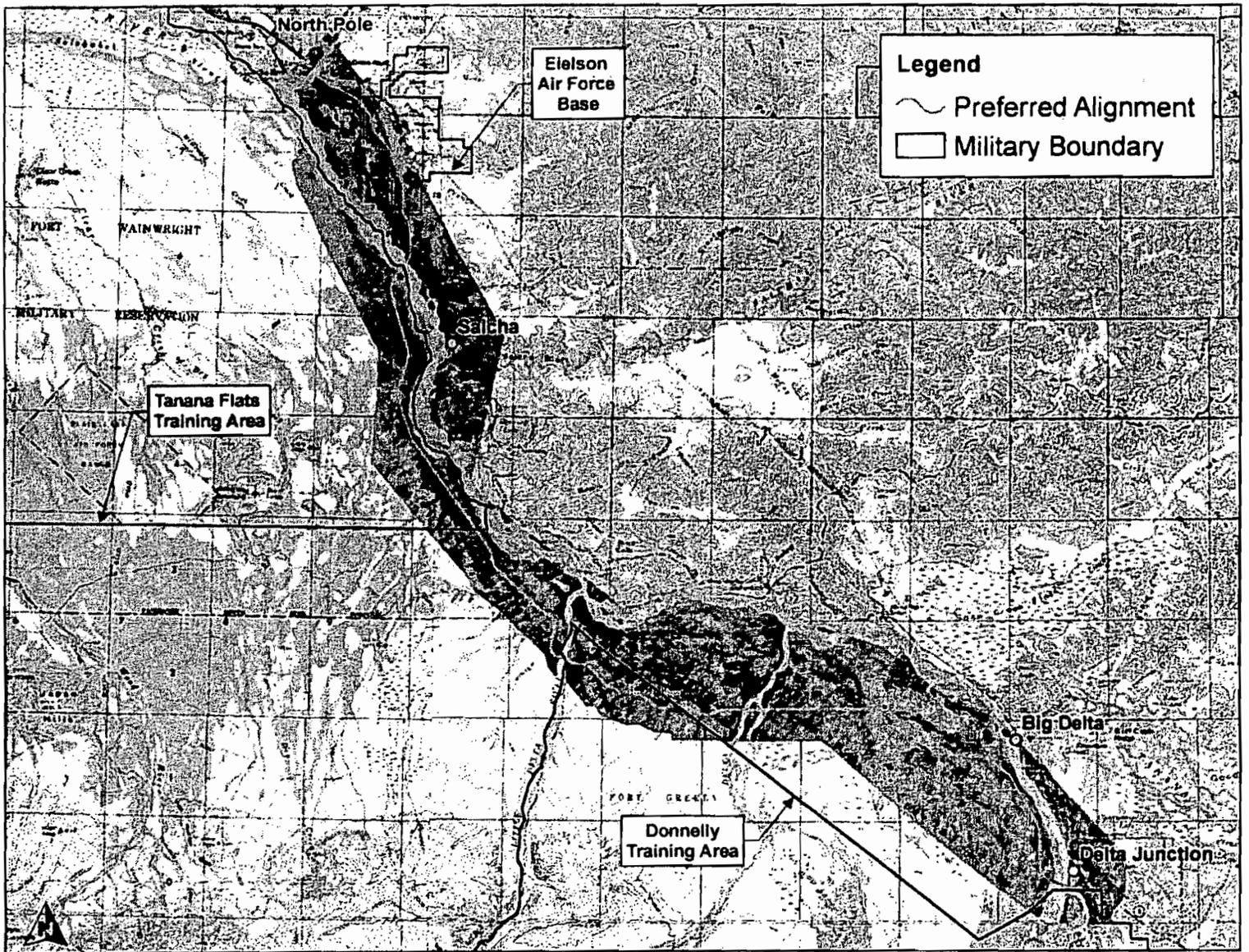


Exhibit A

06/28/07

Verified Statement
of
Patrick K. Gamble

1. My name is Patrick K. Gamble. I am President and Chief Executive Officer of Alaska Railroad Corporation ("ARRC"). My office address is 327 W. Ship Creek Ave., Anchorage, AK 99501.

2. In my position as President and CEO, I am responsible for the overall operation of ARRC as well as planning for the future rail needs of the State of Alaska and its citizens.

3. I am a retired four star General from the United States Air Force after a career as a fighter pilot, including a combat tour during Vietnam as a Forward Air Controller (FAC). I have had 15 years of executive level leadership in business and government service including duty as the director of NATO operations and logistics, and director of United States Air Force air and space operations. I served as the top Air Force commander in the Pacific region and was responsible for operations, maintenance, planning, and budgeting of fourteen military installations with 41,000 employees and 400 aircraft. I joined ARRC in 2001, and I have made safety, employee quality of life, and business excellence my chief priorities. I graduated from Texas A&M University in mathematics and earned my MBA from Auburn University.

4. The purpose of this Verified Statement is to support the Petition for Exemption filed by ARRC for the construction and operation by ARRC of approximately 80 miles of new rail line in the interior of the State of Alaska between North Pole and the Delta Junction area. Specifically, I will address the purpose and need for the new line, and I will describe the routing, placement and operation of the line.

Background

5. The ARRC Northern Rail Extension Project would construct and operate approximately 80 miles of new main line track between the Chena River floodway bridge south of the city of North Pole and the Delta Junction area in interior Alaska. Currently, the only surface transportation link between these areas is the 2-lane Richardson Highway. The existing 500 mile ARRC main line connects the port of Seward up through the Municipality of Anchorage to the interior City of Fairbanks.

6. The project area lies along the Tanana River and is traversed by a 98-mile segment of the Richardson Highway. Within or adjacent to the project area are the Eielson Farm District, Salcha, Whitestone Community Farms, Big Delta, and several U.S. Department of Defense facilities, including portions of the Pacific Area Range Complex military training areas as well as Fort Greely. A section of the Trans-Alaska Pipeline System is also within the project area. The rail extension would pass close by existing mineral developments and would be well-positioned to serve any future resource developments in the region.

Purpose and Need

7. ARRC believes that the additional infrastructure provided by the Northern Rail Extension Project would address the following transportation-related needs:

- *The need for common carrier rail service.* The current over-the-road hauling of commercial freight by truck via the Richardson Highway is inefficient and leaves the Delta Junction area underserved and reliant on a single mode of freight service. Currently, fuel, agricultural products, fertilizer, basic supplies and other commodities, and bulk freight are hauled by truck to and from the Delta Junction area. Capacity to haul bulk materials, agricultural products, and equipment in support of existing agricultural activities and mineral resource development industries would be increased. Rail shipment of consumer goods would also be available to communities in and near the rail corridor. The rail infrastructure could support continued development of the natural resource-based industry and possible future development. There is also the potential to support construction of a new pipeline that would bring natural gas southward from the North Slope area of Alaska if efforts to develop the pipeline go forward.

- *The need to provide an additional link between Interior Alaska and tidewater ports.* Interior Alaska communities are connected to tidewater ports only by road or air service. Rail would provide a supplemental ground transportation link for commercial and military shipments between installations and communities in the proposed rail corridor and the ports of Anchorage, Seward, and Whittier, Alaska. A port-to-rail cargo link could also enhance Alaska's status as a world-class military training location and serve future training needs that are currently being evaluated by the U.S. military.
- *The need to provide passenger train service between Fairbanks and Delta Junction.* Passenger service would expand options for housing and movement of goods and services between Delta Junction and Fairbanks. Safe, year-round rail transit service between Fairbanks and Delta Junction would allow workers and residents to take advantage of the housing options, goods, and services available in the Fairbanks area. The availability of a safe, convenient transportation alternative to driving the Richardson Highway would afford access to the wider variety of options available in the Fairbanks area.
- *The need to support tourism in the region.* The railroad provides one of the best ways to see the state, offering unparalleled views of the Alaskan wilderness. By providing direct access to Alaska's public lands, including national and state parks and forests and other scenic areas, the railroad is attracting increasing numbers of passengers. The rail extension would expand the current rail tourism from the Fairbanks area through the Tanana River Valley to Delta Junction, improving access to recreation opportunities in this remote region.
- *The need to support the military.* Depending on military requirements, the rail line could provide access to some 1,500 square miles of military property west of the Tanana River and provide transportation alternatives to extensive support military training and large scale exercises. Future training requirements for these training lands are currently being evaluated.

Operation of New Line

8. ARRC will operate the line exclusively and will assume and bear all common carrier obligations for the line. ARRC intends to offer common carrier and contract service to all shippers located at cities (such as Salcha and Delta Junction) and in adjoining areas that access the new line. ARRC will own the right-of-way.

9. The expected freight traffic over the line will vary, depending on the success ARRC has in marketing its offerings. Currently, it is anticipated that ARRC will start off running an average one train of approximately 32 cars each way per day on the proposed line,

with a total of approximately 13,000 loaded rail cars per year. Most of the shipments will consist of military equipment, fuel, construction materials, agricultural material and supplies.

10. Initial Passenger service is anticipated to consist of 4 round trips per day (two in the morning and two in the evening) between Fairbanks and Delta Junction, with possible intermediate stops at locations to be determined. Equipment used will be either traditional locomotive with passenger equipment or a diesel motor unit (DMU).

11. Interest from potential shippers has been positive. The Whitestone Farm District is especially interested due to the isolated nature of their location. Without roadway access, the movement of bulk material in or out of the farm area is limited except in winter when the frozen Delta River allows for crossings. There has also been interest shown from the Delta Junction area for the movement of farm goods, construction material, and fuel. Discussions with military range planners have similarly been positive. Both the Army and the Air Force recognize that all-weather access to rail transportation will make the movement of equipment and supplies to and from the large training areas south of the Tanana River more effective and predictable.

Conditional Approval

12. ARRC has requested in its Petition that the Board conditionally grant the requested exemption authority subject to completion of the environmental review process. The conditional approval is necessary for several reasons. First, ARRC must finalize details relating to the engineering of the project, procure equipment and materials for the project, plan and arrange construction contracts, and work towards the completion of the environmental analysis and other related permitting requirements for the project. Second, because each of these tasks involves substantial commitment and expenditure of resources by ARRC, it must be confident that regulatory approval is obtainable before undertaking the tasks. Finally, conditional

exemption will also provide ARRC with the certainty to plan for and commit to contractual arrangements with shippers.

VERIFICATION

I, Patrick K. Gamble, verify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on 28 June, 2007.

Patrick K. Gamble
Patrick K. Gamble