Sullivan, Tim <tim_r_sullivan@fws.gov>

Constitution - Alternative M

Roy Jacobson <rajacobs@gw.dec.state.ny.us> Tue, Mar 11, 2014 at 6:47 PM
To: Lingard Knutson <Knutson.Lingard@epa.gov>, Tim Sullivan <tim_r_sullivan@fws.gov>, Kevin Bruce <kevin.j.bruce@usace.army.mil>
Cc: Brianna Gary <bmgary@gw.dec.state.ny.us>, Patricia Desnoyers <pjdesnoy@gw.dec.state.ny.us>, Stephen Tomasik <smtomasi@gw.dec.state.ny.us>, Amy L NAN02 Gitchell <Amy.L.Gitchell@usace.army.mil>

Lingard,

I can see you are having fun, with a capital "F."

I searched for "feasible" in subpart b and found a reference in 23 CFR 645.209(b) (General Requirements). However, that requirement was only related to **above ground** stuff, not below ground stuff as in this project.

Keep up the tilting!

JR

"The credit belongs to those people who are actually in the arena...who know the great devotions to a worthy cause, who at the best know the triumph of high achievement and who at worst, fail while daring greatly...so that their place shall never be with those cold and timid souls who know neither victory nor defeat"
Theodore Roosevelt

>>> "Knutson, Lingard" <Knutson.Lingard@epa.gov> 3/11/2014 3:53 PM >>>
Hi all. Reading the Constitution DEIS. I've looked at both the Federal and State regulations - and the NYS Bluebook which is a guide for utilities to collocate with roads in NYS. The reg in NYS is Part 131. I've attached it for you. The DEIS states that NYSDOT stated that the proposed pipeline would be required to comply with FHWA policy (23 CFR, subpart b) which states that "Constitution would be required to show that no feasible alternative routes exist to obtain approval of the alternative M route from NYSDOT and FHWA". I cannot find that in either the federal or state law. I did a search on the word "alternative" and nothing of that nature came up. The word "alternative" was used was placing the utility under load bearing road....in that case the utility would have to show there were no other alternatives. Not for the easements on either side of the road. But if road crossings were needed to save agricultural land (which NYS regs talk about) I think a case can be made.

But the regs are in place to collocate utilities. There is not a definite NO from FHWA or NYSDOT.

Tilting against windmills!

Lingard

-----Original Message-----
From: Tim Sullivan [mailto:tim_r_sullivan@fws.gov]
Sent: Monday, March 03, 2014 1:53 PM
To: Roy Jacobson; Knutson, Lingard; Kevin Bruce
Cc: Brianna Gary; Patricia Desnoyers; Stephen Tomasik; Amy L NAN02 Gitchell
Subject: RE: Constitution - Alternative M

JR,
I have included some questions and comments on the document to aid in our discussion tomorrow.
Thanks
Tim

-----Original Message-----
From: Roy Jacobson [mailto:rajacobs@gw.dec.state.ny.us]
Sent: Thursday, February 27, 2014 2:45 PM
To: Lingard Knutson; Tim Sullivan; Kevin Bruce
Cc: Brianna Gary; Patricia Desnoyers; Stephen Tomasik; Amy L NAN02 Gitchell
Subject: Constitution - Alternative M

Kevin, Lingard, and Tim,

We would like your technical help. Here is a draft description of an analysis we want Constitution to conduct regarding Alternative M. We want them to see if a reroute of Alternative M in several places (including the area north of Oneonta that would avoid significant forest interior
impacts) is constructable and to see what benefits can be realized by using the controlled access ROW. Can you take a quick technical look to see if you can think of any way to clarify or improve the request? As discussed last month, we want to make sure that we describe an analysis that will provide usable information for all of us to evaluate Alternative M more fully.

I would like to set up a meeting for Monday and Tuesday of next week to discuss this description and other coordination issues. If this sounds like an OK plan, when would you be available for a conference call?

Amy - I copied you because my understanding is that Kevin is out until next week.

Call me if you have any questions.

Thanks,
JR

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