



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

EO-1369

Office of Economics, Environmental Analysis and Administration

October 9, 2009

Kathryn Kusske Floyd, Esq.
Mayer Brown LLP
1909 K Street, NW
Washington, D.C. 20006

RE: STB Finance Docket No. 39095, Petition to Construct and Operate a Rail Line
Extension to Port MacKenzie, Alaska: Draft Environmental Impact Statement
Chapter 1, Purpose and Need for Agency Action

Dear Ms. Floyd:

To ensure the accuracy of the information used in the Section of Environmental Analysis' environmental review for the above-referenced proceeding, I request that the Applicant review the enclosed draft description of the purpose and need for agency action from Chapter 1 of the Working Draft Environmental Impact Statement.

Please send any suggested changes that you might have to Dave Navecky of my staff and to our independent third-party contractor, Alan Summerville, ICF International, 9300 Lee Highway, Fairfax, VA 22031-1207, by October 23, 2009. Thank you for your assistance.

Sincerely,

Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board

Enclosure

1. PURPOSE AND NEED FOR AGENCY ACTION

1.1 Introduction

On December 5, 2008, Alaska Railroad Corporation (ARRC or the Applicant) filed a petition with the Surface Transportation Board (STB or the Board) pursuant to 49 United States Code (U.S.C.) 10502 for the authority to construct and operate approximately 30 to 45 miles of new rail line to connect the Port MacKenzie District in Matanuska-Susitna Borough (MSB) to a point on the existing ARRC main line between Wasilla and north of Willow, Alaska. Referred to as the Port MacKenzie Rail Extension, the proposed rail line would provide a rail connection for freight services between Port MacKenzie and Interior Alaska.

As shown in Figure 1-1, which provides an overview of the route alternatives, the southern terminus of the proposed rail line extension would be in the Port MacKenzie District, and the northern terminus would be at one of four locations along the existing ARRC main line, depending on alternative. The southern terminus would be approximately 2 or 3 miles from the Port MacKenzie docks, depending on alternative. In addition to constructing the rail line, the Applicant would construct other structures (such as access roads, sidings, and communications towers) to support rail line operations. The anticipated train traffic would be two trains daily – one train traveling in each direction.

1.1.1 Background

MSB began investigating the development of Port MacKenzie and supporting infrastructure, including a rail line, in the 1970s. In 1993, MSB adopted the Point MacKenzie Area Which Merits Special Attention Plan in the MSB Coastal Management Plan. The Area Which Merits Special Attention has been designated a Major Energy Facility Area intended to facilitate the development and growth of Port MacKenzie. Port MacKenzie is a deepwater port on the north side of Knik Arm. It lies approximately 30 miles southwest of Wasilla and 5 miles north of Anchorage across Knik Arm. Capable of serving large ships (such as Cape Class and Panamax vessels), the deep-draft dock is enhanced by the Port MacKenzie's 8,940 upland acres and 1,300 tideland acres (called the Port MacKenzie District). Previous MSB studies have noted that good surface transportation access is necessary to accommodate growth at Port MacKenzie and develop it as a strong economic driver in MSB. At present, Port MacKenzie is only connected to the transportation network via roadways.

The 1997 MSB Long Range Transportation Plan (MSB, 1997) described the need for rail and improved road access to Port MacKenzie. In 2003, MSB completed a preliminary study of road and rail corridor alternatives that would connect Port MacKenzie to the Alaska Railroad. In 2007, the State of Alaska granted MSB an appropriation to perform conceptual engineering and environmental documentation for the Port MacKenzie Rail Extension.

1.1.2 National Environmental Policy Act Process

The Board, pursuant to 49 U.S.C. 10901, is the agency responsible for granting the authority to construct and operate new rail lines and associated facilities. Accordingly, the Board, through its

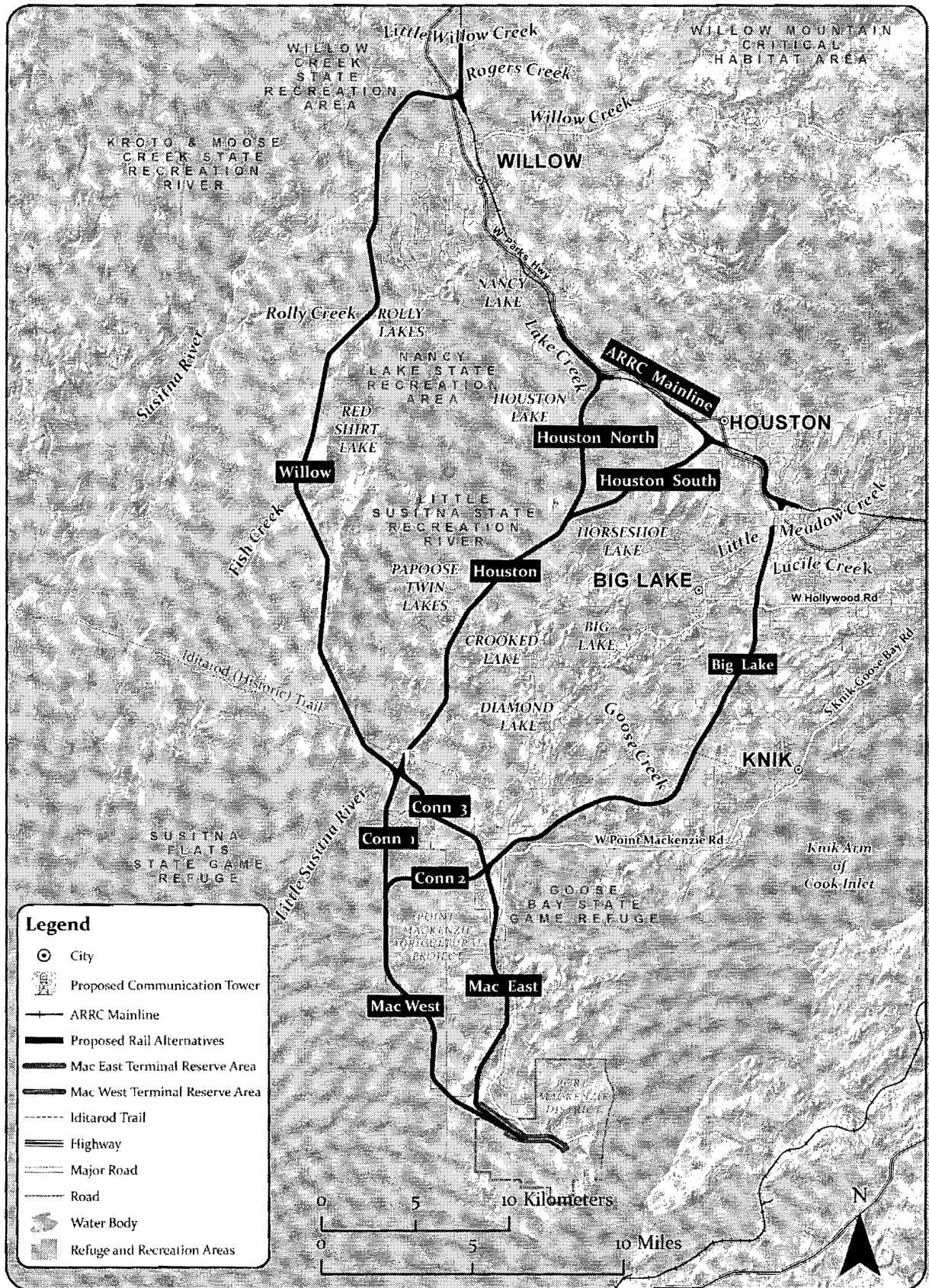


Figure 1-1. Overview of Proposed Port MacKenzie Rail Extension Route Alternatives

Section of Environmental Analysis (SEA), is the lead agency responsible under National Environmental Policy Act (NEPA) for preparing this Environmental Impact Statement (EIS) to identify and evaluate potential environmental impacts associated with the proposed action and alternatives. The proposed action is to construct and operate a rail line extension from Port MacKenzie to the existing ARRC main line between Wasilla and north of Willow, Alaska. Under the build alternatives, the proposed rail line extension would follow one of several routes. Under the No-Action Alternative, ARRC would not construct the proposed rail line extension.

Three Federal agencies are cooperating in the preparation of this EIS pursuant to Council on Environmental Quality (CEQ) NEPA implementing regulations at 40 Code of Federal Regulations (CFR) 1501.6. CEQ regulations emphasize agency cooperation early in the NEPA process and allow a lead agency (in this case, the Board) to request the assistance of other agencies with either jurisdiction by law or special expertise in matters relevant to preparing the EIS. Table 1-1 lists each cooperating agency and describes its roles and responsibilities.

Table 1-1
Cooperating Agency Involvement in the Port MacKenzie Rail Extension EIS

Federal Railroad Administration	Could provide funding to ARRC for rail line construction or operations.
U.S. Army Corps of Engineers	Could grant a Section 404 Clean Water Act permit and/or a Section 10 Rivers and Harbors Act permit.
U.S. Coast Guard	Could issue bridge permits.

SEA and the cooperating agencies (collectively the Agencies) prepared this Draft EIS in accordance with NEPA, CEQ regulations, and the Board's environmental regulations (49 CFR 1105) to provide the Board; the cooperating agencies, other Federal, state, and local agencies; Alaska Natives; and the public with clear and concise information on the potential environmental impacts of the proposed action and alternatives, including the No-Action Alternative. While much of this EIS generally refers only to SEA, the document reflects input from all three cooperating agencies.

The Agencies also prepared this EIS in accordance with Federal Railroad Administration (FRA) NEPA guidance at 64 CFR 28545; U.S. Army Corps of Engineers NEPA-implementing regulations at 33 CFR 230; and U.S. Coast Guard COMDTINST M16475.1D—NEPA-Implementing Procedures and Policy for Considering Environmental Impacts.

SEA is issuing this EIS for public review and comment. SEA will consider all comments received on this Draft EIS and respond to all substantive comments in a Final EIS. The Final EIS will include final recommended environmental mitigation conditions, as applicable. The Board will consider the entire environmental record, the Draft and Final EISs, all public and agency comments, and the SEA environmental recommendations in making its final decision on the application to construct and operate the proposed Port MacKenzie Rail Extension.

The Board will decide whether to approve, approve with conditions (which could include conditions designed to mitigate impacts on the environment), or deny the Applicant's request for a license to construct and operate a new rail line from Port MacKenzie to the existing main line to the north. As established by the ICC [Interstate Commerce Commission] Termination Act of

1995, the Board shall authorize construction and operation “unless the Board finds that such activities are inconsistent with the public convenience and necessity” (49 U.S.C. 10901; Public Law 104-88, December 29, 1995). The cooperating agencies that could issue individual decisions concerning the proposed action intend to use information in this EIS for decisionmaking purposes.

1.2 Purpose and Need

The Applicant has stated that the purpose of the Port MacKenzie Rail Extension is to establish a rail link between Port MacKenzie and the ARRC rail system, providing Port MacKenzie customers and shippers with rail transportation between Port MacKenzie and Interior Alaska. Port MacKenzie is a deepwater facility on the west side of Knik Arm in upper Cook Inlet, in Southcentral Alaska. At present, freight truck is the only available mode of surface freight transportation to and from Port MacKenzie.

The Applicant has also stated that the proposed rail line would satisfy the need for an additional mode of transportation for the movement of bulk materials, intermodal containers, and other freight to and from Port MacKenzie. According to ARRC, the proposed project would support ARRC’s statutory goal to foster and promote long-term economic growth and development in the State of Alaska and would be consistent with Port MacKenzie’s economic development plans, which include the continued development of Port MacKenzie as a multi-modal and bulk materials export and import facility.

1.3 Project Context

The proposed rail line extension would end at a terminal reserve (rail yard) approximately 2 or 3 miles, depending on the route, from the existing Port MacKenzie docks. Rail facilities Port MacKenzie might construct to connect to the rail line extension would be particular to the specific traffic needs and would be expected to be generally consistent with Port MacKenzie master planning documents. These facilities might include buildings, roads, industrial spurs, sidings, loading/unloading tracks, and other associated facilities throughout the upland Port MacKenzie District. These facilities would be developed as Port MacKenzie continued to grow, but would be independent of the planned rail extension. At present, MSB is developing a bulk materials facility at Port MacKenzie to accommodate the need for expansion of facilities to handle bulk material cargo to be transported to Port MacKenzie by truck, independent of the planned rail line extension. MSB has stated that as it continues to plan for the bulk materials facility and future Port MacKenzie development, it will consider the location of ARRC’s proposed rail line extension in its decisionmaking.

1.4 Agency Responsibilities

This EIS considers actions by the STB, FRA, U.S. Army Corps of Engineers, and U.S. Coast Guard. These agencies could make decisions concerning the proposed action and alternatives and could use this EIS for the disclosure and analysis of potential environmental impacts related to those decisions, as NEPA requires. Sections 1.4.1 and 1.4.2 describe the roles of the lead and cooperating agencies. Additional Federal agencies have review of and oversight responsibilities

for the EIS and other components of the environmental process. Section 1.4.3 briefly describes these agencies and their responsibilities.

1.4.1 Lead Agency

The STB, pursuant to 49 U.S.C. 10901, is the agency responsible for granting authority for the construction of new rail line associated facilities and their subsequent operation. The STB is a bipartisan, decisionally independent adjudicatory body, organizationally housed within the U.S. Department of Transportation (USDOT). The ICC [Interstate Commerce Commission] Termination Act of 1995 (49 U.S.C. 10101 *et seq.*; Public Law 104-88, December 29, 1995) established the STB to assume some (but not all) functions of the ICC, particularly those related to the regulation of freight rail lines. The STB has jurisdiction over rail line rate and service issues, and rail structuring transactions, such as new line construction, line sales, line abandonments, and rail line mergers. Accordingly, the STB, through SEA, is the lead agency responsible for preparing this EIS.

1.4.2 Cooperating Agencies

1.4.2.1 Federal Railroad Administration

The FRA administers rail line assistance programs and consolidates government support of rail transportation activities. The FRA develops and enforces rail line safety regulations and would enforce these regulations on ARRC's proposed rail line. The FRA could provide funding to ARRC for the Port MacKenzie Rail Extension project using a grant. The USDOT regulation known as "Section 4(f)" (23 CFR 774) applies because of the involvement of the FRA. The FRA would not be permitted to provide funding for the project if the STB authorized an alternative that would involve the use of a Section 4(f) property and there were prudent and feasible alternatives that would not use Section 4(f) properties. See Appendix M of this EIS for more detail about Section 4(f) resources.

1.4.2.2 U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers, under Section 404 of the Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*), has jurisdiction over activities that would result in the discharge of dredge or fill material into waters of the U.S., including lakes, rivers, streams, oxbows, ponds, and wetlands. Activities that affect these systems require a Section 404 permit from the Corps of Engineers. Construction of the proposed rail line extension would impact waters of the U.S.; therefore, the Applicant would have to obtain a Section 404 permit prior to commencing project construction.

In addition, the Corps of Engineers is responsible for activities that could affect navigable waters of the U.S., pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). Section 10 requires any entity proposing to perform work or place a structure in, over, or under a navigable water to obtain a Section 10 permit from the Corps of Engineers prior to commencing the activity. Construction of the proposed rail line extension would involve crossing navigable waters of the U.S.; therefore, the Applicant would have to obtain a Section 10 permit prior to commencing project construction.

The Army Corps of Engineers intends to use this EIS to fulfill its NEPA requirements associated with permit evaluation under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

1.4.2.3 U.S. Coast Guard

The Coast Guard, under Section 9 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 *et seq.*), the General Bridge Act of 1946, as amended (60 Stat. 847; 33 U.S.C. 525 *et seq.*), and the Department of Transportation Act of 1966 (Public Law 89-670, 80 Stat. 931-950; 49 U.S.C. 1651-1659), has authority for approval of bridges over navigable waters of the U.S. The Coast Guard is responsible for assessing the navigational and environmental impacts of constructing, maintaining, and operating the proposed bridges associated with the Port MacKenzie Rail Extension. This assessment would be a component of the Coast Guard review of whether to issue bridge permits under Section 9 of the Rivers and Harbors Act. The Coast Guard intends to use this EIS to fulfill its NEPA requirements associated with any decision to grant bridge permits.

1.4.3 Other Federal Agencies

1.4.3.1 U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (USEPA) has broad oversight and implementing responsibility for many Federal environmental laws, including the:

- Clean Air Act
- Clean Water Act
- Comprehensive Environmental Response, Compensation, and Liability Act
- Superfund Amendment and Reauthorization Act
- Toxic Substances Control Act
- Resource Conservation and Recovery Act

The USEPA also provides guidance on compliance with certain Executive Orders, including Executive Order 12898, *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*; 11990, *Protection of Wetlands*; and 11988, *Floodplain Management*. Under Section 309 of the Clean Air Act (42 U.S.C. 7609), the USEPA reviews and comments on the environmental impacts of major Federal actions for which an agency prepares an EIS under NEPA. The USEPA Office of Federal Activities, which is responsible for reviewing EISs, evaluates and comments on the quality of analysis in the EIS and the extent of the proposal's impact on the environment. The USEPA also announces the availability of any Draft EIS for public comment in the *Federal Register*. SEA will consider the USEPA evaluations and comments on this Draft EIS in the Final EIS.

1.4.3.2 Advisory Council on Historic Preservation

The Advisory Council on Historic Preservation administers the National Historic Preservation Act (Public Law 89-665, October 15, 1966; 16 U.S.C. 470 *et seq.*), which requires Federal agencies to consider the effects of their actions on historic and cultural resources. Under the National Historic Preservation Act, the STB consults with the appropriate State Historic

1 Preservation Officer and the Advisory Council. For the proposed action and alternatives, the
2 STB has consulted with the State Historic Preservation Officer at the Alaska Office of History
3 and Archaeology, a part of the Alaska Department of Natural Resources (ADNR). The Advisory
4 Council is an independent Federal agency created under the authority of National Historic
5 Preservation Act. It is responsible for advocating consideration of historic values in agency
6 decision making, issuing regulations to implement Section 106 of the National Historic
7 Preservation Act, and reviewing Federal programs and policies to further historic preservation.
8 SEA will continue to consult with the Advisory Council and the Alaska Office of History and
9 Archaeology as necessary, and is providing them this Draft EIS for review.

10 The Advisory Council on Historic Preservation also is responsible for ensuring that projects are
11 in compliance with other requirements concerning historic and cultural resources. These include
12 the Archaeological Resource Protection Act, the Native American Graves Protection and
13 Repatriation Act, the American Indian Religious Freedom Act, and Executive Orders requiring
14 consultation with Native American Tribes.

15 **1.4.3.3 U.S. Fish and Wildlife Service**

16 The U.S. Fish and Wildlife Service is the Federal agency with primary expertise in fish, wildlife,
17 and natural resources issues. The Fish and Wildlife Service is responsible for implementation of
18 the Endangered Species Act (7 U.S.C. 136; 16 U.S.C. 1531 *et seq.*) and, through its field offices,
19 for consulting with other Federal agencies on potential impacts to threatened and endangered
20 species.

21 Under Section 7 of the Endangered Species Act, the Fish and Wildlife Service is responsible for
22 the review of Federal agency actions and potential impacts to terrestrial and freshwater
23 threatened and endangered species, and could issue a determination, in the form of a biological
24 opinion, that details projected impacts to threatened and endangered species in the area of a
25 proposed agency action. The STB is responsible for initiating Section 7 consultation with the
26 Fish and Wildlife Service. SEA will continue to consult with the Fish and Wildlife Service as
27 necessary, and is providing the Fish and Wildlife Service this Draft EIS for review.

28 **1.4.3.4 National Marine Fisheries Service**

29 Under Section 7 of the Endangered Species Act, the National Marine Fisheries Service is
30 responsible for the review of Federal agency actions and potential impacts to threatened and
31 endangered marine and anadromous fish species, and could issue a determination, in the form of
32 a biological opinion, that details projected impacts to threatened and endangered species in the
33 area of a proposed agency action. The STB is responsible for initiating Section 7 consultation
34 with the National Marine Fisheries Service.

35 Under the Marine Mammals Protection Act (16 U.S.C. 1361 *et seq.*), the National Marine
36 Fisheries Service is responsible for the review of Federal agency actions that may cause "take"
37 of marine mammals protected under the act.

38 The Magnuson-Stevens Fishery Conservation and Management Act (Public Law 94-265)
39 requires that Federal agencies consult with the National Marine Fisheries Service on Federal
40 actions that could adversely affect Essential Fish Habitat (50 CFR 600.905-930). The Act

requires coordination between the STB and the National Marine Fisheries Service to protect, conserve, and enhance Essential Fish Habitat. The National Marine Fisheries Service has requested an assessment of the potential effect of the Port MacKenzie Rail Extension on Essential Fish Habitat in the area of the proposed action and alternatives.

SEA will continue to consult with National Marine Fisheries Service as necessary and is providing them this Draft EIS for review.

1.5 Scoping and Public Involvement

1.5.1 Scoping Notice and Public Meetings

On February 12, 2008, SEA published the Notice of Intent to Prepare an EIS, Draft Scope of Study, Notice of Scoping Meetings, and Request for Comments (73 *Federal Register* [FR] 8106). SEA distributed a letter to more than 7,700 citizens; elected officials; Federal, state, and local agencies, tribal organizations, and other potentially interested stakeholders to introduce the Port MacKenzie Rail Extension Project; announce SEA's intent to prepare an EIS; request comments; and give notice of six public scoping meetings. The distribution encompassed the communities surrounding the proposed action and alternatives and groups outside the project area that could have an interest in the Project. SEA also posted meeting notices in public locations (such as post offices, grocery stores, and restaurants) in the project area and initiated a toll-free project hotline. SEA also provided project information on the STB Web site at www.stb.dot.gov and on an STB-sponsored project Web site at www.stbportmacraileis.com. SEA placed notices of the scoping meetings in several newspapers, including the *Frontiersman*, the *Talkeetna Times*, and the *Anchorage Daily News*.

SEA held public scoping meetings in Knik, Big Lake, Willow, Houston, Wasilla, and Anchorage, Alaska, on March 3, 4, 5, 6, 10, and 11, 2008, respectively. SEA used a workshop format to allow attendees to provide comments to and ask questions of SEA. Approximately 146 citizens, representatives of organizations, elected officials, and officials from Federal, state, and local agencies attended the meetings. Some attendees submitted written comments during the meetings, and SEA received additional scoping comment letters during the scoping comment period, which closed on March 21, 2008.

SEA considered agency and public input to the scoping process and on July 17, 2009 issued the final scope of study for the EIS. SEA published the final scope of study in the *Federal Register*, placed it on the STB and project Web sites, and mailed an announcement of the availability of the final scope of study to approximately 8,000 individuals, agencies, and other interested parties on the SEA project mailing list. The final scope of study summarized the comments received and potential impacts to be analyzed.

As part of the environmental review process to date, SEA has conducted broad public outreach activities to inform the public about the proposed action and to facilitate public participation. SEA consulted with and will continue to consult with Federal, State of Alaska, and local agencies, tribal organizations, affected communities, and all interested parties to gather and disseminate information about the proposed project.

1.5.2 Tribal and Government-To-Government Consultation

SEA consulted with federally recognized tribes and other tribal organizations during the preparation of this EIS. Prior to issuing the Notice of Intent to Prepare an EIS, SEA informed tribal organizations of the proposed Port MacKenzie Rail Extension and requested comments on the project. SEA also contacted the following federally recognized tribes, tribal groups, and Alaska Native Regional Corporations for input in the development of the Government-to-Government Consultation and Coordination Plan:

- Chickaloon Village Traditional Council
- Chickaloon-Moose Creek Native Association, Incorporated
- Cook Inlet Region, Incorporated
- Eklutna, Incorporated
- Knik Tribal Council
- Knikatu, Incorporated
- Native Village of Eklutna
- Native Village of Tyonek
- Tyonek Native Corporation

The plan describes the objectives and approach to the consultation process and provided an opportunity for the recipients to indicate how they wanted to participate further in government-to-government coordination for the proposed project.

After sending consultation letters and following up with phone calls, SEA received completed questionnaires from two federally recognized tribes, tribal groups, and Alaska Native Regional Corporations. Both organizations asked to continue to receive project information by mail and to participate in the public involvement process.

1.5.3 Request for Comments on the Draft EIS

SEA encourages the public and any interested parties to submit written comments on all aspects of this Draft EIS. SEA will consider all comments in preparing the Final EIS, which will include responses to all substantive comments, SEA's final conclusions on potential impacts, and SEA's final recommendations. All comments on the Draft EIS must be submitted within the published comment period, which will close 45 days after the Notice of Availability of the Draft EIS is published in the *Federal Register*. When submitting comments on the Draft EIS, the STB encourages commenters to be as specific as possible and substantiate concerns and recommendations.

Mail written comments on the Draft EIS to

David Navecky
Surface Transportation Board
395 E Street, SW
Washington, DC 20423
Attention: Environmental Filing
STB Finance Docket No. 35095

SEA also encourages commenters to submit comments electronically. Comments submitted electronically will be given the same attention as mailed comments. Persons who submit comments electronically do not have to also send those comments by mail. Environmental comments may be filed electronically on the STB Web site at www.stb.dot.gov by clicking on the "E-FILING" link. By selecting "Environmental Comments" after the link, individuals will not be required to log in to submit their comments. Comments can be typed into the online form provided, or attached as Microsoft Word®, Corel Word Perfect®, or Adobe® Acrobat® files.

Please refer to STB Finance Docket No. 35095 in all correspondence addressed to the Board, including e-filings.

Additional information about the project can be obtained by calling the SEA toll-free number at 1-888-257-7560 (telecommunications device [TDD] for the hearing impaired is 1-800-877-8339).

This Draft EIS is also available on the STB Web site at www.stb.dot.gov and on the project Web site at www.stbportmacraileis.com.

1.5.4 Public Comment Meetings

In addition to receiving written comments on the Draft EIS, SEA will host public meetings. SEA involved the cooperating agencies in planning and conducting the public meetings. At each meeting, SEA will give a brief presentation and interested parties may then make oral comments. SEA will have a transcriber present at each meeting to record the oral comments. Attendees may also submit written comments at the meetings. Meetings will be held at the following locations, dates, and times: [To Be Determined]

1.6 EIS Organization and Format

This EIS is organized in a manner consistent with NEPA and CEQ NEPA implementing regulations at 40 CFR 1502.10. It is intended to provide clear and concise information on the proposed action and alternatives to agency decisionmakers and the public. This EIS describes the proposed action and alternatives, existing environmental conditions, and potential environmental impacts associated with the proposed action and alternatives. The Table of Contents lists chapters and specific topics within chapters to help readers find topics of interest. The Table of Contents lists tables and figures numerically by the chapter in which they appear. The Index at the end of the main body of the EIS more specifically identifies the locations of topics of interest. Appendices are lettered and are provided in alphabetical order after the main body of the EIS.

Analyses in this document address proposed activities associated with construction and operation of new rail associated facilities and their potential environmental impacts, as appropriate. This EIS reports potential direct and indirect impacts from construction and operation of the proposed new rail line and associated facilities, and for the No-Action Alternative, the potential direct and indirect impacts of not implementing the proposed action. Impact areas addressed include geology and soils, water resources, biological resources, cultural and historic resources, subsistence, air quality, noise and vibration, energy, transportation safety and delay, navigation, land use, socioeconomics, and environmental justice.

- 1 This EIS also addresses potential cumulative impacts to the environment that would result from
- 2 the incremental impact of the action when added to other past, present, and reasonably
- 3 foreseeable future actions, regardless of what agency (Federal or non-Federal) or person
- 4 undertakes such actions.

