

Appendix C – Additional Correspondence

C– Additional Correspondence

Appendix C contains the following documents:

- Letter from STB SEA (Surface Transportation Board, Section of Environmental Analysis) (Victoria Ruston) to ACHP (Advisory Council on Historic Preservation) (Charlene Dwin Vaughn) dated November 12, 2008.
- Letter from SHPO (State Historic Preservation Office) (Judith E. Bittner) to SEA (Victoria Rutson) dated November 21, 2008.
- Letter from ACHP (Charlene Dwin Vaughn) to SEA (Victoria Ruston) dated November 24, 2008.
- Letter from ACHP (John M. Fowler) to SEA (Charles D. Nottingham) dated November 24, 2008.
- Letter from U.S. Fish and Wildlife Service (Ted Swem) to ENTRIX, Inc. (Mike Nagy) dated January 8, 2009.
- Letter from ACHP (Charlene Dwin Vaughn) to SEA (Victoria Rutson) dated January 23, 2009.
- Letter from SEA (Victoria Rutson) to ACHP (Charlene Dwin Vaughn) dated February 18, 2009.
- Letter from SEA (Victoria Rutson) to SHPO (Judith E. Bittner) dated February 27, 2009.
- Letter from SHPO (Judith E. Bittner) to SEA (Victoria Rutson) dated March 20, 2009.
- Letter from ACHP (Charlene Dwin Vaughn) to SEA (Dave Navecky) dated March 23, 2009.
- Letter from SEA (Victoria Rutson) to the National Marine Fisheries Service (NMFS) (Robert D. Mecum) dated March 27, 2009.
- Letter from SEA (Victoria Rutson) to the Fairbanks North Star Borough Department of Land Management (Paul Costello), School District (Dave Ferree), and Department of Parks and Recreation (Michael Cox) dated May 28, 2009.
- Letter from SEA (Victoria Rutson) to U.S. Army Corps of Engineers, Alaska District (Christy Everett) dated May 28, 2009.
- Letter from SEA (Victoria Rutson) to NMFS (Robert D. Mecum) dated June 3, 2009.
- Letter from Fairbanks North Star Borough Department of Land Management (Paul Costello), School District (Dave Ferree), and Department of Parks and Recreation (Michael Cox) to SEA (David Navecky) dated June 17, 2009.
- Letter from SHPO (Judith E. Bittner) to SEA (Dave Navecky) dated July 8, 2009.
- Letter from ACHP (Charlene Dwin Vaughn) to SEA (Dave Navecky) dated July 17, 2009.
- Letter from SEA (Victoria Rutson) to ACHP (Charlene Dwin Vaughn) dated September 10, 2009.



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

November 12, 2008

Charlene Dwin Vaughn
Assistant Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
Old Post Office Building
1100 Pennsylvania Avenue, NW, Suite 803
Washington, DC 20004

Re: STB Finance Docket No. 34658, The Alaska Railroad Corporation – Petition for
Exemption to Construct and Operate a Rail Line Between North Pole and Delta
Junction, Alaska; Notification of Possible Adverse Effects and Invitation to
Participate

Dear Ms. Vaughn:

The Surface Transportation Board (STB), acting as the lead Federal agency, invites the Advisory Council on Historic Preservation (ACHP) to join in consultations with the STB, Alaska Railroad Corporation (ARRC) and the Alaska State Historic Preservation Officer (SHPO) regarding mitigation or minimization of possible adverse effects resulting from the proposed Northern Rail Extension (project) in Interior Alaska. The other Federal agencies that have been invited to participate include the U.S. Bureau of Land Management, Alaska State Office; U.S. Army Corps of Engineers, Alaska District; U.S. Department of Defense, Alaskan Command; U.S. Air Force 354th Fighter Wing, Eielson Air Force Base; Federal Transit Administration, Region X; Federal Railroad Administration; and U.S. Coast Guard, Seventeenth Coast Guard District. The Alaska Department of Natural Resources and a number of Native Alaskan tribes and tribal organizations have also been invited to participate.

Description of the Undertaking

The STB is evaluating a petition from ARRC, pursuant to 49 U.S.C. 10502, for the authority to construct and operate the project, which would consist of approximately 80 miles of new rail line from North Pole, Alaska to Delta Junction, Alaska. The proposed rail line would extend ARRC's existing freight and passenger rail service in the region. The project area is located in the Fairbanks North Star Borough and the unincorporated Southeast Fairbanks Census Area. A vicinity map illustrating the project location is provided in Exhibit 1.

The STB's Section of Environmental Analysis (SEA) is preparing an Environmental Impact Statement (EIS) under the National Environmental Policy Act to evaluate potential

environmental impacts associated with the project. SEA anticipates issuing the Draft EIS later this year. The Draft EIS will consider the potential impacts of a number of alternative routes for the proposed rail line.

The STB's decision on whether to issue the license to construct and operate the new rail line meets the definition of an "undertaking" under the National Historic Preservation Act (NHPA). SEA has initiated the consultation process, pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing Section 106 of NHPA (16 U.S.C. 470f), with the SHPO and the Federal agencies cooperating in the preparation of the EIS. SEA has also initiated consultations with the Native Alaskan tribes and corporations listed in Exhibit 2.

The Area of Potential Effects (APE) is 328 feet (100 meters) on either side of the track centerline. This APE accounts for the proposed mainline track as well as ancillary support facilities and the potential indirect impacts that could result from construction and operation of the rail line.

Steps Taken to Identify Historic Properties

A complete field survey of the entire APE, including alternative segments, was not feasible because of the remote, rugged and expansive territory involved. Rather, the survey was conducted as a systematic sampling survey, which included the development of a predictive model for the project area followed by strategic field sampling of certain moderate and high probability locations. This model and survey strategy were submitted to and approved by the SHPO. A copy of the model and survey strategy document is enclosed for your information.

To develop this predictive model for cultural resources, a range of values from low potential to high potential were assigned to the landscape. Factors considered important in predicting prehistoric archeological site locations in Interior Alaska include local microtopography and slope; geomorphology and sediments; distance to and type of water source; percentage of surface cover; exposed stratigraphy; mineral licks; spawning sites in clearwater tributaries of larger rivers; lakeshores; margins of swampy lowlands; caribou migration routes; habitats favorable to large mammals and waterfowl; and lithic resource localities.

The predictive model was applied to areas with proposed rail alternative segments and ancillary facilities, which were then surveyed by Type A or Type B surveys. The Type A surveys consisted of low-altitude, low-speed helicopter fly-over supplemented by ground survey in sample locations. Type B surveys, conducted in high probability areas, consisted of pedestrian walkover transects, combined with subsurface excavations. Testing was discretionary and based on over flights of the areas, aerial photographs, archeological literature of the area, and previous experience conducting surveys, reviews and excavations in Interior Alaska. Areas determined to have high and moderate potential were more intensely tested and included riverbanks, alluvial terrace edges, lakeshores with positive relief, bedrock ridges and other elevated terrain features. The overall strategy was designed to meet Phase II survey requirements of the SHPO and intended to gather sufficient data for a determination of eligibility to the National Register of Historic Places (NRHP).

Description of APE's Historic Properties and the Undertaking's Effects on Them

The field surveys to identify cultural resources within the project area were conducted in the summers of 2006 and 2007. Surveys of the alternative segments totaled 239.3 miles, which included 149.9 miles of Type A survey and 89.4 miles of Type B survey. About 70 percent of the build alternative segments were surveyed. The surveys identified and tested 198 high potential areas for subsurface cultural remains, resulting in the excavation of 949 test pits and the discovery of 61 historic properties including archeological sites and standing structures.

Summary data on all 61 historic properties discovered during the 2006 and 2007 surveys are provided in Exhibit 3. Of the 61 historic properties evaluated for this project, seven are considered not eligible for listing on the NRHP since they are less than 50 years old. A total of 51 properties are considered eligible under Criterion D of the Department of Interior's guidelines for assessing site significance. These historic properties need further information before eligibility can be adequately determined. All three properties (XBD-293, 294 and 295) are historic archeological deposits associated with Salchaket Village. These sites are likely eligible for the NRHP but more research is needed to fully determine their significance. The STB and SHPO have reached consensus agreement on the historic properties identified in the 2006 and 2007 surveys, as well as NHRP eligibility.

Copies of the 2006 and 2007 field survey reports are enclosed for your information.

Programmatic Agreement

The regulations implementing Section 106 allow for the development of a Programmatic Agreement (PA) when the effects on historic properties cannot be fully determined prior to approval of an undertaking (36 CFR 800.14). SEA is developing a PA for this undertaking because the potential impacts are not completely known at this time. The nature and extent of potential impacts depend on the alternative that ARRC receives the authority to construct and operate (if any), additional field survey to identify the areal extent of certain eligible properties, ability of ARRC to adjust track centerline to minimize or avoid impacts to eligible properties, and other final design considerations. The PA would govern the completion of the Section 106 process.

Implementation of the PA would enable the STB to make final determinations of eligibility for the NRHP and findings of effect to the SHPO for concurrence for those sites that are identified within the APE. The APE could also be further refined based on final design of the undertaking. Any future refinements to the APE would be made in consultation with the SHPO, consistent with 36 CFR 800.4. All determinations of the APE and of the effects of the undertaking would take into account the professional standards, guidance, and research of both the cultural resources and railroad design professions. Consistent with 36 CFR 800.4(d)(1), the STB could determine that there are historic properties within the APE, but that the undertaking would have no effect on them.

Tribal Consultations

Consultation with Native American tribes in the project area vicinity, required under 36 CFR 800, is ongoing. Consultation was initiated as part of the government-to-government consultation and coordination for the EIS process. A total of 23 federally-recognized tribes, tribal groups and Alaska Native Regional Corporations were contacted as part of the government-to-government consultation and coordination. Several agency meetings specifically addressing Section 106 consultation and cultural resources issues were held at the Alaska SHPO in Anchorage, and SEA's cultural resources subcontractor, Northern Land Use Research, Inc. (NLUR), met with Tanana Chiefs Conference (TCC) in Fairbanks to present the results of each season's fieldwork. These meetings occurred on November 20, 2006 and October 26, 2007 and were attended by cultural resource specialists from NLUR, TCC, BLM, and the U.S. Army. Additional consultation will take place throughout this project, as described in the government-to-government consultation and coordination plan.

Please advise the STB as to whether the ACHP wishes to join in this consultation. If you have questions, please contact Dave Navecky, SEA Project Manager, at (202) 245-0294 by email at naveckyd@stb.dot.gov.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

Enclosures

1. "Site Location Model and Survey Strategy for Cultural Resources in the Alaska Railroad Northern Rail Extension Project Area"
2. "Results of the 2006 Cultural Resources Survey of Proposed Alaska Railroad Northern Rail Extension Project and Ancillary Facilities, Alaska" (2 volumes)
3. "Results of the 2007 Cultural Resources Survey of Proposed Alaska Railroad Northern Rail Extension Routes, Alaska"

cc: Judith Bitner, SHPO (w/o enclosures)

Exhibit 2
MAILING LIST OF TRIBAL CONTACTS

FEDERALLY RECOGNIZED TRIBES

Gordon Cantwell, Acting President
Native Village of Cantwell
P.O. Box 94
Cantwell, AK 99729
(907) 768-2591
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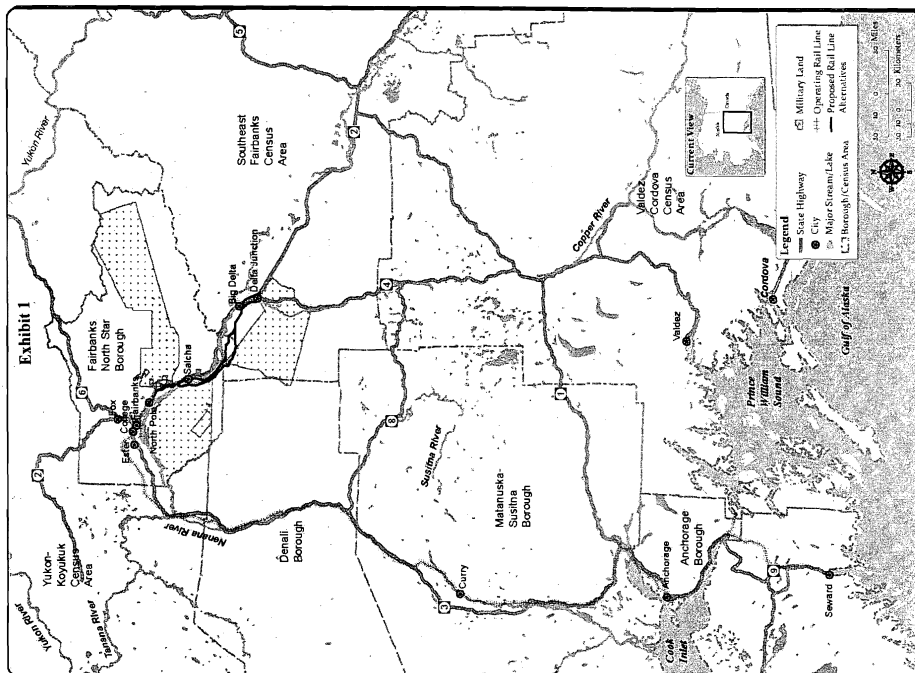
Joeneal Hicks, Environmental Contact
Native Village of Chistochina
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Mr. William Miller, President
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Jack Wright, President
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Daisy Northway
Northway Tribal Council
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James Arison, President
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Randy Mayo, First Chief
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Jerry Isaac, President
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Julie Roberts, Director
Native Village of Tanana
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Christy Young, Administrator
Teelin Village Council
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Tok, AK 99780
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TRIBAL GROUPS

Julie Kitka, President
Alaska Federation of Natives
1577 C St., Suite 300
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Fax: (907) 276-7989

Brian Neubert
Council of Athabaskan Tribal Governments
P.O. Box 283
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Exhibit 3 Archaeological Site Summary Data				
Site ^a	Nearest Alternative	Description	Age ^b	Eligibility for NRHP Listing
FAI-1750	North Common Segment	Cabin	Recent	Not Eligible
FAI-1751	Salcha 2	Buried lithic site	250±40 BP	Eligible (D)
FAI-1607	Salcha 1	Cabin	Recent	Not Eligible
XBD-281	Delta 2, MT5*	Buried lithic site	2760±40 BP	Eligible (D)
XBD-282	Delta 2, MT5*	Buried lithic site	5920±50 BP	Eligible (D)
XBD-283	Delta 1	Buried lithic site	5000±50 BP	Eligible (D)
XBD-284	Delta 2	Cabin and land use area	Recent	Not Eligible
XBD-285	Delta 1	Cabin	Recent	Not Eligible
XBD-286	Donnelly 2	Buried lithic site	1860±50 BP	Eligible (D)
XBD-287	Donnelly 2	Buried lithic site	4490±50 BP	Eligible (D)
XBD-288	Donnelly 2	Buried lithic site	6060±60 BP	Eligible (D)
XBD-289	Donnelly 2	Buried lithic site	7960±70 BP	Eligible (D)
XBD-290	Donnelly 2	Buried lithic site	1170±40 BP	Eligible (D)
XBD-291	Donnelly 2	Buried lithic site	7350±60 BP	Eligible (D)
XBD-292	Salcha 2	Axe-cut stumps	Recent	Not Eligible
XBD-293	Salcha 2	Associated with Satchaket	19 th -20 th cent.	Data needed
XBD-294	Salcha 2	Associated with Satchaket	19 th -20 th cent.	Data needed
XBD-295	Salcha 2	Associated with Satchaket?	AD 1940s	Data needed
XBD-296	Salcha 2	Buried lithic site	2010±40 BP	Eligible (D)

Robert Sattler
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Rose Isaac
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Elizabeth Webb, President
Tok Native Association
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Rob Rosenfeld
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ALASKA NATIVE REGIONAL CORPORATIONS

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FAX: (907) 882-3495

Orie Williams, President / CEO
Doyon Limited
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Fairbanks, AK 99701
PH: 888-478-4755
FAX: (907) 459-2060

Exhibit 3 Archaeological Site Summary Data				
Site ^a	Nearest Alternative	Description	Age ^b	Eligibility for NHP Listing
XBD-315	Donnelly 2	Buried lithic site	4100-6800 BP	Eligible (D)
XBD-316	Donnelly 2	Buried lithic site	4050±50 BP	Eligible (D)
XBD-317	Donnelly 2	Buried lithic site	5610±50 BP	Eligible (D)
XBD-318	Donnelly 2	Buried lithic site	4100-6800 BP	Eligible (D)
XBD-319	Donnelly 2	Buried lithic site	4100-6800 BP	Eligible (D)
XBD-320	Donnelly 2	Buried lithic site	4100-6800 BP	Eligible (D)
XBD-321	Donnelly 2	Buried lithic site	4100-6800 BP	Eligible (D)
XBD-322	South Common Segment	Buried lithic site	1000-2700 BP	Eligible (D)
XBD-323	MT3*	Buried lithic site	1000-2700 BP	Eligible (D)
XBD-324	MT3*	Buried lithic site	2070±50 BP	Eligible (D)
XBD-325	DCMPS*	Buried lithic site	7360±40 BP	Eligible (D)
XBD-326	DCMPS*	Buried lithic site	7740±60 BP	Eligible (D)
XBD-327	DCMPS*	Buried lithic site	5200-7700 BP	Eligible (D)
XBD-328	DCMPS*	Buried lithic site	5170±50 BP	Eligible (D)
XBD-329	Donnelly 2	Cabin	Recent	Not Eligible
XBD-330	Donnelly 1	Cabin	Recent	Not Eligible
XBD-335	Donnelly 1	Buried lithic site	Component 1: 5400±40 BP Component 2: 1000-2700 BP	Eligible (D)
XBD-336	Donnelly 1	Buried lithic site	3040±40 BP	Eligible (D)
XBD-337	Donnelly 1	Buried lithic site	2180±40 BP	Eligible (D)

Exhibit 3 Archaeological Site Summary Data				
Site ^a	Nearest Alternative	Description	Age ^b	Eligibility for NHP Listing
XBD-297	Donnelly 1	Buried lithic site	3620±50 BP	Eligible (D)
XBD-298	Donnelly 1	Buried lithic site	Component 1: 11,300±40 BP Component 2: 9670±40 BP Component 3: 9650±60 BP Component 4: 8880±40 BP	Eligible (D)
XBD-299	Donnelly 1	Buried lithic site	4500-8900 BP	Eligible (D)
XBD-300	Donnelly 1	Buried lithic site	4500-8900 BP	Eligible (D)
XBD-301	Donnelly 1	Buried lithic site	4360±50 BP	Eligible (D)
XBD-302	Donnelly 1	Buried lithic site	4500-8900 BP	Eligible (D)
XBD-303	Donnelly 1	Buried lithic site	9340±80 BP	Eligible (D)
XBD-304	Donnelly 1	Buried lithic site	4500-8900 BP	Eligible (D)
XBD-305	Donnelly 1	Buried lithic site	9300-10000 BP	Eligible (D)
XBD-306	Donnelly 1	Buried lithic site	8930±90 BP	Eligible (D)
XBD-307	Donnelly 1	Buried lithic site	8070±60 BP	Eligible (D)
XBD-308	Donnelly 1	Buried lithic site	10050±70 BP	Eligible (D)
XBD-309	Donnelly 1	Buried lithic site	9300-10000 BP	Eligible (D)
XBD-311	Donnelly 1	Buried lithic site	6490±50 BP	Eligible (D)
XBD-312	Donnelly 1	Buried lithic site	9290±50 BP	Eligible (D)
XBD-313	Donnelly 2	Buried lithic site	6750±60 BP	Eligible (D)
XBD-314	Donnelly 2	Buried lithic site	1000-4000 BP	Eligible (D)

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF PARKS AND OUTDOOR RECREATION
 OFFICE OF HISTORY AND ARCHAEOLOGY

SARAH PALIN, GOVERNOR

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November 21, 2008

File No.: 3130-1R Surface Transportation Board/Northern Rail Extension
 3330-6 XBD-298, XBD-335, XBD-337, XBD-338, XBD-339, XBD-341 and
 XBD-343
 3330-6P XBD-336, XBD-340 and XBD-342

SUBJECT: Northern Rail Extension, Eielson Air Force Base (North Pole) to Fort Greely
 (Delta Junction), Alaska

Victoria Ruson
 Chief, Section of Environmental Analysis
 Surface Transportation Board
 Office of Economics, Environmental Analysis and Administration
 Washington, DC 20423

Dear Ms. Ruson,

The State Historic Preservation Office (SHPO) has reviewed your latest letter (received October 13, 2008) regarding the referenced project in accordance with Section 106 of the National Historic Preservation Act. We understand that the Surface Transportation Board agrees with the determination of eligibility recommendations in the previously submitted report titled *Results of the 2007 Cultural Resource Survey of Proposed Alaska Railroad Northern Rail Extension Routes, Alaska* by Northern Land Use Research (November 2007). According to the report the following ten prehistoric lithic sites are eligible for the National Register of Historic Places (NRHP) under criterion D: XBD-298 and XBD-335 through XBD-343.

We agree that seven of the sites (XBD-298, XBD-335, XBD-337, XBD-338, XBD-339, XBD-341 and XBD-343) are clearly eligible for the NRHP under criterion D. The sole cultural remain at the remaining three sites (XBD-336, XBD-340 and XBD-342) however, consists of only one piece of debitage, suggesting that these sites may not be eligible as individual properties. We do understand however, that these sites may add to the understanding of site distribution and prehistoric land use patterns. Furthermore, the flakes at all three sites are in a buried context; analysis of the stratigraphy may provide information on the paleoenvironment. We recommend therefore, that the archaeological sites within the project area be evaluated as an archaeological

Resource.

Very truly yours,

Printed on Recycled Paper

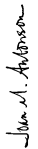
Exhibit 3
Archaeological Site Summary Data

Site ^a	Nearest Alternative	Description	Age ^b	Eligibility for NRHP Listing
XBD-338	Donnelly 1	Buried lithic site	Component 1: 12,000-11,000 BP Component 2: 10,000±80 BP	Eligible (D)
XBD-339	Donnelly 1	Buried lithic site	8000-3600 BP estimated	Eligible (D)
XBD-340	Donnelly 1	Buried lithic site	8000±50 BP	Eligible (D)
XBD-341	Donnelly 1	Buried lithic site	10000-8000 BP estimated	Eligible (D)
XBD-342	Donnelly 1	Buried lithic site	4670±40 BP	Eligible (D)
XBD-343	Donnelly 1	Buried lithic site	4160±40 BP	Eligible (D)

^a The sites listed in this table are identified by their site identifier codes.

^b Age is the uncalibrated radiocarbon date associated with the site or site component.

* DCMP5 = Delta Creek Material Processing Site Location, MT = Microwave Tower Location. These are possible sites identified by ARRC for ancillary facilities associated with the proposed NRE.

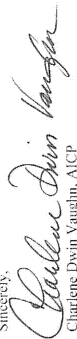
district and a determination be made whether XBD-336, XBD-340 and XBD-342 are eligible as contributing properties. In conclusion, we concur with your finding that seven of the sites are eligible for the NRHP under criterion D: XBD-298, XBD-335, XBD-337, XBD-338, XBD-339, XBD-341 and XBD-343. Consideration of an archaeological district is needed before we can concur that XBD-336, XBD-340 and XBD-342 are eligible as contributing properties. As you continue in your identification of historic properties efforts, remember to consider properties that may be indirectly affected by this project. Examples include the agricultural landscape near Delta Junction and Eielson Air Force Base as well as the Trans Alaska Pipeline System. Both features are in close proximity to the rail corridor and must be evaluated for eligibility prior to an assessment of effects. Also our records indicate that the eligibility determinations for the cabins and other historic features in the project area are still pending (see our letter dated September 24, 2007). We look forward to working with you in developing a programmatic agreement. Please contact Stefanie Ludwig (Archaeologist) at 907-269-8720 or Doug Gasek (Architectural Historian) at 907-269-8726 if you have any questions or if we can be of further assistance. Sincerely,  Judith E. Bitner Deputy State Historic Preservation Officer JEB:sl	 Preserving America's Heritage November 24, 2008 Ms. Victoria Ruson Chief Section of Environmental Analysis Surface Transportation Board 1925 K Street, N.W. Washington, DC 20423 Ref: <i>Proposed Alaska Railroad Corporation construction and operation of rail line STB Finance Docket No. 34658 Between North Pole and Delta Junction, Alaska</i> Dear Ms. Ruson: On November 13, 2008, the Advisory Council on Historic Preservation (ACHP) received your notification of adverse effect for the referenced undertaking that was submitted in accordance with Section 800.6(a)(1) of our regulations, "Protection of Historic Properties" (36 CFR Part 800). In response to this notification, ACHP will participate in consultation to develop a Programmatic Agreement (PA) for the proposed rail line between North Pole and Delta Junction, Alaska. Our decision to participate in this consultation is based on the <i>Criteria for Council Involvement in Reviewing Individual Section 106 Cases</i>, contained within our regulations. The criteria are met for this proposed undertaking because it may present important questions of policy or interpretation. Our decision to enter participation is also in response to recent legislation, the Federal Railroad Safety Improvement Act (Public Law 110-432), which directs the ACHP to work with the Secretary of Transportation, the Alaska State Historic Preservation Officer (SHPO), and the Alaska Railroad Corporation to expedite historic preservation reviews for safety-related projects, a directive to which this undertaking relates. Section 800.6(a)(1)(ii) of our regulations requires that we notify the head of the agency of our decision to participate in consultation. A copy of our letter to the Chairman is enclosed. We appreciate receiving survey information detailing the Surface Transportation Board's (STB) effort to identify historic properties for this undertaking. In order for the ACHP to fully participate in consultation, we request that the STB provide the following additional information. This information is the background documentation outlined in §800.11(e) of our regulations. • Correspondence provided by the Alaska SHPO about STB's determinations related to the identification and evaluation of historic properties; • The procedure and schedule through which STB will solicit the views of Native Alaskans about properties of religious and cultural significance to them; • A summary of other consulting parties identified and invited to participate in the Section 106 review; ADVISORY COUNCIL ON HISTORIC PRESERVATION 1100 Pennsylvania Avenue NW, Suite 809 • Washington, DC 20004 Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov		
Northern Rail Extension	11/21/2008	Page	2

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- Measures proposed by STB to involve the public in the development of a PA for this undertaking;
- The status of drafting stipulations in the PA to complete identification and evaluation, assess effects, and develop treatment and/or mitigation measures.

We look forward to receiving this additional information and working with STB and other consulting parties to develop a PA. Should you have any questions, please do not hesitate to contact Blythe Sommer at (202) 606-8552 or via email at bsummer@achp.gov.

Sincerely,


Charlene Devin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing and Assistance Section

enclosure



Preserving America's Heritage

November 24, 2008

The Honorable Charles D. Nottingham
Chairman
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

Ref: *Proposed Alaska Railroad Corporation construction and operation of rail line
STB Finance Docket No. 34658
Between North Pole and Delta Junction, Alaska*

Dear Mr. Nottingham:

In response to a notification by the Surface Transportation Board (STB), the Advisory Council on Historic Preservation (ACHP) will participate in consultation to develop a programmatic agreement for the proposed rail line between North Pole and Delta Junction, Alaska. Our decision to participate in this consultation is based on the *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, contained within our regulations. The criteria are met for this undertaking because it may present important questions of policy or interpretation. Our decision to enter participation is also in response to recent legislation, the Federal Railroad Safety Improvement Act (Public Law 110-432), which directs the ACHP to work with the Secretary of Transportation, the Alaska State Historic Preservation Officer (SIPO), and the Alaska Railroad Corporation to expedite historic preservation reviews for safety-related projects, a directive to which this undertaking relates.

Section 800.6(a)(1)(iii) of our regulations requires that we notify you, as the head of the agency, of our decision to participate in consultation. By copy of this letter, we are also notifying Victoria Rutson, Chief, Section of Environmental Analysis, of this decision.

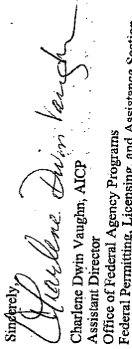
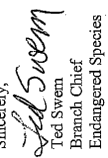
Our participation in this consultation will be handled by Blythe Sommer, who can be reached at (202) 606-8552 or via email at bsummer@achp.gov. We look forward to working with your agency and other consulting parties to develop a programmatic agreement.

Sincerely,


John M. Fowler
Executive Director

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 809 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

2025659000 Surface Transportation B 11:27:03 a.m. 02-05-2009 2 / 2	 Preserving America's Heritage January 23, 2009 Ms. Victoria Ruson Chief Section of Environmental Analysis Surface Transportation Board 1925 K Street, N.W. Washington, DC 20423 Ref: <i>Proposed Alaska Railroad Corporation construction and operation of rail line STB Finance Docket No. 34638 Between North Pole and Delta Junction, Alaska</i> Dear Ms. Ruson: On November 24, 2008, the Advisory Council on Historic Preservation (ACHP) notified the Surface Transportation Board (STB) that it will participate in consultation to resolve adverse effects from the referenced undertaking given the applicability of one or more of the criteria set forth in Appendix A of our regulations, "Protection of Historic Properties" (36 CFR Part 800). On that date, we also requested additional information to assist us in providing technical assistance and advice to STB relevant to the agency's coordination of Section 106 consultation. A recent review of our records indicates we have not yet received the additional information. We therefore request a brief update of the status of consultation for this undertaking and the remainder of the information needed to meet the requirements of §800.11(e) of our regulations, as described in our letter of November 24. We look forward to receiving this information and to continuing to assist the STB in the fulfillment of its compliance responsibilities under Section 106 of the National Historic Preservation Act. If you have any questions, please contact Dwyne Semmer of our staff at (202) 606-8552 or via email at bsommer@achp.gov. We appreciate your cooperation. Sincerely,  Charlene Dym Vaughn, AICP Assistant Director Office of Federal Agency Programs Federal Permitting, Licensing, and Assistance Section
 United States Department of the Interior U.S. FISH AND WILDLIFE SERVICE Fairbanks Fish and Wildlife Field Office 101 12th Avenue, Room 110 Fairbanks, Alaska 99701 January 8, 2009 	Mr. Mike Nagy ENTRIX, Inc. 1600 A Street, Suite 304 Anchorage, AK 99501 Re: Northern Rail Project Dear Mr. Nagy: Thank you for your e-mail requesting information on endangered and threatened species, and critical habitats pursuant to Section 7 of the Endangered Species Act of 1973, as amended (ESA). We understand you are working with the Alaska Railroad and other partners on the Northern Rail Draft EIS. This project may result in development of the railroad in interior Alaska. No listed species occur in the project area and there is no designated or proposed critical habitat in the area of the State that would be impacted by the project. Therefore, the Service concludes this project is not likely to adversely impact listed species. Preparation of a Biological Assessment or further consultation under section 7 of the ESA regarding this project is not necessary. This letter applies only to endangered and threatened species under our jurisdiction. Thank you for your cooperation in meeting our joint responsibilities under the ESA. If you need further assistance, please contact Sarah Conn at (907) 456-0499. Sincerely,  Ted Swen Branch Chief Endangered Species



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

February 18, 2009

Charlene Dwin Vaughn, AICP
Assistant Director, Office of Federal Agency Programs
Federal Permitting, Licensing and Assistance Section
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue NW, Suite 809
Washington, D.C. 20004

Re: STB Finance Docket No. 34658, The Alaska Railroad Corporation – Petition for
Exemption to Construct and Operate a Rail Line Between North Pole and Delta
Junction, Alaska

Dear Ms. Vaughn:

The Board's Section of Environmental Analysis (SEA) acknowledges and appreciates the Advisory Council on Historic Preservation's (ACHP) November 24, 2008 decision to participate in the development of a Programmatic Agreement (PA) for a proposed rail line between North Pole and Delta Junction, Alaska (Northern Rail Extension). We understand that you have decided to participate because the project "may present important questions of policy or interpretation." Moreover, we also understand your interest and involvement in the Federal Railroad Safety Improvement Act (Public Law 110-432), which directs the ACHP to work with the Secretary of Transportation, the Alaska State Historic Preservation Officer (SHPO), and the Alaska Railroad Corporation to expedite historic preservation reviews for safety-related projects.

In your November 24, 2008 letter, you request additional information in five subject areas. I have provided the information you request below.

1. "Correspondence provided by the Alaska SHPO about the Board's determinations related to the identification and evaluation of historic properties."

Project correspondence between the Alaska SHPO and the Board, and the ACHP and the Board is enclosed with Attachment 1 to this letter. A brief description of the content of letters from the Alaska SHPO follows.

Letter from Alaska SHPO to the Board, dated May 9, 2006: [In response to Board letter dated April 5, 2006.] The Alaska SHPO acknowledges receipt and acceptance of the Site

location model and survey strategy for cultural resources in the Alaska Railroad Northern Rail Extension Project area by Northern Land Use Research, Inc. (December 2005).

Letter from Alaska SHPO to the Board, dated September 5, 2006: [In response to Board letter dated August 18, 2006.] The Alaska SHPO acknowledges receipt of the revised survey and testing strategy in accordance with Section 106 of the National Historic Preservation Act, and agrees that the type of survey employed in investigating the ancillary facilities will be guided by the predictive model, and that all newly reported archaeological sites will continue to be evaluated for eligibility for the National Register of Historic Places (NRHP). The SHPO clarifies that site boundaries would be delineated once the final alternative has been selected. The SHPO will concur on an assessment of effect of the project once the site boundaries for all eligible sites within the area of potential effect are established.

Letter from Alaska SHPO to the Board, dated September 24, 2007: [In response to Board letter dated August 20, 2007.] The Alaska SHPO acknowledges receipt of the reports titled, *Results of the 2006 Cultural Resources Survey of Proposed Alaska Railroad Northern Rail Extension Routes and Ancillary Facilities, Alaska, Volumes I and II* by Northern Land Use Research, Inc. (December 2006) and concurs that the reports meet the requirements of the State of Alaska Field Archaeology Permit. The SHPO concurred that the ten prehistoric sites are eligible for the National Register under criterion D. The SHPO offered comments on the report with respect to identifying other historic properties in the Area of Potential Effects.

Letter from Alaska SHPO to the Board, dated July 16, 2008: [In response to Board letter dated January 16, 2008.] The Alaska SHPO acknowledges receipt of the report titled, *Results of the 2007 Cultural Resources Survey of Proposed Alaska Railroad Northern Rail Extension Routes, Alaska* by Northern Land Use Research, Inc. (November 2007), informally agrees with the recommendations regarding eligibility of the NRHP listed in Appendix B of the report, and concurs that the reports meet the requirements of the State of Alaska Field Archaeology Permit. The SHPO requested a recommendation from the Board, as the lead Federal agency, that they agree with the findings in the report (along with sites identified in 2006).

Letter from Alaska SHPO to the Board, dated November 21, 2008: [In response to Board letter dated October 10, 2008, which made formal determinations of eligibility and notified SHPO that a working draft Programmatic Agreement (PA) would be submitted in the near future for review and comment. The working draft PA was submitted to SHPO on October 31, 2008.] The Alaska SHPO acknowledges receipt of the Board's letter with formal determination of eligibility recommendations. The SHPO concurs that seven of the ten sites determined eligible by the Board and identified in the cultural resources survey reports are eligible for the NRHP under criterion D. However, the SHPO indicates consideration of an archaeological district is needed before they can concur that the remaining three sites are eligible as contributing properties, and reiterates that their records show eligibility determinations for the cabins and other historic features in the project area are still pending. The SHPO asks the Board to consider indirect effects to cultural landscapes, such as the agricultural landscapes of Delta Junction and Eielson Air Force Base, as well as the Trans Alaska Pipeline System. The SHPO looks forward to working with the Board in developing a PA [but did not acknowledge receipt of the working draft PA sent by the Board on October 31, 2008].

2. *“The procedure and schedule through which the Board will solicit the views of Native Alaskans about properties of religious and cultural significance to them.”*

SEA consulted with Federally recognized tribes and other tribal organizations throughout the preparation of the Northern Rail Extension (NRE) Environmental Impact Statement (EIS). Prior to the issuance of the Notice of Intent to Prepare an EIS, SEA informed tribal organizations of the proposed NRE and requested comments on the project. SEA also prepared a Government-to-Government Consultation and Coordination Plan, which listed the Federally recognized tribes, tribal groups, and Alaska Native Regional Corporations included in SEA's consultation efforts (see the table, below). The plan describes the objectives, approach to the consultation process, and provided an opportunity for the recipients to indicate how they wanted to participate further in the government-to-government coordination for the proposed NRE.

After mailing the government-to-government plan and following up with phone calls, SEA received nine questionnaires from Federally recognized tribes, tribal groups, and Alaska Native Regional Corporations. Of the nine questionnaires received, three stated that the organizations involved had no interest in the project and indicated that further consultation would not be required. Six organizations requested to continue to receive project information by mail and to participate in the public involvement process. The Tanana Chiefs Conference requested a meeting with the Board.

SEA met with the Tanana Chiefs Conference in November 2006 and continues to brief the Tanana Chiefs Conference on the results of cultural and archeological fieldwork and findings. The table below lists all of the tribal entities with which SEA has corresponded and their dates of correspondence.

Dates of Correspondence with Tribal Entities Consulted	
Tribal Entity	Dates of Correspondence
Federally Recognized Tribes	
Circle Native Community	11/23/2005; 6/28/2006
Dot Lake Village Council	9/28/2005; 11/7/2005; 6/28/2006; 7/5/2006
Healy Lake Village (Tribal Council)	9/28/2005; 11/7/2005; 6/28/2006
Manley Hot Springs Village	11/23/2005; 6/28/2006; 8/7/2006
Mentasta Traditional Council Office	9/28/2005; 11/7/2005; 6/28/2006
Native Village of Cantwell	11/23/2005; 6/28/2006
Native Village of Chistochina	11/23/2005; 6/28/2006; 8/8/2006
Native Village of Eagle	11/23/2005; 6/28/2006; 9/27/2006
Native Village of Minto	11/23/2005; 6/28/2006
Native Village of Stevens	11/23/2005; 6/28/2006
Nenana Native Association (Nenana Native Council)	9/28/2005; 11/7/2005; 6/28/2006; 7/21/2006
Northway Village (Northway Tribal Council)	9/28/2005; 11/7/2005; 6/28/2006
Native Village of Tanacross (Tanacross Village Council)	9/28/2005; 11/7/2005; 6/28/2006

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Dates of Correspondence with Tribal Entities Consulted	
Tribal Entity	Dates of Correspondence
Native Village of Tanana	6/28/2006
Native Village of Tetlin (Tetlin Village Council)	9/28/2005; 11/7/2005; 6/28/2006
Rampart Village	11/23/2005; 6/28/2006
Tribal Groups	
Alaska Federation of Natives	11/23/2005; 6/28/2006
Council of Athabaskan Tribal Governments	9/28/2005; 11/7/2005; 6/28/2006
Tanana Chiefs Conference	9/28/2005; 11/7/2005; 2/2/2006; 6/28/2006; 8/18/2006
Tok Native Association	9/28/2005; 11/7/2005; 6/28/2006
Yukon River Inter-Tribal Watershed Council	9/28/2005; 11/7/2005; 6/28/2006
Alaska Native Regional Corporations	
Ahtna, Inc.	9/28/2005; 11/7/2005; 6/28/2006; 7/26/2006
Doyon Limited	9/28/2005; 11/7/2005; 6/28/2006; 7/20/2006

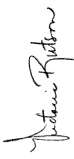
3. *“A summary of other consulting parties identified and invited to participate in the Section 106 review.”*

In addition to the invitation extended to your office and the consultation to date with the Alaska SHPO, the Section 106 process involved consultation with the Federal Railroad Administration; the United States Department of the Interior - Bureau of Land Management, Alaska State Office; the United States Army Corps of Engineers, Alaska District; U.S. Department of Defense, Alaskan Command; U.S. Air Force, 354th Fighter Wing, Eielson Air Force Base; and the U.S. Coast Guard, Seventeenth Coast Guard District, pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f. All of these parties are included as signatories on the draft PA. Concurring parties to the draft PA include the State of Alaska, Department of Natural Resources, and Healy Lake Village, Village of Dot Lake, Northway Village, Native Village of Tetlin, Native Village of Tanacross, Native Village of Eagle, Nenana Native Association, Native Village of Minto, the Tok Native Association, the Tanana Chiefs Conference, Inc., Doyon, Ltd., and the Upper Tanana Inter-Tribal Coalition (which consists of six previously-mentioned federally recognized tribes).

4. *“Measures proposed by the Board to involve the public in the development of a PA for this undertaking.”*

On November 1, 2005, SEA published the Notice of Intent to Prepare an EIS, Draft Scope of Study, Notice of Scoping Meetings, and Request for Comments in the *Federal Register* (70 FR 65976). The notice also appeared on the Board's Web site. SEA prepared and distributed a newsletter that introduced the NRE; announced SEA's intent to prepare an EIS; requested comments; and gave notice of three public scoping meetings to over 400 citizens, elected officials; Federal, State of Alaska, and local agencies; tribal organizations; and other potentially

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interested organizations. SEA considered the agency and public input to the scoping process and on April 3, 2008, issued the final scope of study for the EIS (73 FR 18323). SEA placed the final scope of study on the Board's Web site, and mailed it to approximately 700 individuals, agencies, and other interested parties on SEA's project mailing list. The distribution grew to over 1,400 individuals, groups, or organizations from the communities surrounding the proposed action and alternatives and groups outside the project area that may have an interest in the project by the time the Draft EIS was issued on December 12, 2008. All 1,400 parties on the mailing list received the Draft EIS, which also included the draft PA as an appendix. The Draft EIS was also been posted on the Board's Web site. SEA posted meeting notices in public locations (e.g., post offices, grocery stores, and restaurants) in the project area and maintains a toll-free project hotline. Notices of public meetings were published in the <i>Fairbanks Daily News-Miner</i> and the <i>Anchorage Daily News</i>. Public scoping meetings were held in North Pole, Delta Junction, and Anchorage on December 6, 7, and 8, 2005, respectively. The scoping comment period closed on January 13, 2006. Public meetings on the Draft EIS were held in Fairbanks, North Pole, Satcha, and Delta Junction on January 12, 13, 14, and 15, 2009, respectively. The Draft EIS public comment period ended February 2, 2009. SEA also held meetings with Federal and state agency representatives in Fairbanks and Anchorage during both sets of public meetings. <u>5. "The status of drafting stipulations in the PA to complete identification and evaluation, assess effects, and develop treatment and/or mitigation measures."</u> We have enclosed a copy of the draft PA for your review (see Attachment 2). The PA includes a process to complete identification of historic properties and assessment of effect, develop treatment, and monitoring. Our office sent a copy of the draft PA to the Alaska SHPO on October 31, 2008; however, we have not received comments on the document to date. We intend to set up a meeting/teleconference with the Alaska SHPO to discuss the draft PA and other cultural resources concerns and we would like to invite you to participate when scheduled. In addition to the items requested in your November 24, 2008 letter, we have also enclosed for your files a second set of the cultural resources survey reports that were completed in 2006 and 2007 for this project (see Attachment 3). Thank you for your participation in this project. If you have any further questions, please do not hesitate to contact Dave Navecky, SEA's Project Manager, at 202-245-0294. Sincerely,  Victoria Rutson Chief Section of Environmental Analysis	Enclosure(s) Attachment 1 - Copies of correspondence among the Board, the Alaska SHPO, and the ACHP Attachment 2 - Draft PA Attachment 3 - Cultural Resources Survey Reports for NRE
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SURFACE TRANSPORTATION BOARD Washington, DC 20423 <i>Office of Economics, Environmental Analysis and Administration</i> February 27, 2009 Judith Bitner State Historic Preservation Officer Alaska Office of History and Archaeology 550 West 7th Ave., Suite 1310 Anchorage, AK 99501-3565 Re: STB Finance Docket No. 34658, The Alaska Railroad Corporation – Petition for Exemption to Construct and Operate a Rail Line Between North Pole and Delta Junction, Alaska Dear Ms. Bitner: As you know, the Board's Section of Environmental Analysis (SEA) has preliminarily determined that the above-referenced project may have an effect on historic properties on or eligible for inclusion on the National Register for Historic Places. Accordingly, SEA initiated the consultation process, pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f), with the Alaska State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP), as well as the Federal agencies cooperating in the preparation of the Environmental Impact Statement (EIS) for this case. SEA has reviewed your latest letter dated November 21, 2008, and the purpose of this letter is to respond to your comments in anticipation of our scheduled meeting/conference call with you on March 6, 2009. In addition to discussing your comments and our initial responses, we would also like to discuss with you the Programmatic Agreement for this proceeding. As you recall, we submitted a working draft of the Programmatic Agreement (PA) to your office for review on October 31, 2008 and we are interested in hearing your thoughts on the working draft of the PA. On November 12, 2008, SEA also invited the ACHP to join in the consultation, and on November 24, 2008, ACHP agreed to participate. SEA will invite the ACHP to join in our March 6, 2009 meeting/conference call to review the comments and responses and address potential revisions or execution of the working draft PA.	Comments and Responses In your letter dated November 21, 2008, you concurred with the eligibility of seven of the ten prehistoric lithic sites SEA determined eligible for the National Register of Historic Places (NRHP) under criterion D in our letter dated October 10, 2008. Further analysis and treatment of the sites would be undertaken through the stipulations of the PA, once it is fully executed. You did not concur, however, with SEA's findings on three of the sites, XBD-336, XBD-340 and XBD-342, recommending instead that they be evaluated as a historic district. SEA, however, notes that your letters dated September 24, 2007 and July 16, 2008, indicated you were in agreement that these three sites were eligible for the NRHP. After discussion with our consultant, Northern Land Use Research (NLUR), while we do not oppose a district concept, SEA would prefer to treat these sites as presumed NRHP eligible and study them further under the stipulations of the PA, and only if they would be affected by a selected alternative. Regarding the agricultural landscape near Delta Junction and Eielson Air Force Base, we would like to discuss your comments about "indirect effect" and "close proximity" further during the meeting/conference call, so that we may understand the scope of the identification effort and complete any necessary evaluation under the provisions of the PA. As you may recall, only one of the alternatives would directly affect the agricultural landscape. Regarding the Trans Alaska Pipeline System (TAPS), you asked that it be evaluated for NRHP eligibility prior to an assessment of effects. While SEA has no objection to whether or not TAPS is considered NRHP eligible, TAPS is several hundred miles long and the undertaking would only cross the pipeline at one of two locations – both of which TAPS is underground. Given that the undertaking would not physically disturb TAPS in any way, and at the potential crossing locations TAPS would not be visually sensitive to changes on the surface, SEA concludes that there is not enough potential for effect to justify the cost of evaluating a linear resource of that length. Perhaps that responsibility falls under the jurisdiction of a different Federal agency that regulates the operation or lease of TAPS, and the cost of any NRHP eligibility study may more appropriately be borne by the company or companies who directly profit from the operation of TAPS. Regarding the historic cabins and other features in the Area of Potential Effect (APE) for various alternatives in the Salchaket area, in 2006 you were in basic agreement with NLUR's findings. The site is a large historic Athabaskan village, which quite likely is eligible as a historic district under several criteria, and also possibly as a Traditional Cultural Property. In subsequent meetings and correspondence, the consensus has been that more extensive research would be conducted under the provisions of the PA, and only if that specific alternative were selected.
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STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF PARKS AND OUTDOOR RECREATION
OFFICE OF HISTORY AND ARCHAEOLOGY

550 W. 7TH AVENUE, SUITE 1310
ANCHORAGE, ALASKA 99501-3565
PHONE: (907) 269-8721
FAX: (907) 269-8908

Rec'd 3/30/09

March 20, 2009

File No.: 3130-1R STB/Northern Rail Extension

SUBJECT: Northern Rail Extension, Eielson Air Force Base (North Pole) to Fort Greely
(Delta Junction), Alaska

Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
Office of Economics, Environmental Analysis and Administration
Washington, DC 20423

Dear Ms. Rutson,

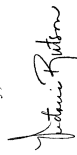
The State Historic Preservation Office (SHPO) has reviewed your draft *Programmatic Agreement among Surface Transportation Board, Advisory Council on Historic Preservation, Alaska State Historic Preservation Office, U. S. Bureau of Land Management, Alaska State Office, U. S. Army Corps of Engineers, Alaska District, U. S. Department of Defense, Alaska Command, U. S. Air Force 35th Fighter Wing, Eielson Air Force Base, Federal Railroad Administration, and U. S. Coast Guard, Seventeenth Coast Guard District regarding the Alaska Railroad Corporation, Northern Rail Extension between North Pole and Delta Junction, Alaska* (PA) which was submitted November 3, 2008 and which we discussed in our March 6, 2009 meeting.

We are in agreement with the goal and purpose of the PA: the completion of the Section 106 process (refining the area of potential effect, additional identification of historic properties, assessment of project effects on historic properties and any necessary mitigation) may be deferred until after the preferred project alternative has been selected under the NEPA process and the proposed project design is sufficiently complete. That said, the PA does not clearly articulate how these steps will be accomplished; it expresses intent but does not specify who will do what when, how it will be done, etc.

The statements in the preamble contain redundancies and should be reorganized into a more logical order. For example, consultation with the Advisory Council on Historic Preservation is mentioned in the second, third, 11th and 15th whereas statements. The roles and jurisdictions of each signatory agency are not defined (i.e. which own land in the project area, which issue

We look forward to discussing these matters during our March 6, 2009 meeting/conference call. Thank you for your continued cooperation in this case. If you have any questions, please do not hesitate to contact Dave Navecky, SEA's Project Manager, at 202-245-0294, or Alan Summerville, ICF's Project Manager, at 703-934-3616.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

cc: ACHP

permits, etc.). Have the local governments, historic societies or other local interest groups been included in the consultation?

Developing an Agency Consultation and Coordination Plan, ACCP (Stipulation I D) and a Tribal Consultation Plan, TCP (Stipulation III) within 30 days after issuance of a Final Decision seems unrealistic. We recommend developing these procedures sooner and incorporating them into the final PA. Stipulations II B and C are primarily statements of fact (rather than stipulations) already addressed in the preamble. Language such as "it is further anticipated that such agency action shall occur...." (Stipulation II C) is too vague for a legal document.

Professional qualifications of persons conducting the cultural resource work under the PA are mentioned several times throughout the document (II C, IV B and VII A). We recommend deleting these redundancies and instead devoting a stipulation to professional qualifications. The stipulation should clarify that all work will be under the supervision of a person who meets the *appropriate* Secretary of the Interior's professional qualifications (i.e. archaeological data recovery will be done by Archaeologists, historic building documentation by Historic Architects or Architectural Historians, etc.).

Literature review and archaeological surveys have identified many significant prehistoric and historic sites in the project area. We recommend including a stipulation for development of a cultural resource management plan that defines how these historic properties will be managed during the course of operating the rail line.

Attached is a hard copy of our editing comments; we will also email you an electronic version. Please consider these recommendations when revising the PA and send us another draft for review. You may contact Stefanie Ludwig at 907-269-8720 if you have any questions or if we can be of further assistance.

Sincerely,



Judith E. Bitner
State Historic Preservation Officer

JEB:sl

Attachment: draft PA with SHPO comments

Appendix H – Draft Programmatic Agreement

Northern Rail Extension

3/20/2009

Page 2

DRAFT PROGRAMMATIC AGREEMENT AMONG

**SURFACE TRANSPORTATION BOARD,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
ALASKA STATE HISTORIC PRESERVATION OFFICER,
ALASKA STATE LAND MANAGEMENT, ALASKA STATE OFFICE,
U.S. BUREAU OF LAND MANAGEMENT, ALASKA DISTRICT,
U.S. ARMY CORPS OF ENGINEERS, ALASKA DISTRICT,
U.S. DEPARTMENT OF DEFENSE, ALASKA COMMAND,
U.S. AIR FORCE, 354th FIGHTER WING, EIELSON AIR FORCE BASE,
FEDERAL RAILROAD ADMINISTRATION,
AND U.S. COAST GUARD, SEVENTEENTH COAST GUARD DISTRICT**

REGARDING

**THE ALASKA RAILROAD CORPORATION, NORTHERN RAIL EXTENSION
BETWEEN NORTH POLE AND DELTA JUNCTION, ALASKA**

STB Finance Docket No. 34658

WHEREAS, the Surface Transportation Board (STB), the lead Federal agency, has received an application for the construction and operation of a rail line by the Alaska Railroad Corporation (ARRC or applicant), extending its existing system between North Pole and Delta Junction, Alaska (Undertaking); and,

WHEREAS, the STB has determined that the proposed project is an Undertaking which may have an effect upon historic properties included on or eligible for inclusion on the National Register of Historic Places (NRHP), the full extent of which will not be known until after execution of this Agreement; and

WHEREAS, the STB is in consultation with the Advisory Council on Historic Preservation (ACHP); Federal Railroad Administration (FRA); the United States Department of the Interior - Bureau of Land Management, Alaska State Office (BLM); the United States Army Corps of Engineers, Alaska District (USACE); U.S. Department of Defense, Alaskan Command (ALCOM); U.S. Air Force, 354th Fighter Wing, Eielson Air Force Base (354th Fighter Wing); U.S. Coast Guard (USCG), Seventeenth Coast Guard District; and the Alaska State Historic Preservation Officer (SHPO), pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA); and,

¹ The Surface Transportation Board (STB) was created with the passage of the ICC Termination Act of 1995 (Pub. L. No. 104-88). The STB, an independent agency administratively housed within the U.S. Department of Transportation, is responsible for administering rail, pipeline, and certain adjudicatory functions involving motor and water carriers. These responsibilities are similar to those duties formerly administered by the Interstate Commerce Commission. The STB is the lead agency under the National Environmental Policy Act (NEPA) for the Northern Rail Extension Project.

WHEREAS, the STB, ACHP and SHPO are Signatories pursuant to 36 CFR 800.6(c)(1) and have authority to execute, amend or terminate this Programmatic Agreement (Agreement); and,

WHEREAS, the FRA, BLM, USACE, ALCOM, 354th Fighter Wing, USCG and ARRC are Invited Signatories pursuant to 36 CFR 800.6(c)(2) and have authority to amend or terminate this Agreement; and,

WHEREAS, the State of Alaska's Department of Natural Resources (ADNR) and invited Tribes and Indian Organizations are Concurring Parties pursuant to 36 CFR 800.6(c)(3). The refusal of any party invited to concur with this Agreement does not invalidate the Agreement; and,

WHEREAS, the STB has consulted with and continues to consult with the Indian Tribes and Alaska native corporations outlined in Appendix A.3 of this Agreement who may attach a religious and/or cultural significance to properties that may be affected by the Undertaking and these Tribes have been invited to participate in this Agreement as Concurring Parties; and

WHEREAS, the STB, as lead Federal agency, in conjunction with the FRA, BLM, USACE, ALCOM, 354th Fighter Wing, Alaska DNR, and USCG (i.e., cooperating agencies) has prepared an Environmental Impact Statement (EIS) in accordance with the requirements of the National Environmental Policy Act (NEPA) to address the potential impacts of the Undertaking on a variety of human and natural resources; and,

WHEREAS, the STB, in consultation with the Signatories and Invited Signatories, developed an Identification Plan (ID Plan) for inventory of cultural resources prior to construction, and has conducted cultural resource inventories for a range of alternatives, which were subsequently narrowed down for inclusion in the EIS. Efforts thus far have included 949 shovel test pits across 5,382 acres of track alignment and 2,339 acres of ancillary facility locations, and have identified a total of 63 cultural resource sites in this largely unsurveyed area of Interior Alaska (see *Potter 2006, Site Location Model and Survey Strategy for Cultural Resources in the Alaskan Railroad Northern Rail Extension Project Area*; Potter et al. 2007a, *Results of the 2006 Cultural Resource Survey of Proposed Alaska Railroad Northern Rail Extension Routes and Ancillary Facilities*, Alaska, and Potter et al. 2007b, *Results of the 2007 Cultural Resource Survey of Proposed Alaska Railroad Northern Rail Extension Routes, Alaska*); and,

WHEREAS, the STB has made determinations of eligibility for the National Register of Historic Places (NRHP) for certain historic properties within the project area and SHPO has concurred with most of those findings; and,

WHEREAS, the applicable requirements of the NHPA, the American Indian Religious Freedom Act, 42 U.S.C. 1996 et. seq. (AIRFA), and the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et. seq. and 43 CFR 10 (NAGPRA), have been considered in the development of the ID plan and this agreement does not waive the responsibilities of the Signatories and Invited Signatories under these acts and regulations; and,

WHEREAS, the STB has determined that this Undertaking may affect historic properties eligible for the NRHP during the life span of this Undertaking, and has consulted with the ACHP and the SHPO pursuant to Section 800.14(b) of the regulations (36 CFR 800) implementing

Comment [D00031] : These are federal agencies and could be included in the list of invited signatories. (rather than invited)

Comment [D00032] : Explain why are these agencies involved in the FRA Land Issues? Federal DNR role.

Comment [D00033] : Partially consistent with previous findings. Does this include government to government consultation with federally recognized Tribes?

Comment [D00041] : Is this a cultural resource?

Northern Rail Extension Draft Environmental Impact Statement Section 106 of the NHPA, and WHEREAS, the STB has deferred final identification and evaluation of historic properties that may be affected by this Undertaking through the establishment of this Agreement, and WHEREAS, the ACP has been invited to participate in this Agreement and has agreed to do so; NOW, THEREFORE, the Signatories and Invited Signatories to this Agreement consent that the proposed Undertaking shall be implemented in accordance with the following stipulations in order to consider the effect of the Undertaking on historic properties and to satisfy all Section 106 NHPA responsibilities for all aspects of the Undertaking. STIPULATIONS The STB shall ensure that the following measures are carried out: I. Administrative Considerations: A. The STB and Invited Signatories shall attach this Agreement or the measures (stipulations) called for in this Agreement to any Record(s) of Decision (ROD), approved permit(s) or other condition(s) issued for this Undertaking so that this Agreement and its requirements become legally enforceable and binding on those actions. B. This Agreement and all of its requirements shall be binding on ARRC, as the current applicant for STB authorization, and on its heirs, successors, and assigns. C. Because of both singular and overlapping legal authorities and purviews among the Signatories and Invited Signatories regarding individual Undertaking components or activities, any or all of these agencies may be responsible to carry out the terms of this Agreement for a given Undertaking component or activity. That agency or agencies that has/have purview over a given Undertaking component or activity is referred to in this Agreement as the "responsible agency(ies)," hereinafter. To promote coordination among the agencies and to expedite the conduct of tasks pursuant to this Agreement, the responsible agency(ies) can make informal arrangements among themselves regarding the implementation of this Agreement so long as the substance of this Agreement is followed. However, if there is more than one agency with purview over a given Undertaking component or activity, all involved agencies shall remain aware of the substance, progress, and any problems with implementing this Agreement for that Undertaking component or activity and remain involved to prevent and resolve problems. For certain larger Undertaking components and activities, it may be advisable for all involved agencies to carry out the terms of this Agreement jointly. Comments: [Do not edit] : Possibly affecting historic properties and already been identified. Comments: [Do not edit] : What about assessment of effect and mitigation? Comments: [Do not edit] : Redundant. Move up in Whereas sentence.	Northern Rail Extension Draft Environmental Impact Statement D. No later than 30 days after issuance of any STB Final Decision granting ARRC the authority to construct and operate the Undertaking, the STB and SHPO shall consult and develop an Agency Consultation and Coordination Plan (ACCP) that outlines how the agencies shall coordinate with each other in carrying out the terms of this Agreement. The ACCP shall include a list of anticipated Undertaking components and activities and which agency will be the "responsible agency(ies)" for each. The ACCP should also include procedures for review and approval of resource determinations, treatment plans, any preliminary field reports, and final technical reports, according to the reporting structure described in Stipulation IX(C) of this Agreement. This ACCP may be amended as needed by these parties. E. The Signatories and Invited Signatories shall enforce the terms of this Agreement, approvals, and other conditions that incorporate this Agreement and its terms. Each shall notify the others if any of them becomes aware of an instance of possible non-compliance with the terms and conditions of this Agreement or permit or conditions as they relate to this Agreement. In such case, the "responsible agency(ies)" shall ensure compliance consistent with its/their legal authorities and consult with the other agencies, as needed. II. Historic Properties, Areas of Potential Effect, and the Applicability of this Agreement: A. This Agreement shall apply to the Undertaking and all components of it, including actions specified in the EIS, permits and approvals, or other documents so long as they are within the jurisdiction of the STB and Invited Signatories. B. The STB has made a reasonable and good faith effort to identify and evaluate historic properties eligible for the NRHP for the purposes of comparing impacts in the EIS. A total of 63 cultural resource sites were discovered during the 2006 and 2007 surveys, including 51 prehistoric/subsurface sites and 12 historic sites. Forty seven sites (75% of total) were considered eligible to the NRHP. 7 (11%) were considered not eligible, and 4 (6%) require more data (Potter et al. 2007a and 2007b; and letters from SHPO to STB dated 9/24/07 and 7/16/08 documenting consensus agreement with these findings). C. This Programmatic Agreement is being implemented because the impacts of the proposed Undertaking can not be completely known at this time. The STB and SHPO have reached consensus agreement on historic properties identified in the 2006 and 2007 surveys. STB will provide final determinations of eligibility for the National Register and findings of effect to the SHPO for concurrence for those sites that are identified within the APE. It is further anticipated that such agency action shall occur after execution of this Agreement. The APE is further refined (as may be needed) based on final design of the Undertaking, and after such time as the STB issues a decision on the application to construct and operate a new rail line by ARRC. Any future refinements to an APE in conjunction with this Comments: [Do not edit] : We are going to develop all this in 30 days? Perhaps this plan should be incorporated into the PA. Comments: [Do not edit] : This is a stipulation and would be more appropriate in the Whereas section (without all the detail). Comments: [Do not edit] : Purpose of the PA has already been addressed in the Whereas section. Comments: [Do not edit] : Redundant.	Draft Programmatic Agreement H-4
Northern Rail Extension Draft Environmental Impact Statement Section 106 of the NHPA, and WHEREAS, the STB has deferred final identification and evaluation of historic properties that may be affected by this Undertaking through the establishment of this Agreement, and WHEREAS, the ACP has been invited to participate in this Agreement and has agreed to do so; NOW, THEREFORE, the Signatories and Invited Signatories to this Agreement consent that the proposed Undertaking shall be implemented in accordance with the following stipulations in order to consider the effect of the Undertaking on historic properties and to satisfy all Section 106 NHPA responsibilities for all aspects of the Undertaking. STIPULATIONS The STB shall ensure that the following measures are carried out: I. Administrative Considerations: A. 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To promote coordination among the agencies and to expedite the conduct of tasks pursuant to this Agreement, the responsible agency(ies) can make informal arrangements among themselves regarding the implementation of this Agreement so long as the substance of this Agreement is followed. However, if there is more than one agency with purview over a given Undertaking component or activity, all involved agencies shall remain aware of the substance, progress, and any problems with implementing this Agreement for that Undertaking component or activity and remain involved to prevent and resolve problems. For certain larger Undertaking components and activities, it may be advisable for all involved agencies to carry out the terms of this Agreement jointly. Comments: [Do not edit] : Possibly affecting historic properties and already been identified. Comments: [Do not edit] : What about assessment of effect and mitigation? Comments: [Do not edit] : Redundant. Move up in Whereas sentence.	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The Signatories and Invited Signatories shall enforce the terms of this Agreement, approvals, and other conditions that incorporate this Agreement and its terms. Each shall notify the others if any of them becomes aware of an instance of possible non-compliance with the terms and conditions of this Agreement or permit or conditions as they relate to this Agreement. In such case, the "responsible agency(ies)" shall ensure compliance consistent with its/their legal authorities and consult with the other agencies, as needed. II. Historic Properties, Areas of Potential Effect, and the Applicability of this Agreement: A. This Agreement shall apply to the Undertaking and all components of it, including actions specified in the EIS, permits and approvals, or other documents so long as they are within the jurisdiction of the STB and Invited Signatories. B. The STB has made a reasonable and good faith effort to identify and evaluate historic properties eligible for the NRHP for the purposes of comparing impacts in the EIS. A total of 63 cultural resource sites were discovered during the 2006 and 2007 surveys, including 51 prehistoric/subsurface sites and 12 historic sites. Forty seven sites (75% of total) were considered eligible to the NRHP. 7 (11%) were considered not eligible, and 4 (6%) require more data (Potter et al. 2007a and 2007b; and letters from SHPO to STB dated 9/24/07 and 7/16/08 documenting consensus agreement with these findings). C. This Programmatic Agreement is being implemented because the impacts of the proposed Undertaking can not be completely known at this time. The STB and SHPO have reached consensus agreement on historic properties identified in the 2006 and 2007 surveys. STB will provide final determinations of eligibility for the National Register and findings of effect to the SHPO for concurrence for those sites that are identified within the APE. It is further anticipated that such agency action shall occur after execution of this Agreement. The APE is further refined (as may be needed) based on final design of the Undertaking, and after such time as the STB issues a decision on the application to construct and operate a new rail line by ARRC. Any future refinements to an APE in conjunction with this Comments: [Do not edit] : We are going to develop all this in 30 days? Perhaps this plan should be incorporated into the PA. Comments: [Do not edit] : This is a stipulation and would be more appropriate in the Whereas section (without all the detail). Comments: [Do not edit] : Purpose of the PA has already been addressed in the Whereas section. Comments: [Do not edit] : Redundant.	Draft Programmatic Agreement H-3

Underpinning shall be made in consultation with the SHPO, consistent with 36 CFR 800.4. All determinations of APE and of the effects of the Undertaking shall take into account the professional standards, guidelines, and research of both cultural resources and design professionals. Consistent with 36 CFR 800.4(b)(4), the STB may determine that there are historic properties within the APE, but that the Undertaking will have no effect on them.

Comment: (DRAFT) - "No effect" is only one possible finding.

III. Tribal Consultation:

STB initiated consultation with the Tribes and Indian organizations outlined in Appendix A.3 of this Agreement regarding the Section 106 process, in conjunction with the preparation of the EIS. Consultation will continue as the terms of this Agreement are carried out. No later than 30 days after issuance of any STB Final Decision granting ARRC the authority to construct and operate the Undertaking, and prior to the initiation of construction in an area previously identified through the section 106 process as being eligible to the NRHP, STB, in consultation with the SHPO and tribal organizations, shall develop a Tribal Consultation Plan (TCP) that outlines procedures for agencies to consult with tribal organizations in carrying out the terms of this Agreement. This TCP shall be acceptable to the tribal organizations and describe when and how these organizations shall be consulted, the contact names and information for each organization, procedures for review of treatment plans (as appropriate), and other matters. This TCP may be amended as needed. The procedures in the TCP will be integrated into the ACCP and the agencies' implementation of this Agreement as necessary.

Comment: (DRAFT) - To be consistent with Whereas statement.
Deleted: tribal

Comment: (DRAFT) - This acronym may be mistaken to mean Traditional Cultural Property.

IV. Identification Plan for Historic Properties and Assessment of Effects:

- A. Additional identification and evaluation efforts for cultural resources may be required as the activities related to this Undertaking progress, including (but not limited to):
 1. Any areas of surface/subsurface disturbance related to this Undertaking and within the jurisdiction of the STB authority, including rail alignments as well as ancillary facilities, staging areas, and borrow areas, which are outside the 200-foot-wide APE surveyed in 2006-2007.
 2. Portions of any alternative or alignment for which ARRC has received authority from the STB to construct and operate that were not surveyed during the 2006-2007 investigations, such as portions of the Satchuket Village that were not surveyed due to the presence of private property and native allotments.
 3. Previously identified sites within the surveyed APE, and along the alignments that may receive authorization from the STB to construct and operate, which require additional evaluation to establish boundaries and/or to determine the effects of the Undertaking.

- B. Additional identification and evaluation efforts shall follow the administrative and consultation procedures established in the ACCP and TCP, as described in Stipulations (I) and III. Additional identification and evaluation shall conform with Federal and state guidelines for fieldwork in Alaska, be compatible with previous investigations for this Undertaking, and may include a phased approach to testing and evaluation, as described in 36 CFR 800.402 and 800.343.

- C. The STB, as the lead agency, shall review identification and evaluation efforts and prepare final determinations of site eligibility and assessment of effect for concurrence by the SHPO.

V. Treatment of Historic Properties:

- A. Any design changes, modifications, and refinements of the Undertaking shall endeavor to avoid impacts to cultural resources.

- B. For historic properties determined by the STB as eligible for the NRHP that cannot be avoided by the Undertaking, ARRC shall develop a treatment plan to minimize or mitigate the effects. Treatment plans shall be developed in consultation with STB, SHPO, the invited Signatories, and tribal organizations that may attach religious and/or cultural significance to the identified property. During the preparation of treatment plans, the STB shall consider the views of these parties and the public. All treatment plans must be approved by STB, SHPO, any land managing agencies (as appropriate to their jurisdiction), and any tribes (as appropriate) prior to implementation. Under 43 CFR 7.7(a) "Protection of Archaeological Resources," tribes that consider any sites on public lands within the APE as having sacred or cultural importance have 30 days within which to comment on the treatment plans.

Deleted: sacred

1. Most historic properties identified through the 2006 and 2007 surveys are archaeological sites. For historic properties that are archaeological in nature and significant for their research data potential (criterion D), the treatment measures may follow standard mitigation through data recovery. Treatment plans for data recovery shall include, at a minimum, a research design with provisions for data recovery and recordation, analysis, reporting, and curation of resulting collection and records, and shall be consistent with the *Secretary of Interior's Standards and Guidelines* (48 FR 44734-44737). Treatment plans must be consistent with easement and permit requirements of other agencies, when applicable. To the extent possible, treatment plans should group related sites or areas, so that the treatment of related resources can be considered in context, and to minimize the burden of review and approval by agencies.

2. A number of the resources identified during the 2006 and 2007 surveys were sites relating to the historic period, or were significant for values other than their potential research value (e.g., eligible under criteria A, B, or C), including those related to the Satchuket Village site. Treatment plans for such

Northern Rail Extension Draft Environmental Impact Statement resources, if warranted, shall specify approaches for treatment or mitigation of the property in accordance with the principles, standards, and guidelines appropriate to the resource. This may include, but not be limited to, use of such approaches as relocating a historic property, re-landscaping to reduce effects, public interpretation, ethnographic recordation, oral history, archival research, or preserving use of a component or activity of this Undertaking in such as way as to minimize effects to historic properties or to those concerned about the effects of that component or activity. Methods of recordation and documentation described in the treatment plan shall conform with the <i>Secretary of the Interior's Standards for Archaeological and Engineering Documentation</i> (48 FR 44730-44734) or other standards specified by SHPO. C. In lieu of standard mitigation approaches described above, treatment plans may adopt other alternative approaches to minimize or mitigate effects to historic properties, including assisting in the development of tribal historic preservation plans, developing detailed historic contexts for the region, developing educational materials, purchasing properties containing historic resources, or developing historic property management plans. Such alternative options must be approved in writing by all Signatories and Invited Signatories to the Agreement. D. Treatment plans shall be reviewed according to the procedures established in the ACCP and TCP. Disputes or objections to treatment plans shall be resolved in accordance with stipulation XIII below. VI. Treatment of Human Remains: It is the intent of this Undertaking to avoid the disturbance or removal of any human remains. No activity will knowingly disturb human graves or human remains. If human remains, sacred objects, or mortuary objects are inadvertently discovered during the course of construction or operation, all activities in the vicinity shall immediately cease and the Plan of Action (POA) for the treatment of human remains (Appendix A) shall be implemented. The STB and ARRC shall ensure that any and all human remains, sacred objects, and objects of cultural patrimony discovered as a result of the Undertaking shall at all times be treated with dignity and respect. VII. Monitoring: A. If stipulated as part of a treatment plan, when the probability to uncover unidentified archaeological or historic materials is determined likely by the consulting archaeologist or SHPO, ARRC shall ensure that an archaeologist meeting the qualifications of the Standards and Guidelines is present to monitor specific ground-disturbing activities. Draft Programmatic Agreement H-7	Northern Rail Extension Draft Environmental Impact Statement B. The results of monitoring shall be included in a report to the STB and SHPO. This report shall be developed, within 3 months of fieldwork and be acceptable to both the "responsible agency(ies)" and the SHPO. C. If sites are discovered during monitoring, ARRC shall follow the procedures outlined in Stipulation X of this Agreement. D. If human remains are discovered during monitoring, ARRC shall follow the procedures outlined in the Plan of Action (Appendix A). VIII. Curation: A. ARRC shall ensure that all artifacts, faunal remains, samples, records and field notes, and related materials collected during activities covered by this Agreement are deposited in the University of Alaska Museum of the North in Fairbanks, or another repository or institution approved by the SHPO. The curatorial facility shall meet requirements found in 36 CFR 79, <i>Curation of Federally Owned and Administered Archaeological Collections</i>. B. Curation arrangements between ARRC, or their cultural resources consultant, and an approved institution must be part of any treatment plan. C. ARRC shall incur all reasonable costs charged by the approved institution for curation of materials collected in conjunction with recovery actions under this Agreement. "Reasonable costs" shall be determined by the curatorial facility and approved by SHPO, and be consistent with professionally acceptable curatorial standards. D. Consistent with 36 CFR 79, collections shall be packaged in archival quality materials and in a manner appropriate to the material type. Collection preparation and packaging shall be acceptable to SHPO and receiving institution, and consultation in advance is recommended. E. Materials collected in conjunction with recovery actions under this Agreement will remain the property of the landowner unless a gift or purchase agreement is negotiated. IX. Annual Meeting and Reports: A. Meetings Annual Meeting: A meeting of the STB, SHPO, and Invited Signatories, as well as the Concurring Parties if they so wish, shall be held each year to discuss the Comment: Double's: When each year Draft Programmatic Agreement H-8
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previous year's activities, and activities scheduled for the upcoming year. ARRC or their designated consultant shall prepare an annual report on the progress of cultural resources activities as they relate to compliance with the stipulations of this Agreement, and shall distribute it to all parties to this Agreement at least 45 days prior to the annual meeting. The meeting shall be held in Anchorage at the Alaska Office of History and Archaeology, or at another location by consensus of the Signatories and Invited Signatories. The parties may participate by telephone if they so desire, and minutes of the meetings will be distributed as soon as possible afterwards. The annual report shall include the following:

- A description of the past year's effort and anticipated upcoming efforts for identification, evaluation, mitigation, and protection of historic properties. This can include descriptions of sites, artifacts encountered, or other archaeological or historic materials encountered, including representative photographs and illustrations;
- A description of the progress of the Undertaking and any known or expected changes to the Undertaking;
- An evaluation of the effectiveness of this Agreement and whether any amendments or changes are needed based on deficiencies or project modifications.

B. Additional Meetings

The ACCP may establish an additional meeting schedule among all or some of the parties to this Agreement. If any party deems a meeting necessary in addition to the annual meeting described above their request shall be considered in consultation with the other parties.

C. Reporting

Implementation of this Agreement shall include administrative reporting as well as the preparation of technical reports on resource investigations. The reporting shall use the following procedures unless modifications to this reporting structure are agreed to by the STB, SHPO, and Invited Signatories and reflected in the ACCP.

- Progress reports. Progress reports shall be submitted quarterly by ARRC to the STB for the duration of the construction portion of the Undertaking following execution of this Agreement. Progress reports may be in letter format and shall describe fieldwork activities for cultural resources as well as relevant construction progress that was initiated, underway, or completed for the most

recent performance period, and identify steps to be initiated, continued, or completed in the next quarter. These reports may be combined with other STB reporting requirements.

- Progress summaries. Progress summaries shall be submitted by the STB to the SHPO and Invited Signatories every six months for the duration of the construction portion of the Project. The first progress summary shall be distributed six months following execution of this Agreement, with subsequent summaries following each six months thereafter until the construction portion of the Undertaking is completed. The progress summaries shall identify steps initiated, underway, or completed for the most recent performance period and identify steps to be initiated, continued, or completed in the next six-month period.

- Preliminary field reports. Preliminary reports on the progress of cultural resource fieldwork shall be prepared by ARRC that demonstrate the completion of data recovery, or other procedures, investigations and site treatments approved in the treatment plans. The use of preliminary field reports is designed to facilitate a phased approach to resource evaluation and mitigation, as provided for in 36 CFR 800, and to facilitate reasonable construction planning and progress. ARRC shall distribute preliminary reports to the STB, SHPO, and the appropriate land managing agency(ies), and those parties will have twenty (20) business days to review the report and either concur or request additional fieldwork, after which concurrence will be presumed. Construction may proceed in the area of the completed fieldwork, after the STB, SHPO, and appropriate land managing agency(ies) concur with the preliminary field report. If additional work is deemed necessary the parties will consult with ARRC to determine the nature and scope of that work.

- Technical reports. Technical reports describing the results of background research, fieldwork activities, and laboratory analyses shall be prepared according to the standards and permit guidelines appropriate to the resource, including final report standards for archaeological excavation. The extent of report distribution as well as procedures for review of draft and final technical reports shall be established in the ACCP. ARRC shall issue final technical reports no later than two years from the completion of fieldwork activities and, in consultation with the SHPO, shall prepare sufficient copies for dissemination to the Concurring Parties, appropriate public libraries, educational institutions, and other repositories.

X. Procedures for Inadvertent or Unanticipated Discoveries:

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Comment: (Do not edit) : Where adding the annual report (Stipulation D.3) to this.

Northern Rail Extension Draft Environmental Impact Statement XI. Training: A. On an annual basis, ARRC ensure that on-site supervisory-level employees and contractors are trained in procedures for identifying and reporting historic properties that may potentially be discovered during the course of their work. Minimally, the training shall include guidelines for identification of cultural resources, and notification procedures when archaeological materials, human remains, and historic period sites are discovered. B. ARRC shall also ensure that its supervisory-level contractors and employees are advised against the illegal collection of historic and prehistoric materials, including human remains, and are familiarized with the scope of applicable laws and regulations. C. Prior to the implementation of training, the curriculum shall be reviewed and approved by the STB and SHPO. D. Training shall be conducted by an archaeologist meeting the qualifications of the Standards and Guidelines. However, ARRC's supervisory level employees and contractors may attend the above training and convey the information to staff unable to attend. E. On an annual basis, ARRC shall supply to the STB and SHPO a list of employees and contractors who attended the annual training, and procedures through which the information was conveyed to employees and contractors who did not attend. XII. Procedures for Consultation: Consultation shall be an ongoing process throughout the construction phase of the Undertaking. The STB, SHPO, Indian tribes and Native Alaska Corporations, invited Signatories and the ACHP may consult at any time in writing, including e-mail, or telephone. Formal contacts and reviews will be established in the ACCP and TCP. Draft Programmatic Agreement H-11	Northern Rail Extension Draft Environmental Impact Statement XIII. Dispute Resolution: Should any party to this agreement object within 30 days of any treatment plan or report provided for review or actions proposed pursuant to this Agreement, STB and the SHPO shall consult with the objecting party to resolve the objection. A. If the STB and/or SHPO determine that the objection cannot be resolved, the STB shall forward all documentation relevant to the dispute to the ACHP. Within 30 days after receipt of all pertinent documentation, the ACHP will either: (1) Provide the STB with recommendations, which the agency will take into account in reaching a final decision regarding the dispute; or (2) Notify the STB that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any ACHP comment provided in response to such a request shall be taken into account by the STB in accordance with 36 CFR 800.7 with reference to the subject of the dispute. (3) Any recommendation or comment provided by the ACHP shall be understood to pertain to the subject of the dispute; the STB's responsibility to carry out all actions under this Agreement that are not the subjects of the dispute shall remain the same. B. At any time during implementation of the measures stipulated in this Agreement, should an objection to any such measure or its manner of implementation be raised by a member of the public, the STB shall take the objection into account and consult as needed with the objecting party, SHPO, or the ACHP to resolve the objection. XIV. Amendments: A. Any Signatory or Invited Signatory to this Agreement may request that the other Signatories consider amending it, whereupon the parties shall consult to consider the amendment(s). Amendments will be executed in the same manner as the original Agreement. Consulting Parties may suggest proposed amendments to the Signatories and Invites Signatories, who shall consult to consider them. XV. Termination: Any Signatory or Invited Signatory to this agreement may terminate it by providing thirty (30) days notice to the other parties explaining the reasons for the termination. The Signatory or Invited Signatory shall consult during this period to seek agreement on amendments or other actions that will avoid termination. In the event of termination, the STB will comply with 36 CFR 800.1 through 800.7 on remaining Undertaking components, activities, or outstanding issues. Draft Programmatic Agreement H-12
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<i>Northern Rail Extension Draft Environmental Impact Statement</i> A. SIGNATORIES Surface Transportation Board By: _____ Date: _____ (Victoria Rusan, Chief, Section of Environmental Analysis) Advisory Council on Historic Preservation By: _____ Date: _____ (Name, Title) Alaska State Historic Preservation Officer By: _____ Date: _____ Judith E. Bittner, State Historic Preservation Officer <i>Draft Programmatic Agreement</i> H-14	<i>Northern Rail Extension Draft Environmental Impact Statement</i> XVI. Failure to Carry Out Agreement: If the STB does not ensure that the terms of this Agreement are carried out, or if the ACHP determines that the terms of this Agreement are not carried out, the STB shall comply with 36 CFR Part 800.1 through 800.7 with regard to individual Undertakings covered by this Agreement. XVII. Duration: This Agreement shall become effective upon execution by the STB, the ACHP and SHPO, and shall remain in effect for a term of five years from its date of execution, at which point the Agreement may be renewed. XVIII. Execution and Implementation: Execution and implementation of this Agreement evidences that the STB has satisfied responsibilities under Section 106 of the National Historic Preservation Act pursuant to 36 CFR 800, and that SHPO has satisfied responsibilities under the Alaska Historic Preservation Act pursuant to AS 41.35. <i>Draft Programmatic Agreement</i> H-13
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Northern Rail Extension Draft Environmental Impact Statement	
B. INVITED SIGNATORIES Cooperating Agencies and Applicant Cooperating Federal Agencies U. S. Department of Interior - Bureau of Land Management, Alaska State Office By: _____ Date: _____ (Name, Title) U. S. Army Corps of Engineers By: _____ Date: _____ (Name, Title) U.S. Air Force 354th Fighter Wing, Eielson Air Force Base By: _____ Date: _____ (Name, Title) U.S. Department of Defense, Alaska Command By: _____ Date: _____ (Name, Title) Federal Railroad Administration By: _____ Date: _____ (Name, Title) United States Coast Guard, Seventeenth Coast Guard District By: _____ Date: _____ (Name, Title) Applicant Alaska Railroad Corporation By: _____ Date: _____ (Name, Title) Draft Programmatic Agreement H-15	C. Concurring Parties Agencies State of Alaska, Department of Natural Resources By: _____ Date: _____ Director, Division of Mining, Land, and Water Tribes Healy Lake Village By: _____ Date: _____ (Name, Title) Village of Dot Lake By: _____ Date: _____ (Name, Title) Northway Village By: _____ Date: _____ (Name, Title) Native Village of Tetlin By: _____ Date: _____ (Name, Title) Native Village of Tanacross By: _____ Date: _____ (Name, Title) Native Village of Eagle By: _____ Date: _____ (Name, Title) Draft Programmatic Agreement H-16

<i>Northern Rail Extension Draft Environmental Impact Statement</i> Glossary of Terms/Acronyms Adverse Effect: When an undertaking may alter, directly or indirectly, the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative. Area of Potential Effect: The Area of Potential Effect (APE) is the geographic area within which the project may cause physical, visual or audible effects to the character or use of historic properties. It includes all areas of construction, such as rights-of-way (ROW), staging areas, extra work spaces, yards, access roads, borrow areas, and other ancillary facilities. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking. Determination of the APE may take into account the professional standards, guidance, and research of both the cultural resources and railroad design professions. Borrow Area(s): An excavated area where material has been or will be dug for use as fill at another location. Consulting Parties: Consulting parties include SHPO, Indian tribes, representatives of local governments, applicants for Federal assistance, permits, licenses and other approvals, and certain individuals and organizations with a demonstrated interest in the undertaking. Cultural Resource: A cultural resource is any prehistoric or historic district, site, building, structure or object in American history, architecture, engineering, archeology, or culture. This term includes artifacts, records, and remains that are related to and located within such properties. The term also includes properties of traditional religious and cultural importance to an Indian Tribe that may meet the National Register criteria. Curation: The preservation of material remains that are excavated or removed during a survey, excavation, or other study of a prehistoric or historic resource, and associated records that are prepared or assembled in connection with the survey, excavation or other study. Days: Calendar days. Eligible for the National Register of Historic Places: The term eligible for the National Register includes both properties formally determined as such in accordance with the regulations of the Secretary of the Interior and all other properties that meet the National Register criteria. Federal Agency(s): Any Federal entity with a statutory obligation to fulfill the requirements of Section 106 who has jurisdiction over an undertaking and takes legal and financial responsibility for Section 106 compliance in accordance with Subpart B 36 CFR 800. The Federal Agency(s) has approval authority for the undertaking and can commit the Federal agency to take appropriate action for a specific undertaking as a result of Section 106 compliance.	<i>Northern Rail Extension Draft Environmental Impact Statement</i> Nenana Native Association By: _____ Date: _____ Native Village of Minto By: _____ Date: _____ Tok Native Association By: _____ Date: _____ Indian Organizations Tanana Chiefs Conference, Inc. By: _____ Date: _____ Doyon, Ltd. By: _____ Date: _____ Upper Tanana Inter-Tribal Coalition By: _____ Date: _____	<i>Draft Programmatic Agreement</i> H-18	<i>Draft Programmatic Agreement</i> H-17
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Historic Property: Any prehistoric or historic district, site, building structure, or object included in or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe that meet the National Register criteria.

Human Remains: The physical remains of a human body.

ID Plan: Identification Plan.

Indian Tribe: An Indian Tribe, band, nation, or other organized group or community, including a Federally-recognized Native Village, Regional Corporation or Village Corporation, as those terms are defined in Section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602) which is recognized eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Keeper of the National Register: The Keeper is the individual who has been delegated the authority by the National Park Service (NPS) to list properties and determine their eligibility for the National Register. The Keeper may further delegate this authority as he or she deems appropriate.

NAGPRA: Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et. seq.).

National Register: The National Register lists properties formally determined eligible for the National Register of Historic Places.

National Register Criteria: National Register criteria are criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36 CFR 60). The National Register of Historic Places criteria are listed below:

The quality of significance in American history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects of State and local importance that possess integrity of location, design, setting, materials, workmanship and feeling and:

- a. that are associated with the events that have made a significant contribution to the broad patterns of our history; or
- b. that are associated with the lives of persons significant in our past; or
- c. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d. that yielded, or may be likely to yield, information on prehistory or history.

Criteria considerations: ordinarily cemeteries, birthplaces, or graves of historical figures; properties owned by religious institutions or used for religious purposes; structures that have been moved from their original locations, commemorative in nature; and properties that have

achieved their significance within the past 50 years shall not be considered eligible for the National Register of Historic Places (36 CFR 60.4).

NRHP: National Register of Historic Places.

PA: Programmatic Agreement.

SHPO: State Historic Preservation Officer.

Site: Site definition is different for each state but is generally defined by Willey and Phillips (1958:18), as any reasonably definable spatial unit that contains features or is fairly continuously covered with artifacts that are indicative of an occupation 50 years or older. A site may be defined as "a spatial cluster of cultural features, or items, or both" (Binford 1972:46). These definitions apply to both prehistoric and historic sites. Archaeological context may be defined by the inclusion of any of the following: soil staining, associated fire-cracked rock, ceramics, features, or a concentration of materials within a reasonably defined spatial boundary.

STB: Surface Transportation Board.

Traditional Cultural Properties: A Traditional Cultural Property can be defined generally as an object, site, landscape feature, or other form of feature that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that communities' history, and (b) are important in maintaining the continuing cultural identity of the community. For additional information, reference Parker and King 1995.

Treatment Plan: A proposal for the mitigation of effects upon any historic property that a project would affect. It can include data recovery, documentation, restoration or other measures.

Undertaking: An undertaking is a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency, those carried out with Federal financial assistance; those requiring a Federal permit, license or approval, and those subject to state or local regulation pursuant to a delegation or approval by a Federal agency.

Appendix A.

Plan of Action for the Treatment of Unanticipated Discovery of Human Remains, Graves and Historic Properties

A.1. Human Remains and Graves

As set forth in Native American Graves Protection and Repatriation Act (NAGPRA) regulations (43 CFR 10), a specific plan of action is required in the event that human remains are uncovered during survey or construction of the Alaska Railroad Corporation (ARRC) proposed Northern Rail Extension (i.e., Undertaking). The following steps must be taken if human remains, or suspected human remains, are discovered:

- (1) Stop all work in the immediate vicinity of the remains.
- (2) Mark the area in which the remains are located, as well as a minimum buffer area with a radius of 20 meters surrounding the remains. This buffer area may be larger if there is the possibility of more remains in the area or in the case of slopes or cut banks where work located nearby may impact the site of the remains. Make sure that the remains are protected from possible impacts while contacting the appropriate parties².
- (3) If remains are found that are not clearly human, but are suspected to be so, a specialist must be called in for identification.³
- (4) The ARRC Project Manager should contact the following people or agencies within 24 hours of uncovering the remains.

- (a) The State Historic Preservation Officer (SHPO):
Judith Bitner
Alaska Department of Natural Resources
Office of History and Archaeology
550 West 7th Avenue
Anchorage, AK 99501-3561
Phone: (907) 269-8715
Fax: (907) 269-8908

- (b) Federal agency official in charge:

² Ways of protecting the remains include: covering with a tarp or other protection from the elements; shoring up cut banks or trench walls so that no further exposure occurs; making sure that no water will collect on or around the remains.

³ The specialist must meet the professional qualifications for the NHPA as set forth in 36 CFR 61, section 112 (a)(1).

Victoria Ruson
Chief, Section of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423
Phone: (202) 245-50295
Fax: (202) 245-0454

- (c) The appropriate land managing agency contact for the relevant parcel.
- (d) The responsible Native representative for the area of discovery.

Gary Lee
Deyon Ltd.
1 Deyon Place, Suite 300
Fairbanks, AK 99701
Phone: (907) 459-2037
Fax: (907) 459-2062

and

Robert Sattler
Tanana Chiefs Conference, Inc.
122 1st Avenue, Suite 600
Fairbanks, AK 99701
Phone: (907) 452-8251, ext. 3343
Fax: (907) 459-3936

and

- (d) The Alaska State Troopers
Alaska State Troopers
Communications Center Manager
Phone: (907) 451-5100
Fax: (907) 451-5165

Notification should include available information regarding the nature and extent of the remains and an accurate and precise location including GPS coordinates.

NAGPRA dictates that work in the immediate vicinity of the remains cannot proceed until 30 days after the reply from the Federal agency in charge or appropriate Native group that the documents regarding the finding were received, unless a written and binding agreement is issued from the Federal agency in charge and the affiliated Native American group(s) (NAGPRA 25 U.S.C. 3002 Sec 3(d)).

The remains will then be assessed and treated based on the guidance of the Federal agency in charge and the appropriate Native group as defined by NAGPRA.

A.2 Plan for Unanticipated Discoveries

Cultural resources may be encountered above ground and below ground during work on the Undertaking, and might include historic and prehistoric materials as well as Traditional Cultural Properties. In the event that cultural materials are discovered, this plan shall be followed, and implemented in compliance with both NAGPRA and the National Historic Preservation Act (NHPA) of 1966, as amended (16 U.S.C. § 470) as well as implementing regulations (36 CFR 800).

If archaeological or historic materials are encountered the following series of steps must be followed:

- (1) Stop all work in the immediate vicinity of any cultural resources or suspected cultural resources.
- (2) Mark the area in which the resources are located, as well as a minimum buffer area with a radius of 20 meters surrounding them. This buffer area may be larger if there is the possibility of more resources in the area or in the case of slopes or cut banks where ongoing work may impact the site. Make sure that all cultural materials are protected from possible impacts while contacting the appropriate parties.
- (3) ARRC's Project Manager should contact the following people or agencies within 24 hours of discovering the resources.
 - (a) See previous list at A.1(4).

Notification of unanticipated discoveries should include available information regarding the nature and extent of the cultural resources and an accurate and precise location including GPS coordinates.

The discovery shall be investigated by a professional meeting the appropriate qualification standards, such as a consulting archaeologist, no longer than seventy-two (72) hours from discovery. The STB, SHPO, ARRC and land managing agency (as appropriate) shall consult, by telephone or other means, on the nature of the discovery and whether any additional investigation is warranted. The STB shall contact the appropriate Tribal representative if necessary. A decision shall be provided to ARRC within five (5) working days. If the parties agree that the discovery is not significant, verbal

⁴ Options for protecting the cultural resources include: covering with a tarp or other protection from the elements; shoring up cut banks or trench walls so that no further exposure occurs; making sure that no water will collect on or around the site.

authorization to proceed may be given by the SHPO, and SHPO shall provide written confirmation to the parties within five (5) working days. A report of the investigation shall be provided by the investigator, following the guidelines for Monitoring described in Stipulation VII. If traditional investigation is agreed to, the guidelines for Additional investigations described in Stipulations IV(B) shall be followed, unless modified evaluation and reporting are agreed to.

A.3 List of contacts for Native Alaskan representatives

Common Name: Dot Lake
President, William Miller
Village of Dot Lake
P.O. Box 2279
Dot Lake, Alaska 99737
Voice: (907) 882-2695 Fax: (907) 882-5558

Common Name: Healy Lake
President, Fred Kirsteater
Healy Lake Village
P.O. Box 60300
Fairbanks, Alaska 99706
Voice: (907) 876-5018 Fax: (907) 876-5013

Common Name: Minto
Chief, Roy Charles
Native Village of Minto
P.O. Box 26
Minto, Alaska 99758
Voice: (907) 789-7112 Fax: (907) 798-7627

Common Name: Nenana
Chief, Mitch Demientieff
Nenana Native Association
P.O. Box 356
Nenana, Alaska 99760
Voice: (907) 832-5461 Fax: (907) 832-1077

Common Name: Northway
President, Gerald Albert
Northway Village
P.O. Box 516
Northway, Alaska 99764
Voice: (907) 778-2311 Fax: (907) 778-2220

Common Name: Tanacross
Executive Director, Jerry Isaac

Native Village of Tanacross
P.O. Box 76009
Tanacross, Alaska 99776
Voice: (907) 883-4496 Fax: (907) 883-4497

Common Name: Tetlin
President: Bently Mark, Sr.
Native Village of Tetlin
P.O. Box 111
Tetlin, Alaska 99780
Voice: (907) 324-2130 Fax: (907) 324-2131

Common Name: Eagle Village
President: David Howard
Native Village of Eagle
P.O. Box 18
Eagle, Alaska 99738
907-547-2271

The Upper Tanana Inter-Tribal Coalition consists of six Federally recognized tribes:

Tribe: Village of Dot Lake
ANSCA Corporation: Dot Lake Native Corporation
Phone: 907-882-2695

Tribe: Native Village of Eagle
ANSCA Corporation: Hungwitchin Corporation
Phone: 907-547-2271

Tribe: Healy Lake Village
ANSCA Corporation: Mandas Chang Native Corporation
Phone: 907-876-3053, 907-876-5018

Tribe: Northway Village
ANSCA Corporation: Northway Natives Incorporated
Phone: 907-778-2311

Tribe: Native Village of Tanacross
ANSCA Corporation: Tanacross Incorporated
Phone: 907-883-5024

Tribe: Native Village of Tetlin
ANSCA Corporation: Tetlin Native Corporation
Phone: 907-324-2130



Preserving America's Heritage

March 23, 2009

Mr. Dave Navecky
Section of Environmental Analysis
Surface Transportation Board
395 E. Street SW
Washington, DC 20423-0001

RE: Proposed Alaska Railroad Corporation construction and operation of rail line
STB Finance Docket No. 34658
Between North Pole and Delta Junction, Alaska

Dear Mr. Navecky:

This is a follow up to the March 6, 2009, consultation teleconference held by the Surface Transportation Board (STB) for the referenced undertaking. During the teleconference, the STB requested comments from The Advisory Council on Historic Preservation (ACHP) and Alaska State Historic Preservation Officer on the draft Programmatic Agreement (PA) for the Northern Rail Extension project.

The teleconference was helpful in providing a history and context for this undertaking. We support the execution of a PA for the construction and management of this portion of the Alaska Railroad. In general, the PA draft would be improved by greater specificity about how its terms apply to the ongoing identification, effects assessment, and treatment needs of this undertaking and about the procedural steps that will accomplish these goals. We offer the following general observations to assist STB in revising the draft PA for circulation to all consulting parties:

- The Area of Potential Effects should be described in the preamble and/or incorporated in map form by reference.
- The preamble should clarify whether any other federal agencies will use this PA to satisfy their compliance responsibilities for this undertaking under Section 106 and, if so, their status as signatories. Similarly, the agreement title should reference only those agencies that are signatories to the PA.
- Please ensure the use of the term "historic properties" consistent with §800.16(d)(1) rather than "cultural resources."
- The information contained in Stipulation II is better summarized in the preamble, as it captures background information about the undertaking and the need for the PA.

2

- Rather than deferring the development of protocols for review timeframes, response expectations, and other mechanics of ongoing review under the terms of the PA until an Agency Consultation and Coordination Plan (ACCP) is developed, the STB and all consulting parties should negotiate these procedures now so that they may be incorporated into the body of this PA and made available to the public.
- Remove "Assessment of Effects" from the title of Stipulation IV and revise to provide greater specificity about the review procedure pursuant to the previous bullet.
- Mention notification and consultation with tribes in accordance with the Tribal Consultation Plan in Stipulation VI, "Treatment of Human Remains." Further, Stipulation VI appears to be appropriately consolidated with or located immediately following Stipulation X, containing procedures for unanticipated discoveries.
- Add ACCP to the annual meeting of signatories in Stipulation IX.A.
- A description of the methods of communication allowable during implementation of the PA, currently under Stipulation XII, Procedures for Consultation, should be formalized in Stipulation I, Administrative Considerations, and Stipulation XII then deleted.
- Please correct the first reference to our regulations in Stipulation XIII.A, Dispute Resolution, to read §800.7, and delete the second reference. This stipulation should also specify that STB will provide a copy of its written response to ACCP comments or final decision on any dispute to all parties to the agreement before proceeding.

We look forward to working with STB to continue the Section 106 consultation process for this undertaking and to reviewing a revised draft of the PA in the near future. Should you have any questions or wish to discuss this matter further, please contact Blythe Semmer at (202) 606-8552 or via email at bsemmer@achp.gov.

Sincerely,



Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing, and Assistance Section



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

March 27, 2009

Robert D. Mecum
Acting Administrator, Alaska Region
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

Re: STB Finance Docket No. 34658 – The Alaska Railroad Corporation – Petition for Exemption to Construct and Operate a Rail Line between North Pole and Delta Junction, Alaska

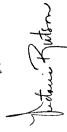
Dear Mr. Mecum:

Thank you for your review of the Draft Environmental Impact Statement (EIS) and associated Essential Fish Habitat (EFH) Assessment for the above-referenced project. The six EFH conservation recommendations, which were provided in your February 27, 2009 comment letter, are still under consideration by the Surface Transportation Board's (Board) Section of Environmental Analysis (SEA). We appreciate the time your staff spent with members of SEA's EIS team on March 23, 2009 by conference call to discuss these recommendations in more detail.

We understand from the conference call that the normal 30-day period for responding to your EFH conservation recommendations can be extended by mutual agreement. Although a specific date was not discussed during the call, we anticipate being able to provide you with a detailed response by April 30, 2009. Our response at that time would continue to be subject to subsequent review of the Preliminary Final EIS by the cooperating agencies. In addition, any EFH-related mitigation measures recommended by SEA in the Final EIS would only become enforceable measures if the Board authorizes the construction and operation of the proposed rail line and chooses to impose those measures as conditions of any authorization. SEA does not have the authority to obligate the agency to specific mitigation measures, and the Board will not act on any recommended mitigation measures until it issues a Final Decision (i.e., our agency's Record of Decision) in a proceeding.

Thank you for your participation in our environmental review process. If you have any questions, please contact Dave Navecky, SEA's Project Manager, at 202-245-40294, or Alan Summerville of ICF International, Project Manager for SEA's third-party contracting team for this EIS, at 703-934-3616.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

May 28, 2009

Mr. Paul Costello
Director
Department of Land Management
Fairbanks North Star Borough
PO Box 71267
Fairbanks, AK 99707

Mr. Dave Ferree
Salcha School, Director of Facilities
FNSB School District, Facilities Management
520 5th Avenue
Fairbanks, AK 99701

Mr. Michael Cox
Director
Department of Parks and Recreation
Fairbanks North Star Borough
PO Box 71267
Fairbanks, Alaska 99707

Re: STB Finance Docket No. 34658, The Alaska Railroad Corporation – Petition for
Exemption to Construct and Operate a Rail Line Between North Pole and Delta
Junction, Alaska

Dear Sirs:

I am writing to request concurrence of the Fairbanks North Star Borough (FNSB) with a *de minimis* impact finding for the Salcha Elementary School and Ski Area, a Section 4(f) property. Below, I have set forth the background, status, and rationale for the *de minimis* finding. At the conclusion of this letter, I have included a signature line. If you concur with the *de minimis* finding for impacts to the Salcha Elementary School and Ski Area from the proposed Northern Rail Extension project, please have an authorized individual sign below and return this letter to Dave Navecky of my staff at the letterhead address.

Section 4(f) Background

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) issued the Draft Environmental Impact Statement (EIS) for the above-referenced project (also referred to as the Northern Rail Extension) on December 12, 2008. The Draft EIS determined

that the Northern Rail Extension project could have an effect on recreational resources associated with the Salcha Elementary School and Ski Area. These particular recreational resources are protected under Section 4(f) of the U.S. Department of Transportation Act of 1966 (et seq.) ("Section 4(f)). The EIS process for the project includes a Section 4(f) evaluation because it is a requirement of the Federal Railroad Administration (FRA), and potentially a requirement of the Federal Transit Administration (FTA), both of which are agencies of the U.S. Department of Transportation and cooperating agencies for preparation of the Northern Rail Extension EIS. Section 4(f) mandates that the U.S. Secretary of Transportation shall not approve any transportation project requiring the use of publicly owned parks, recreation areas, wildlife and waterfowl refuges, or significant historic sites unless there is no prudent and feasible alternative to using that land and the project includes all possible planning to minimize harm to the Section 4(f) resource. The Board is an independent agency and not subject to the requirements of Section 4(f). Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 303), also known as SAFETEA-LU, amended Section 4(f) statutory requirements to include an exception for use of protected land that would have a "<i>de minimis</i>" impact on that land. The U.S. Secretary of Transportation may make a finding of <i>de minimis</i> impact if the project "will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection" under Section 4(f), and if the "Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge." Therefore, to complete the Section 4(f) evaluation, SEA, on behalf of FRA and FTA, is requesting concurrence of Fairbanks North Star Borough (FNSB) with a <i>de minimis</i> impact finding for the reasons described below: • The Salcha Elementary School Grounds and Salcha Ski Area are qualifying Section 4(f) resources. • The proposed Northern Rail Extension, including measures to minimize harm, would result in <i>de minimis</i> impacts to the Section 4(f) resources. Salcha Elementary School Grounds and Salcha Ski Area are qualifying Section 4(f) resources The Salcha Elementary School Grounds and Salcha Ski Area are located on land owned by the FNSB, Department of Land Management. The school recreation fields and facilities function to provide physical education and recreational opportunities to students of Salcha Elementary School, and for members of the public when not in use for school activities. This is also a primary purpose of the ski trails. Available activities on the school grounds include organized sports such as baseball, soccer and basketball, as well as a playground area. The Salcha Ski Area functions to provide recreational opportunities to the general public, and to host competitive events. The sustainable trail system is designed for year-round, non-motorized use; managed for Nordic skiing during winter months, and groomed in the summer for hiking/walking/running and biking. Existing uses on the school grounds include a ball field, a basketball court, a playground area, several outbuildings that house recreational equipment, a public parking/turnaround area,	and the school itself. The ski area includes a large open start/finish and stadium area, several small structures that house recreational equipment, and the multi-use trails. The school parking lot is used by the general public for accessing the ski area. The Salcha Ski Area is recognized in the FNSB Comprehensive Recreational Trails Plan. For these reasons and pursuant to 49 U.S.C. 303 and the regulations implementing that statute (23 CFR 774), the Salcha Elementary School Grounds and Salcha Ski Area are considered Section 4(f) resources. The Northern Rail Extension would result in <i>de minimis</i> impacts to Salcha Elementary School Grounds and Salcha Ski Area Salcha Alternative Segment 1 of the proposed Northern Rail Extension would not require the use of Section 4(f) resources; however, if the Board were to issue a decision granting the Applicant the authority to construct and operate Salcha Alternative Segment 2, the project would require the re-routing of Richardson Highway through the public school grounds and portions of the ski area and its trails. The proposed re-routing would directly affect the school's outdoor ball field, several outbuildings that house recreation equipment, and the school itself. The re-routed highway would bisect the existing school, as well as the existing public parking area, basketball court, and playground area. These facilities would likely be moved slightly to the east to different parts of the school property. The highway re-routing would directly affect the start/finish stadium portion of the ski area and several trails, including the Lower Loop and the Fall Loop. The proposed relocation of the school grounds and facilities would subsequently affect another portion of the start/finish stadium area. These actions would require the closure of the stadium area in its current location and prevent access to trails. As mentioned above, the highway re-route would affect the school parking area, which also serves the general public when they use the ski area (see enclosed figure). Several mitigation measures, outlined in Chapter 20 of the Draft EIS, have been volunteered by the Applicant or proposed by SEA to minimize the effects of the proposed rail line to school and ski area recreation facilities, including determination of a construction period with the least disruption possible to school and ski area recreation activities. Preliminary mitigation measure 57 in the Draft EIS, which SEA anticipates including with revisions as a recommended mitigation measure in the Final EIS, directs the Applicant to consult with the Alaska Department of Transportation and Public Facilities, Fairbanks North Star Borough Department of Parks and Recreation, Fairbanks North Star Borough School Board, Salcha School, and the Salcha Ski Club to determine the precise extent of potential effects to the Salcha School and Salcha Ski Area. At the expense of the Applicant, mitigation could include full relocation and reconstruction of affected recreation facilities, parking lots, and recreation-support facilities of all types for both the school and ski area. These facilities would include the public parking area, playground, ball field, basketball court, start/finish stadium area, Lower Loop trail, Fall Trail, and all support buildings that service school and ski area recreation activities. Concurrence If the Board were to authorize the construction and operation of the Northern Rail Extension with Salcha Alternative Segment 2 and impose the mitigation measures detailed above, the FRA and FTA have determined, and SEA concurs, that the specified Section 4(f) resources under jurisdiction of the FNSB would not be adversely affected and qualify for a <i>de minimis</i> finding for impacts from the proposed Northern Rail Extension.
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Please indicate your concurrence with the *de minimis* findings for impacts to the Salcha School Grounds and Salcha Ski Area from the proposed Northern Rail Extension project by providing your signature below and returning this letter to Dave Navecky of my staff at the letterhead address, or as an email attachment to David.Navecky@stb.dot.gov. Concurrence with this finding implies neither your endorsement of nor objection to Salcha Alternative Segment 2.

I CONCUR WITH THE *DE MINIMIS* FINDING

Authorized Signature

OR

I DO NOT CONCUR WITH THE *DE MINIMIS* FINDING

Authorized Signature

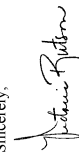
Printed Name and Title
Fairbanks North Star Borough

Next Steps

Your concurrence or non-concurrence of this *de minimis* finding will be summarized in the Final EIS. If you concur, Salcha Alternative Segment 2 would remain an option for consideration by the Board and the cooperating agencies in any decision granting the Applicant authority to construct and operate the Northern Rail Extension. If you do not concur, Salcha Alternative Segment 2 would likely be removed from consideration, leaving Salcha Alternative Segment 1 as the only alternative for consideration by the Board and the cooperating agencies for that section of the proposed Northern Rail Extension. Salcha Alternative Segment 1 does not require the use of Section 4(f) resources.

Thank you for your prompt response and continued cooperation in this case. If you have any questions, please contact Dave Navecky, SEA's Project Manager, at 202-245-0294, or Alan Summerville of ICF International, Project Manager for SEA's third-party contracting team, at 703-934-3616. We would appreciate your reply by June 15, 2009.

Sincerely,



Victoria Ruitson
Chief
Section of Environmental Analysis

Enclosure

cc: Mr. John Winkle
Federal Railroad Administration
Office of Railroad Development
1200 New Jersey Ave SE - Mail Stop 20
Washington, DC 20590

Ms. Linda Gehrke
Federal Transit Administration
Jackson Federal Building
915 Second Avenue, Suite 3142
Seattle, WA 98174-1002

Mr. John Haas
Parks Superintendent
Department of Parks and Recreation
Fairbanks North Star Borough
PO Box 71267
Fairbanks, Alaska 99707

Mr. Tomas E. Hancock, Jr.
Trails Coordinator
Department of Parks and Recreation
Fairbanks North Star Borough
PO Box 71267
Fairbanks, Alaska 99707



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

May 28, 2009

Ms. Christy Everett
US Army Corps of Engineers (USACE), Alaska District
2175 University Avenue, Ste. 201 E
Fairbanks, AK 99709-4910

Re: STB Finance Docket No. 34658, The Alaska Railroad Corporation – Petition for
Exemption to Construct and Operate a Rail Line Between North Pole and Delta
Junction, Alaska

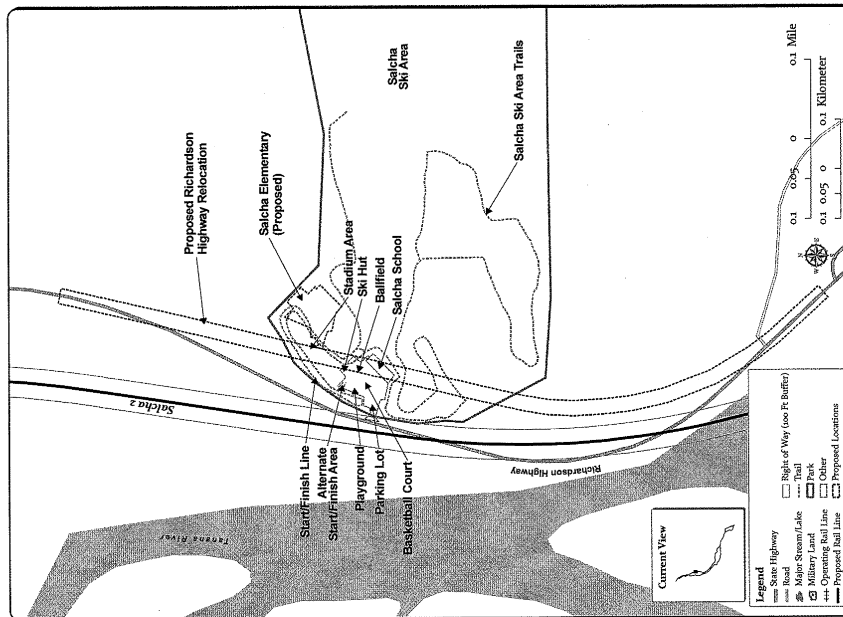
Dear Ms. Everett:

I am writing to request concurrence of USACE with a *de minimis* impact finding for the Chena River Lakes Flood Control Project, a Section 4(f) property. Below, I have set forth the background, status, and rationale for the *de minimis* finding. At the conclusion of this letter, I have included a signature line. If you concur with the *de minimis* findings for impacts to the Chena River Lakes Flood Control Project recreational areas from the proposed Northern Rail Extension project by providing your signature below and returning this letter to Dave Navecky of my staff at the letterhead address.

Section 4(f) Background

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) published the Draft Environmental Impact Statement (EIS) for the above-referenced project (also referred to as the Northern Rail Extension) on December 12, 2008. The Draft EIS determined that the Northern Rail Extension project could have an effect on recreational resources located within the Chena River Lakes Flood Control Project, Management Units 12 and 14, protected under Section 4(f) of the U.S. Department of Transportation Act of 1966 *et seq.*

The EIS process for the project includes a Section 4(f) evaluation because it is a requirement of the Federal Railroad Administration (FRA), and potentially a requirement of the Federal Transit Administration (FTA), both of which are agencies of the Department of Transportation and cooperating agencies for preparation of the Northern Rail Extension EIS. Section 4(f) mandates that the Secretary of Transportation shall not approve any transportation project requiring the use of publicly owned parks, recreation areas, wildlife and waterfowl refuges, or significant historic sites unless there is no prudent and feasible alternative to using that land and the project includes all possible planning to minimize harm to the Section 4(f) resources. The Board is an independent agency and not subject to the requirements of Section 4(f).



Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 303), also known as SAFETEA-LU, amended Section 4(f) statutory requirements to include an exception for uses of protected land that would have a “<i>de minimis</i>” impact on that land. The Secretary of Transportation may make a finding of <i>de minimis</i> impact if the project “will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection” under Section 4(f), and if the “Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.” Therefore, to complete the Section 4(f) evaluation, SEA, on behalf of FRA and FTA, is requesting concurrence of USACE with a <i>de minimis</i> impact finding for the Chena River Lakes Flood Control Project, for the reasons described below: • The recreational resources associated with the Chena River Lakes Flood Control Project within Flood Control Management Units 12 and 14 are qualifying Section 4(f) resources. • The proposed Northern Rail Extension, including measures to minimize harm, would result in <i>de minimis</i> impacts to the Section 4(f) resources. Chena River Lakes Flood Control Project recreational areas are qualifying Section 4(f) resources The Chena River Lakes Flood Control Project includes approximately 20,000 acres owned by the U.S. Army Corps of Engineers. The flood control project serves to control flooding, provide public recreational opportunities, and to manage fish and wildlife. The Chena River Lakes Master Plan for Resource Use designates Flood Management Units 12 and 14 for recreation and wildlife management. Flood Management Unit 12 crosses the Diverson Dike Access Road (Chena Flood Road) and is managed to provide public recreation access to Piledriver Slough and low density uses including canoeing, wildlife viewing, and fishing. Flood Management Unit 14 does not maintain a permanent pool of water and flooding events in this area are infrequent (the last flooding event that inundated this area occurred in 1992). Flooding events in this area typically cause pool impoundment for a short duration. These characteristics allow Flood Management Unit 14 to be used extensively for recreational purposes. Between periods of the year known as “break up to freeze up,” roughly May to September, all lands within the Federal boundary are off limits to motorized vehicles and motorized recreational vehicles. During the remainder of the year, these lands are open and frequented by snowmobiles and some ATV traffic, dog sledding, skiing and skijoring. Summer recreational activities in Flood Management Unit 14 include running, walking, and hiking. Hunting is allowed in this management unit, for in-season game. Other uses for the management unit include hosting cross-country meets, fun runs, marathons, and access to Piledriver Slough for fishing, hunting, hiking, boat trips, and other recreational activities. For these reasons and pursuant to 49 USC 303 and 23 CFR 774, Flood Management Units 12 and 14 within the Chena River Lakes Flood Control Project are considered qualifying section 4(f) resources. The Northern Rail Extension would result in <i>de minimis</i> impacts to Chena River Lakes Flood Control Project recreational areas The proposed rail line (North Common Segment) would be located within Flood Management Units 12 and 14 (see enclosed figure). The proposed rail line would affect approximately 14.3 acres within Flood Management Units 12 and 14. In addition, the Applicant	could require a construction staging area near ARRC’s existing Eielson Branch and North Common Alternative Segment, within Flood Management Unit 14, to store material and otherwise support rail construction activities. The staging area would cover approximately 140 acres south of the Chena Overflow Bridge and would have road access to Richardson Highway and the existing Eielson Branch rail line. Construction and operation of the proposed rail line would occur largely within a 200-foot-wide right-of-way. The associated vegetation clearing would result in a visible line of deforestation through the recreational area, which could affect user enjoyment of the area, and could decrease the populations of some animals and increase the populations of others. However, the area is already similarly affected by maintained vegetation lines along the flood project, and is also subject to other visual features such as roads, electric transmission lines, levees, and ARRC’s existing Eielson Branch. The visual impact of the new right-of-way to this recreational area would be consistent with other features that currently make this area uncharacteristic of a natural or wilderness setting. Avoidance of this resource would not be possible, as the North Common Segment would connect to ARRC’s existing Eielson Branch within the boundaries of the Chena River Lakes Flood Control Project. Construction would result in a temporary suspension of recreational activities and temporarily affect access along Chena Flood Road. Eielson Farm Road is located just south of Flood Management Units 12 and 14 and is a commonly used access point for the Piledriver Slough Area trails and recreational resources. The Applicant has proposed at-grade crossings of Chena Flood Road and Eielson Farm Road. Several mitigation measures, outlined in Chapter 20 of the Draft EIS, have been volunteered by the Applicant or proposed by SEA to minimize the effects of the proposed rail line, including construction-period impacts (increased noise, dust and visual effects, including presence of construction vehicles and vegetation clearance). Preliminary mitigation measures 55, 64, and 65 in the Draft EIS, which SEA anticipates including with revisions as recommended mitigation measures in the Final EIS, would require the Applicant to develop a plan to ensure construction activities occur during the most appropriate timeframe, designate temporary access points if main access routes must be obstructed during construction, and consult with appropriate government agencies and user groups to limit potential impacts on recreation activities. Preliminary mitigation measure 63 in the Draft EIS, which SEA anticipates including with revisions as a recommended mitigation measure in the Final EIS, directs the Applicant, in collaboration with applicable resource management agencies, to make provisions for trail crossings for Piledriver Slough area trails, among others. Further, best practices for noise and dust control would be implemented during construction as described in ARRC’s voluntary mitigation measures VM-26, VM-27, and VM-28 in the Draft EIS, which SEA anticipates including as recommended mitigation measures in the Final EIS.
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Concurrence

If the Board were to authorize the construction and operation of the Northern Rail Extension with the North Common Segment and impose the mitigation measures detailed above, the FRA and FTA have determined, and SEA concurs that the impacts to these Section 4(f) resources under the jurisdiction of the U.S. Army Corps of Engineers would not be adversely affected and qualify for a *de minimis* finding for impacts from the proposed Northern Rail Extension.

Please indicate your concurrence with the *de minimis* findings for impacts to the Chena River Lakes Flood Control Project recreational areas from the proposed Northern Rail Extension project by providing your signature below and returning this letter to Dave Navecky of my staff at the letterhead address. Concurrence with this finding implies neither your endorsement of nor objection to the North Common Segment.

I CONCUR WITH THE *DE MINIMIS* FINDING

Authorized Signature

OR

I DO NOT CONCUR WITH THE *DE MINIMIS* FINDING

Authorized Signature

Printed Name and Title

U.S. Army Corps of Engineers

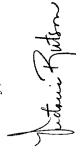
Next Steps

Your concurrence or non-concurrence of this *de minimis* finding will be summarized in the Final EIS. If you concur, the North Common Segment would remain an option for consideration by the Board and the cooperating agencies in any decision granting the Applicant authority to construct and operate the Northern Rail Extension. If you do not concur, further discussions on potential mitigation measures to achieve a *de minimis* finding could be warranted, or because the North Common Segment is the only alternative for this section of the proposed Northern Rail Extension, the FRA and FTA could determine that there is no feasible and prudent alternative to the use of the Chena River Lakes Flood Control Project recreational areas for the

project and that the project as proposed includes all possible planning to minimize harm to the recreational areas.

Thank you for your prompt response and continued cooperation in this case. If you have any questions, please contact Dave Navecky, SEA's Project Manager, at 202-245-0294, or Alan Summerville of ICF International, Project Manager for SEA's third-party contracting team, at 703-934-3616. We would appreciate your reply by June 15, 2009.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

Enclosure

cc:

Mr. John Winkle
Federal Railroad Administration
Office of Railroad Development
1200 New Jersey Ave SE - Mail Stop 20
Washington, DC 20590

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Federal Transit Administration
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Ms. Angie Gori
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Mr. John Schaake
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Chena Project Office
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North Pole, Alaska 99705



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

June 3, 2009

Robert D. Mecum
Acting Administrator, Alaska Region
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

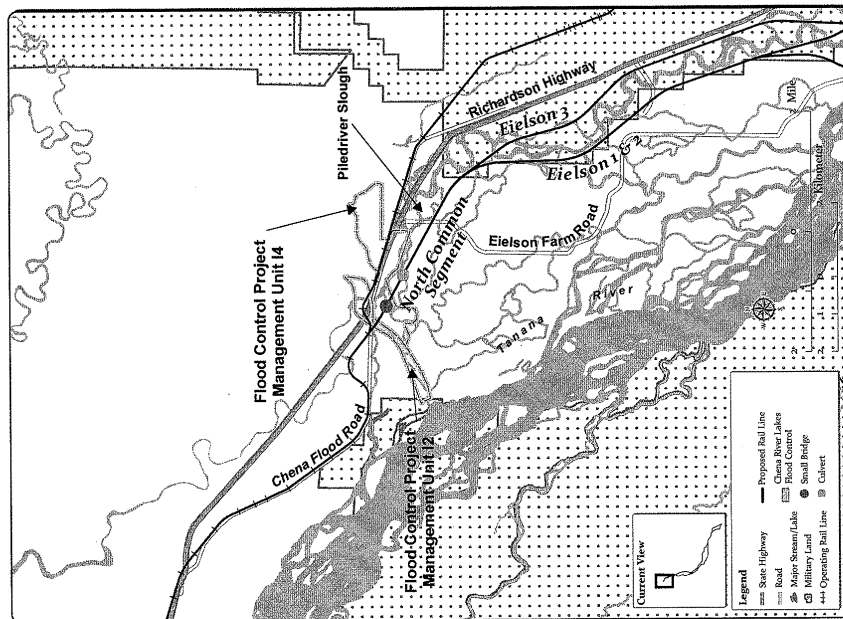
Re: STB Finance Docket No. 34658, The Alaska Railroad Corporation – Petition for
Exemption to Construct and Operate a Rail Line Between North Pole and Delta
Junction, Alaska

Dear Mr. Mecum:

Thank you for your review of and comments on the Draft Environmental Impact Statement (Draft EIS) and associated Essential Fish Habitat (EFH) Assessment for the proposed Northern Rail Extension (NRE). Following up on my March 27, 2009 letter, today's letter provides the Section of Environmental Analysis' (SEA) responses to the six EFH conservation recommendations in your February 27, 2009 comment letter.

As a preliminary matter, I would like to acknowledge and thank you for your comment expressing concern about locating rail alignments in floodplains and suggesting that upland areas would be preferable locations. Both the Alaska Railroad Corporation (ARRC or Applicant), in developing various rail routes, and SEA, as the lead agency responsible for complying with the National Environmental Policy Act, have looked closely at reasonable and feasible alternatives to this proposal, including the No-Action alternative. ARRC identified potential rail alignment locations based a variety of considerations consistent with Alaska Statute 42.40.460, which requires ARRC to consider ten specific factors when delineating proposed transportation corridors. The statute requires that environmental concerns be considered in developing proposed rail alignments.

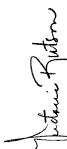
Consistent with NEPA, SEA and the cooperating agencies analyzed a range of reasonable and feasible alternatives in the Draft EIS, identifying these alternatives from among the various potential alignments first developed by ARRC. Both the alternative development and elimination processes for the proposed rail line are discussed in detail in Section 2.2 and Appendix D of the Draft EIS. I believe that the Draft EIS demonstrates that the proposed route and the reasonable and feasible alternatives to that route were developed in a way that took floodplains and wetlands into consideration.



Response to EFH Conservation Recommendations After considering each conservation recommendation, SEA is providing the following comments on NMFS's recommendations. 1. <i>Construct bridges to span large rivers and arched or box culverts to cross smaller streams (< 10 feet FBW). Free span structures, such as bridges over rivers and streams, provide migratory corridors for anadromous fish species and aquatic organisms, while maintaining ecosystem connectivity and natural substrate function in EFH.</i> The Applicant has indicated that it would not be economically feasible to use clear spans over all water bodies because, as a rule of thumb, the use of bridge structures rather than culverts increases the span-length-cost by a factor of 10. To increase the span length over approximately 30 feet, that cost doubles again, over 65 feet, it doubles again, over 150 feet, it is another 2-3 times the cost.¹ The Applicant has informed SEA that the existing railroad span at Nenana, Alaska is one of the longest railroad clear spans in North America at 700 feet, and the four to five proposed major river crossings (Tanana River, Salcha River, Little Delta River, Delta Creek, and Delta River) for NRE would all be expected to exceed even this length. The Applicant has also stated that clear-spanning these crossings could in fact be physically impossible due to their length, and in any event, would result in such a significant increase in overall project costs as to be economically infeasible. However, to provide for fish passage and EFH protection, the Applicant submitted voluntary mitigation (VM) measures and SEA developed the following additional mitigation measures (NIM): VM-4 (from Draft EIS): Federal permits, including those required by Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, shall be obtained from the U.S. Army Corps of Engineers prior to initiation of construction. The Applicant shall also obtain necessary state permits and authorizations (e.g., Alaska Department of Fish & Game Fish Habitat Permit, Alaska Department of Natural Resources Land Use Permit, and an Alaska Department of Environmental Conservation Section 401 water quality certification). Permit stipulations shall be incorporated into construction contract specifications. VM-8 (from Draft EIS): Bridges and culverts shall be designed, constructed, and operated to maintain existing water patterns and flow conditions as practicable.	VM-9 (revised since Draft EIS): For all proposed crossings of anadromous waters incorporating culverts, Applicant said structures in accordance with the NMFS 2008 publication, <u>Anadromous Salmonid Passage Facility Design</u>. MM-10 (revised since Draft EIS): The Applicant shall design, construct, and operate the rail line and associated facilities, including bridge abutments, to maintain existing water patterns and flow conditions and provide long-term hydrologic stability by conforming to natural stream gradients and stream channel alignment and avoiding French draining, as practicable. Supporting structures shall be designed to minimize scour and increased flow velocity, as practicable. MM-38 (revised since Draft EIS): The Applicant shall comply with reasonable requirements of a fish habitat permit under Title 16, Fish and Game, of the Alaska Statutes. The Alaska Department of Fish and Game could impose the measures listed below for all activities below the ordinary high water mark in specified anadromous water bodies and in fish-bearing waters that could block fish passage. • All ice crossings shall be drilled before equipment crossing to determine the ice thickness. • Alteration of river, stream, or lake banks or beds, except for approved permanent crossings, shall be prohibited. • The operation of equipment, excluding boats, in open water areas of rivers and streams shall be prohibited. Exceptions for water withdrawal shall be permitted on a site-specific basis. • Ice or snow bridges and approach ramps constructed at river, slough, or stream crossings shall be substantially free of extraneous materials (for example, soil, rock, wood, or vegetation) and shall be removed or breached before spring breakup. • Bridges are the preferred watercourse crossings in fish spawning and important rearing habitats. In areas where culverts are used, they shall be designed, installed, and maintained to provide for efficient passage of fish, and the Applicant shall monitor culverts semi-annually (or more frequently, as seasonal flows dictate) to ensure that they adequately provide for fish passage in fish-bearing waters. MM-41 (from Draft EIS): An anadromous water body shall not be narrowed between its ordinary high water marks, unless specifically authorized in writing by Alaska Department of Fish and Game prior to construction. Note: The types of stream crossing structures needed would be determined during final design, and as indicated by the above mitigation measures, would be subject to the reasonable permitting requirements of the appropriate agencies. SEA does not anticipate substantial impacts to fish migratory corridors from bridge piles or piers that would support multi-span bridges over rivers and streams. SEA believes that the above mitigation measures are consistent with and
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adequately address NMFS's recommendation, so SEA does not plan to add additional mitigation measures to the Final EIS to incorporate the specific language provided by NMFS. 2. <i>Use stream simulation modeling to site tributary crossings with traditional corrugated large culverts (round or oval, 10 feet and 60 inches in diameter). Stream simulation methods consider natural environmental variables and incorporate habitat substrate within the structure, providing E/H and migratory corridors for anadromous fish species and aquatic organisms.</i> After reviewing NMFS's conservation recommendations, the Applicant has revised the voluntary mitigation measure identified in the Draft EIS as VM-9 to specify use of the 2008 NMFS Publication, <u>Anadromous Salmonid Passage Facility Design</u> when designing crossings of anadromous fish streams. The criteria and guidelines in this publication would allow for, but would not be limited to, the following design methods: • Bridge or stream simulation. • Embedded pipe culvert, bottomless arch designs or non-floodplain spanning stream simulation. • Hydraulic design method, associated with more traditional culvert design approaches - limited to low stream gradients (0% to 1%) or for retrofits. The revised (from the Draft EIS) version of VM-9, which SEA intends to include in the Final EIS, reads as follows: <u>VM-9 (revised since Draft EIS):</u> For all proposed crossings of anadromous waters incorporating culverts, Applicant shall design said structures in accordance with the NMFS 2008 publication, <u>Anadromous Salmonid Passage Facility Design</u>. In addition, the Applicant submitted other voluntary mitigation measures and SEA developed additional mitigation measures that address culvert design and fish protection, including the following measures: VM-10 (from Draft EIS): When project-related construction activities, such as culvert and bridge work, shall require work in streambeds, these activities shall be conducted during low-flow conditions or as otherwise permitted. MM-18 (revised since Draft EIS): Road and track crossings of water bodies shall be aligned perpendicular or near perpendicular to watercourses, where practicable, to minimize crossing length and potential bank disturbance. Siting of crossings is controlled largely by track geometry (maximum curve radius and grade) in combination with other factors such as stream characteristics and soil conditions. The NMFS 2008 publication <u>Anadromous Salmonid Passage Facility Design</u> referenced in VM-9 (revised from the Draft EIS) includes stream simulation modeling for culvert design to provide for fish passage. SEA believes that the mitigation measures listed above are consistent with and	adequately address NMFS's recommendation, so SEA does not plan to add additional mitigation measures to the Final EIS to incorporate the specific language provided by NMFS. 3. <i>Use stream simulation modeling to site tributary crossings with traditional corrugated small culverts (round or oval, < 60 inches in diameter) to help maintain water quality and tributary connectivity while minimizing impacts from head cut, perched culverts and velocity barriers.</i> See above responses to conservation recommendation #2. 4. <i>Conduct fish surveys for all tributaries transected by the rail alignment to characterize the range and life histories of species within these watersheds, fill in data gaps in the Alaska Department of Fish and Game's anadromous waters catalogue, and improve information on appropriate mitigation measures.</i> The fisheries habitat analysis in the Draft EIS was based on anadromous fish stream data, fish occurrence and habitat data provided by the Alaska Department of Fish and Game (ADF&G), and data collected at or near proposed crossing sites over the course of several field seasons (2005 through 2007). Given the large body of information available, it appears that project-wide fish surveys would not be needed to supplement existing information and fill data gaps. After reviewing NMFS's conservation recommendations, the Applicant has proposed the following additional voluntary mitigation measure, which SEA intends to include in the Final EIS: <u>VM-52 (added since the Draft EIS):</u> Before final design of the railroad alignment through the Fivemile Clearwater area, the Applicant shall conduct a study, in consultation with relevant agencies, characterizing the environmental attributes of the area that are critical to the survival of salmonids and resident fish species. The information obtained during this study shall be used by the Applicant to minimize potential impacts in the area during construction. In addition, as indicated by the following mitigation measures, the Applicant would be required to comply with the reasonable stipulations and conditions of Federal, state, and local permits, including the Fish Habitat Permit to be issued by ADF&G. <u>VM-17 (from Draft EIS):</u> State permits and authorizations, like the Alaska Department of Fish and Game Fish Habitat Permit, shall be obtained. Permit stipulations shall be incorporated into the construction contract specifications. <u>MM-38 (revised since Draft EIS):</u> The Applicant shall comply with reasonable requirements of a fish habitat permit under Title 16, Fish and Game, of the Alaska Statutes. The Alaska Department of Fish and Game could impose the measures listed below for all activities below the ordinary high water mark in specified anadromous water bodies and in fish-bearing waters that could block fish passage.
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• All ice crossings shall be drilled before equipment crossing to determine the ice thickness. • Alteration of river, stream, or lake banks or beds, except for approved permanent crossings, shall be prohibited. • The operation of equipment, excluding boats, in open water areas of rivers and streams shall be prohibited. Exceptions for water withdrawal shall be permitted on a site-specific basis. • Ice or snow bridges and approach ramps constructed at river, slough, or stream crossings shall be substantially free of extraneous materials (for example, soil, rock, wood, or vegetation) and shall be removed or breached before spring breakup. • Bridges are the preferred watercourse crossings in fish spawning and important rearing habitats. In areas where culverts are used, they shall be designed, installed, and maintained to provide for efficient passage of fish, and the Applicant shall monitor culverts semi-annually (or more frequently, as seasonal flows dictate) to ensure that they adequately provide for fish passage in fish-bearing waters. SEA believes that these mitigation measures, and in particular the required permits, would provide appropriate protection for fisheries resources. 5. <i>Elevate the rail line in wetland areas adjacent to and known to support anadromous spawning habitat to maintain connectivity of the groundwater hydrology and related hyporheic function (up and down welling water) that is critical to spawning site selection, egg and larval survival.</i> The Applicant and SEA have identified several mitigation measures to maintain natural flow conditions, including: YM-45 (from Draft EIS): The new rail line shall be designed and constructed in such a way as to maintain natural water flow and drainage patterns to the extent practicable. This shall include placing equalization culverts through the embankment as necessary, preventing impoundment of water or excessive drainage, and maintaining the connectivity of floodplains and wetlands. YM-15 (from Draft EIS): For the portions of the project within the Fairbanks North Star Borough (FNSB), the Applicant shall coordinate with the local FNSB Floodplain Administrator to ensure that new project-related stream and floodplain crossings were appropriately designed. For crossings within the mapped 100-year floodplain, drainage crossing structures shall be designed to pass a 100-year flood. YM-52 (added since the Draft EIS): Before final design of the railroad alignment through the Fivemile Clearwater area, the Applicant shall conduct a study, in consultation with relevant agencies, characterizing the environmental attributes of the area that are critical to the survival of salmonids and resident fish species. The information obtained	during this study shall be used by the Applicant to minimize potential impacts in the area during construction. MM-11 (revised since Draft EIS): Applicant shall design all permanent bridge structures and culverts to pass the 100-year flood event. Applicant shall comply with all relevant Federal Emergency Management Agency (FEMA) guidance, regulations, and procedures in the design and permitting of the crossings of waterbodies and floodplains with established floodway models maintained by FEMA. MM-12 (revised from Draft EIS): The Applicant shall avoid and minimize to the extent practicable, impacts to all waters of the United States, including wetlands. In response to these mitigation measures, the Applicant could choose to elevate the rail line as a means of complying with these measures, but SEA believes that elevating the rail line would not be the only way to comply. Thus, SEA believes these measures are consistent with and adequately address NMFS's recommendations, and SEA does not plan to add additional mitigation measures to incorporate the specific language provided by NMFS. Further, the Applicant has indicated that given the extensive wetlands throughout the project area, and the high cost of elevating the rail line, it would not be economically feasible to elevate the rail line in all wetland areas adjacent to and known to support anadromous spawning habitat. Of the 37 possible EFH crossings, 15 were documented as having spawning habitat and 12 appear to have wetlands surrounding the crossing. The Applicant also indicated that the cost associated with elevating the rail line is significantly higher than the normal cost of rail line construction (approximately \$15,000 per foot as compared to \$400 per foot). 6. <i>Employ Best Management Practices when constructing and placing artificial structures to promote natural hydrology and instream flows. Structures built over naturally occurring waters should conform to the natural stream gradients and stream channel alignment. Supporting structures should be designed to prevent scour and velocity barriers to anadromous species.</i> The Applicant and SEA have developed several mitigation measures that would require the Applicant to follow Best Management Practices and specific permit requirements so that natural flow conditions would be maintained, including: YM-4 (from Draft EIS): Federal permits, including those required by Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, shall be obtained from the U.S. Army Corps of Engineers prior to initiation of construction. The Applicant shall also obtain necessary state permits and authorizations (e.g., Alaska Department of Fish & Game Fish Habitat Permit, Alaska Department of Natural Resources Land Use Permit, and an Alaska Department of Environmental Conservation Section 401 water quality certification). Permit stipulations shall be incorporated into construction contract specifications.
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VM-8 (from Draft EIS): Bridges and culverts shall be designed, constructed, and operated to maintain existing water patterns and flow conditions as practicable. VM-9 (revised since Draft EIS): For all proposed crossings of anadromous waters incorporating culverts, Applicant shall design said structures in accordance with the National Marine Fisheries Service 2008 publication, <i>Anadromous Salmonid Passage Facility Design</i>. VM-17 (from Draft EIS): State permits and authorizations, like the Alaska Department of Fish and Game Fish Habitat Permit, shall be obtained. Permit stipulations shall be incorporated into the construction contract specifications. VM-18 (from Draft EIS): Construction in anadromous streams shall be timed where practicable to minimize adverse effects to salmon during critical life stages. Timing windows, as specified by Alaska Department of Fish and Game's Division of Habitat, shall be incorporated into construction contract specifications for instream work. Stream crossings shall be designed and constructed so as not to impede fish passage or impair the hydrologic functioning of the water body. MM-10 (revised since Draft EIS): The Applicant shall design, construct, and operate the rail line and associated facilities, including bridge abutments, to maintain existing water patterns and flow conditions and provide long-term hydrologic stability by conforming to natural stream gradients and stream channel alignment and avoiding French draining, as practicable. Supporting structures shall be designed to minimize scour and increased flow velocity, as practicable. MM-16 (revised since Draft EIS): The Applicant shall comply with the "Compensatory Mitigation for Losses of Aquatic Resources, Final Rule" (commonly referred to as the Final Mitigation Rule), which was published in the <i>Federal Register (FR)</i> on April 10, 2008, and became effective on June 9, 2008 (73 <i>FR</i> 19594-19705). The Applicant shall provide compensatory mitigation to all waters of the U.S. As part of a Section 404 Permit, standard best management practices that minimize impacts to vegetation as specified in the U.S. Army Corps of Engineers Alaska District's Nationwide Permits General Best Management Practice Guide (U.S. Army Corps of Engineers, 2007b) could include: • Sediment and turbidity at the work site shall be contained by installing diversion or containment structures. • Dredge spoils or unusable excavated material not used as backfill at upland disposal sites shall be disposed of in a manner that minimizes impacts to wetlands. • Wetlands shall be revegetated as soon as possible, preferably in the same growing season, by systematically removing vegetation, storing it in a manner to retain viability, and replacing it after construction to restore the site.	• Stream banks shall be restored and revegetated using techniques such as brush layering, brush matting, and use of jute matting and coir logs to stabilize soil and reestablish native vegetation. • Topsoil and organic surface material, such as root mats, shall be stockpiled separately from overburden and returned to the surface of the restored site. • Fill materials that are free from fine material shall be used. • The load of heavy equipment shall be dispersed such that the bearing strength of the soil shall not be exceeded, either by using mats when working in wetlands or by using tracked rather than wheeled vehicles. SEA believes these measures are consistent with and adequately address NMFS's recommendation #6, so SEA does not plan to add additional mitigation measures to incorporate the specific language provided by NMFS. Next Steps A complete list of SEA's recommendation mitigation measures will be included in the Final EIS along with an updated EFH Assessment that reflects the added and revised measures. EFH-related mitigation measures recommended by SEA in the Final EIS would only become enforceable measures if the Board authorizes the construction and operation of the proposed rail line and chooses to impose those measures as conditions of any authorization. SEA makes recommendations to the Board. SEA does not have the authority to obligate the agency to specific mitigation measures, and the Board will not act on any recommended mitigation measures until it issues a Final Decision (i.e. our agency's Record of Decision) in a proceeding. Thank you for your cooperation. If you have any questions, please do not hesitate to contact Dave Navecky, SEA's Project Manager, at 202-245-0294, or Alan Summerville, ICF's Project Manager, at 703-934-3616. Sincerely,  Victoria Rutson Chief Section of Environmental Analysis cc: Steve Kokkinakis
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2025659000 Surface Transportation B 02:21:25 p.m. 09-10-2009 2 / 3	STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF PARKS AND OUTDOOR RECREATION OFFICE OF HISTORY AND ARCHAEOLOGY SARAH PALIN, GOVERNOR 550 W. 7TH AVENUE, SUITE 1310 ANCHORAGE, ALASKA 99501-3665 PHONE: (907) 269-8721 FAX: (907) 269-8908 Rec'd 7/21/09
July 8, 2009	File No.: 3480 STB/Northern Rail Extension
SUBJECT: Northern Rail Extension, Eielson Air Force Base (North Pole) to Fort Greely (Delta Junction), Alaska	Dave Navecky, Project Manager Surface Transportation Board Office of Economics, Environmental Analysis & Administration Washington, DC 20423
Dear Mr. Navecky,	The State Historic Preservation Office (SHPO) has reviewed your latest version (received June 16, 2009) of the <i>Draft/Programmatic Agreement among Surface Transportation Board, Advisory Council on Historic Preservation, Alaska State Historic Preservation Officer, U. S. Bureau of Land Management, Alaska State Office, U. S. Army Corps of Engineers, Alaska District, U. S. Department of Defense, Alaska Command, U. S. Air Force 35th Fighter Wing, Eielson Air Force Base, Federal Railroad Administration, and U. S. Coast Guard, Seventeenth Coast Guard District regarding the Alaska Railroad Corporation, Northern Rail Extension between North Pole and Delta Junction, Alaska (PA).</i>
We appreciate STB incorporating most of our earlier comments. Based on previous consultation with the Advisory Council on Historic Preservation regarding other large undertakings in Alaska, we continue to recommend that the other federal agencies involved be given full signatory status. BLM and ALCOM own land within the APE. As such, they have Section 110 responsibilities for inventory and management of historic properties on their lands. BLM and ALCOM must be involved in the decision making regarding adverse effects to historic properties under their jurisdiction. Likewise, FRA should be a full signatory because as a funding agency they have Section 106 responsibilities. If there are adverse effects to historic properties as a result of this project, or if alternative Section 106 procedures are being implemented, then FRA must either be a full signatory on this agreement or on a separate Section 106 agreement.	

	FAIRBANKS NORTH STAR BOROUGH 800 Pioneer Road • P.O. Box 71267 • Fairbanks, Alaska 99707-1267 (907) 459-1241 • FAX (907) 459-1122
June 17, 2009	David Navecky, SEA Project Manager Section of Environmental Analysis Office of Economics, Environmental Analysis and Administration Surface Transportation Board Washington DC 20423
Re: STB Docket No. 34658- The Alaska Railroad Corporation	Dear Mr. Navecky,
We are responding to your request for our concurrence to the <i>DeMinimis</i> Impact Finding for the Salcha Elementary School and Ski Area. We do not concur to this finding for the following reasons:	1. The Salcha School, playground and ski trails are inextricably linked together in our eyes and that of the local community. The playground has been there since the school was built. The trails were put in with a lot of volunteer help and are well known as a community asset, linked in functionality and in perception, as part of the Salcha School and Community. Reconstructing the school in a new location would separate it from what would be left of the trail system. We believe the Salcha community would vehemently object to such an action. 2. As a practical matter, the trail system cannot be partially relocated or modified without the entire system being re-constructed. To change the configuration by the school changes the mileage of the trails and in order to adapt to this change other loops would have to be added in locations at the far end of the system, not a practical or effective result.
Thus, in our eyes the proposal is far from <i>de minimus</i> . Thank you for considering our position.	Sincerely, Paul Costello, Director Department of Land Management Mike Cox, Director Department of Parks and Recreation Dave Ferree, Assistant Superintendent, Facilities and Management

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2025659000 Surface Transportation B 02:21:54 p.m. 09-10-2009 3 / 3	The current version of Appendix A implies that all finds of human remains are subject to NAGPRA. This is not the case. NAGPRA does not apply to finds on state land or finds of non-Native American human remains. Human remains in Alaska are addressed by <i>Alaska Statutes 12.65.5; 11.46.482(a)(3); 41.35.200; and 18.50.250</i>. For your reference, we have inserted standard language regarding human remains from our Section 106 agreements template and recommend rewriting Appendix A to incorporate this language. In addition we have specific editing comments which are noted on the attached copy of the draft PA; we will also email you an electronic version. Please consider these recommendations when revising the PA and send us another draft for review. You may contact Stefanie Ludwig at 907-269-8720 if you have any questions or if we can be of further assistance. Sincerely,  Judith E. Bitner State Historic Preservation Officer JEB:sl Attachment: draft PA with SHPO comments	 Preserving America's Heritage July 17, 2009 Mr. Dave Navecky Section of Environmental Analysis Surface Transportation Board 395 F. Street SW Washington, DC 20423-0001 RE: <i>Proposed Alaska Railroad Corporation construction and operation of rail line STB Finance Docket No. 34658 Between North Pole and Delta Junction, Alaska</i> Dear Mr. Navecky: The Surface Transportation Board (STB) recently requested that the Advisory Council on Historic Preservation (ACHP) review a revised draft programmatic agreement (PA) for the referenced undertaking. STB has determined that this undertaking may have an adverse effect on historic properties listed in and eligible for the National Register of Historic Places. The ACHP is actively participating in the Section 106 consultation process in accordance with 36 CFR §800.6(b)(2) of the ACHP's regulations, "Protection of Historic Properties," and submit our comments accordingly. The following comments and recommendations are submitted to STB for its consideration. Please note, however, that STB should revise the draft PA to reflect its response to our comments and those of other consulting parties before finalizing the document. • The preamble should include language explaining that if other federal agencies choose to use the PA to satisfy their Section 106 review responsibilities for actions associated with this undertaking and the selected alternative, they will sign the PA. • In the final whereas clause, delete "mitigation of" and replace with "consideration of alternatives to avoid, minimize, or mitigate adverse effects to." • The description of overlapping federal agency responsibilities in Stipulation I.C. should be clarified. A procedure allowing the option to designate a lead agency for a specific task under the terms of the PA when more than one federal agency may have oversight responsibilities could be helpful in this regard. Northern Rail Extension 7/8/2009 Page 2 ADVISORY COUNCIL ON HISTORIC PRESERVATION 1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004 Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov
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2 • While an Agency Consultation and Coordination Plan (ACCP) may be developed to clarify and disclose to consulting parties the specific oversight responsibilities of federal agencies following selection of an alternative, consultation procedures should be developed now and included in the body of the PA. These procedures should include protocols for identification and evaluation, assessment of effects, and development of treatment measures in stipulations IV and V. They should also specify the party responsible (even if that information is later augmented by the specific assignments to be included in the ACCP), the documentation to be provided for review, timeframes for consultation with SHPO, tribes, and other consulting parties, and how STB will arrive at final determinations for each of these steps in the process. • In Stipulation III, delete the phrase "in an area previously identified through the Section 106 process as being eligible to the NHP" as the participation of tribes in additional identification and evaluation efforts should be facilitated by the Plan for Tribal Consultation. The stipulation should note that all federal agencies who endorse the agreement will be provided with a copy of the Plan for Tribal Consultation and agree to implement its terms. • Procedures for the identification and evaluation of historic properties, the assessment of effects, and the consideration of alternatives to avoid, minimize, or mitigate adverse effects should provide for the involvement of consulting parties. • In Stipulation V, "Treatment of Historic Properties," please ensure that treatment plans are only being prepared when an adverse effect finding has been made by STB. • In Stipulation V.B., please provide details about when data recovery plans will be prepared and how STB will take into consideration the comments of SHPO and other consulting parties in revising and finalizing the plans. • In Stipulation V.C., what is the rationale for the requirement that alternative mitigation approaches must be approved in writing by all signatories and invited signatories? Alternative mitigation approaches ideally should be as easy to develop and implement as data recovery. • Training (Stipulation XI) should be developed in consultation with the SHPO and tribes. Who will develop the training, and how will it be reviewed? The training should be developed with sensitivity to concerns of tribes and offer the opportunity for a tribal representative to meet in person with employees and contractors if a tribe so requests. • Reporting on training (Stipulation XII) could be included in the preparation of the annual report (VIII.C.). • Delete Stipulation XV and the reference to state law included in Stipulation XVII. • Finally, ACHP recommends against expanding on or diverging from definitions for terms included in 36 CFR 800.16 in the glossary attached to the PA.	3 We appreciate the opportunity to review the draft PA and to share with STB and other consulting parties the ACHP's views regarding how to avoid, minimize, or mitigate adverse effects from this undertaking. We look forward to working with STB to continue the Section 106 consultation process and to reviewing a revised draft of the PA in the near future. Should you have any questions or wish to discuss this matter further, please contact Blythe Sommer at (202) 606-8552 or via email at bsummer@achp.gov. Sincerely,  Charlene Dwin Vaughn Assistant Director Office of Federal Agency Programs Federal Permitting, Licensing, and Assistance Section

SURFACE TRANSPORTATION BOARD Washington, DC 20423 <i>Office of Economics, Environmental Analysis and Administration</i> September 10, 2009 Charlene Dwin Vaughn, AICP Assistant Director, Office of Federal Agency Programs Federal Permitting, Licensing and Assistance Section Advisory Council on Historic Preservation 1100 Pennsylvania Avenue NW, Suite 809 Washington, D.C. 20004 VIA: OVERNIGHT DELIVERY AND E-MAIL Re: STB Finance Docket No. 34658, The Alaska Railroad Corporation – Petition for Exemption to Construct and Operate a Rail Line Between North Pole and Delta Junction, Alaska: Transmittal of Revised Draft PA for Review and Comment by September 25, 2009 Dear Ms. Vaughn: The Board's Section of Environmental Analysis (SEA) appreciates the Advisory Council on Historic Preservation's (ACHP) participation in the development of a Programmatic Agreement (PA) for a proposed rail line between North Pole and Delta Junction, Alaska (Northern Rail Extension). In your letter dated July 17, 2009, you requested some revisions to the draft PA submitted to you on June 10, 2009. Your letter was copied to the Alaska State Historic Preservation Officer (SHPO) and representatives of the Alaska Railroad Corporation (ARRC). SEA also received comments on the draft PA from the Alaska SHPO dated July 8, 2009. Copies of both letters are attached for your reference. SEA has revised the PA according to ACHP and Alaska SHPO comments, and has enclosed a revised PA for your review in two formats: (1) for readability, a cleanly formatted version, and (2) for reference, a track changes version with your comments and those of the Alaska SHPO embedded in the margin. SEA is also providing the revised draft PA to all of the Signatories and Invited Signatories to the PA for their review and comment.	We would like to receive comments from all of the Signatories and Invited Signatories by September 25, 2009, so we may move the PA forward for execution. Thank you for your participation in this project. If you have any further questions, please do not hesitate to contact Dave Navecky, SEA's Project Manager, at 202-245-0294. Sincerely, Victoria Rulson Chief Section of Environmental Analysis Enclosures 1) Revised Draft PA, formatted for readability 2) Revised Draft PA, for reference with track changes and comments from ACHP and SHPO 3) Letters to SEA from ACHP and Alaska SHPO regarding comments on the PA cc: Signatories Judith Bittner, Alaska SHPO Gary Foreman, Bureau of Land Management, Alaska State Office John Winkle, Federal Railroad Administration Invited Signatories Marc Hoffmeister, U.S. Department of Defense, Alaska Command Malcolm Nason, USAF 354th Fighter Wing Kathryn Kuskke Floyd, Mayer Brown (representing ARRC) 2
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