



CIRI

May 10, 2010

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

SUBJECT: Draft EIS, Port MacKenzie Rail Extension

Dear Ms. Rutson:

Thank you for the opportunity to share comments and concerns regarding the comprehensive Draft Environmental Impact Statement ("the Draft EIS") for the Alaska Railroad Corporation rail line extension to Port MacKenzie, Alaska (STB Finance Docket No. 35095).

By way of introduction, Cook Inlet Region, Inc. ("CIRI") is an Alaska Native Regional Corporation, originally established by the Alaska Native Claims Settlement Act ("ANCSA") to benefit the original 6,300 Alaska Natives who had ties to the Cook Inlet region, including Athabascan, Tlingit, Tsimshian, Eyak and Haida Indians; Inupiat and Yup'ik Eskimo; and Aleut and Alutiq people, with current shareholders totaling about 7,800. CIRI owns significant acreage in the area addressed by the EIS. CIRI lands in the study area are depicted on the attached map.

CIRI supports extension of the rail line to Port MacKenzie, but objects to any route alignment which will unfairly impact certain CIRI lands in the Point Mackenzie area. Specifically, CIRI strongly objects to consideration of Connector 2, due to its significant impact to CIRI lands located in Sections 4, 5, 6, 8 and 17, T. 15 N., R 4 W., Seward Meridian ("the CIRI Tract") and objects to the current alignment of the Mac East/Connector 3 alignment for the same reason. Among other things, CIRI's contends that the preparers of the Draft EIS did not fully consider the negative impact that Connector 2 and the Mac East route alignments will have on CIRI land use, as well as the socio-economic impacts the routes will have on CIRI shareholders, and possibly other Alaska Native Corporation shareholders. Specific comments on these points, as well as others, are set out below.

1. Section 1.1.2 Previous Port and Rail Planning Studies. The Draft EIS incorrectly assumes that the Preliminary Environmental and Alternatives Report, dated 2008 ("the ARRC Report") sufficiently addressed known public concerns regarding proposed route alignments. As documented in the ARRC Report, the planning consultants met with CIRI representatives only once on September 28, 2007 (see Page 1-4, Public Involvement Activities Summary). Since the project will directly affect all CIRI shareholders, and could indirectly affect other Alaska Native

Corporation shareholders throughout the region, state and United States (see below), consultation with CIRC representatives should have been more meaningful and CIRC objections to route alignment through the CIRC Tract should have been given more consideration.

2. Chapter 6, Cultural Resources. CIRC appreciates the sensitivity to cultural resources expressed in the Draft EIS. However, given CIRC's responsibility and commitment to cultural resource protection throughout the Region, it is troubling that nominal effort was made to consult with CIRC on cultural resource matters (e.g., form letters with minimal follow-up effort). Additionally, based on available CIRC records, it does not appear that CIRC received a draft of the proposed Section 106 programmatic agreement, nor does it appear that CIRC was invited to be a signatory on the agreement. While CIRC certainly defers to the Knik Tribal Council on most cultural resource matters in the project area, it fully intends to monitor and participate in cultural resource protection matters to the extent that it is required to do so due to the significance of the issue and/or limited Knik Tribal Council capacity. Accordingly, CIRC fully expects that cultural resource consultation with CIRC will improve from this point forward, starting with an invitation for CIRC participation in the Programmatic Agreement
3. Chapter 13.1, Land Use.
 - a. Settlement Lands. The Draft EIS inappropriately assumes that CIRC lands are like other private lands in the area, which they are not. Unlike other Native Corporations in Alaska, CIRC had limited ANCSA selection opportunities due to the scarcity of available and suitable lands in the Cook Inlet Region. Because of the limited selection opportunities, CIRC was forced to seek relief through litigation, which resulted in a 1976 settlement between CIRC, the state of Alaska and the United States (the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, Dated December 10, 1975, as clarified August 31, 1976, "the Terms and Conditions."). The CIRC Tract was specifically selected under the Terms and Conditions due to its probable value to CIRC over time, a value which benefits all CIRC shareholders, not just CIRC shareholders in the immediate vicinity of the CIRC Tract. The size and location of the CIRC Tract make it a unique CIRC asset, more so than other CIRC lands in the project area which may be impacted by the project. Additionally, the CIRC Tract is already heavily burdened by existing public right-of-way, with a minimally used 600 foot right-of-way along its eastern border. It is for these reasons that CIRC adamantly objected to unreasonable route alignments through the Tract at its September 28, 2007 meeting with the route planners. It appears that CIRC objections were not considered and, instead, route planners unreasonably deferred to concerns regarding fragmentation of the relatively abundant agricultural lands in the area.
 - b. Town Center. As noted in the Draft EIS, the Point Mackenzie Comprehensive Plan recommends a Community Center to the east of the

CIRI Tract. Given the site characteristics of the CIRI Tract, it is well suited to complement Town Center plans for the area. The current Connector 2 and Mac East alignments will severely diminish the likelihood of this happening. As such, not only will the routes, as planned, cause significant harm to an Alaska Native Corporation, they will also unreasonably reduce or complicate the land area available to the Town Center vision.

- c. Remedy. To remedy the land status problems noted above, the Connector 2 alternative should be eliminated and the Mac East alternative should be realigned to the west, with the route beginning this westward realignment at the bottom of the CIRI Tract, proceeding from there generally on a route which would intersect with the southwest corner of Section 8 and running diagonally from that point in a northwest direction until it intersects with the proposed Connector 3 just north of the western border of the CIRI Tract (see attached map).
4. Chapter 14, Socio-Economics. It is apparent that the preparers of the Draft EIS do not understand purpose of ANCSA and how that purpose relates to CIRI lands in the study area. As noted above, CIRI lands, like other Native Corporation lands under ANCSA, are to be managed for the long-term benefit of the Corporation's shareholders who reside throughout the Cook Inlet Basin, state and United States. Accordingly, economic benefits resulting from the management or development of CIRI lands reach far beyond the immediate area addressed in the EIS, even, in some cases, to other Regional and Village Corporation shareholders in accordance with revenue sharing requirements of Section 7(i) of ANCSA. Given the socio-economic history of Alaska Natives, it is not reasonable or acceptable that a unique CIRI asset that will benefit Alaska Natives throughout the region, state and United States, will be unreasonably harmed out of deference to agricultural interests in the immediate project area. This is especially true given the fact that a reasonable alternative exists, as noted above.
5. Chapter 15, Environmental Justice. In some ways, ANCSA was environmental justice legislation. Accordingly, federal agencies should thoroughly consider the damage being proposed to Alaska Native Corporation lands. It is apparent that the preparers of the Draft EIS did not do so in this case. As noted above, the CIRI Tract is a unique CIRI asset, which has the potential of producing significant and ongoing revenue for CIRI shareholders, and possibly shareholders of other Alaska Native Corporations. Accordingly, route alignment through the Tract should be planned so as to minimize negative impacts to the Tract. This can only happen through meaningful consultation with CIRI representatives, which has not happened.
6. Chapter 19, Mitigation. Following from the above, CIRI recommends the following mitigation requirements in the final EIS.
 - a. Cultural Resources. Efforts will be made to improve consultation with CIRI on cultural resource matters.

- b. Land Use. In the event that the Surface Transportation Board authorizes use of the Mac East alignment the Alaska Railroad Corporation will be required to initiate and continue ongoing consultation with CIRI in an effort to minimize economic impacts to the CIRI Tract, with full consideration to be given to realignment of the route to the west, to the extent that physical circumstances associated with the land allow the realignment.

Thank you for providing CIRI with an opportunity to comment on this very important project, which, as noted above, CIRI supports, subject to comments provided in this letter being reasonably addressed.

Sincerely,

Cook Inlet Region, Inc.



Kim Cunningham
Director, Land and Resources

Attachment

