

EI - 18584



FW: ARRC Port MacKenzie Mitigation Measures -- CORRECTED

Perrin, Don J (DNR) to: David.Navecky

12/03/2010 05:55 PM

Cc: asumerville, "Bethe, Michael L (DFG)", "Schick, Lesli J (DNR)"

From: "Perrin, Don J (DNR)" <donald.perrin@alaska.gov>

To: David.Navecky@stb.dot.gov

Cc: asumerville@icfi.com, "Bethe, Michael L (DFG)" <mike.bethe@alaska.gov>, "Schick, Lesli J (DNR)" <lesli.schick@alaska.gov>

History: This message has been forwarded.

1 attachment



10-0474.pdf

Dave – the comments below from DNR/DMLW supplement the ADF&G comments I sent you earlier this week. ADF&G concurs with DNR's requested change regarding MM # 41. This concludes the state's comments on the preliminary mitigation measure. Thanks again for the opportunity to supplement our comments on the draft EIS. Please contact me with questions.

Don Perrin
269-7476

From: Schick, Lesli J (DNR)

Sent: Friday, December 03, 2010 12:19 PM

To: Perrin, Don J (DNR)

Cc: Cox, Clark A (DNR); Singer, Sandra J (DNR)

Subject: RE: ARRC Port MacKenzie Mitigation Measures -- CORRECTED

Hi Don,

SCRO agrees with Fish & Game for those mitigation edits that involve DNR, with a couple edits.

For #41: please change the third bullet to read "Identify future crossing needs to provide for future use and development of public lands." SCRO feels that identifying crossing locations for the future might restrict both DNR and the railroad to specific crossings that might not be in the best locations a decade from now when they are needed/implemented.

For all the mitigation measures that require plans and/or consultation. There is no wording requiring the implementation of any of the plans or a way to resolve issues on mitigation compliance or mediation for conflicts that could arise during consultation (i.e. what happens if DNR and the railroad do not agree on the outcome of the consultation or if the mitigation requiring consultation has been satisfied). SCRO would like wording added that clarifies that the railroad is expected to implement the plans outlined in the mitigation and how conflicts will be mediated between DNR/ADFG and the railroad.

If you have any additional questions, please let me know.

-lesli

Lesli Schick
Iditarod Trail Easements
Department of Natural Resources
550 W 7th Ave, Suite 900C
Anchorage, AK 99501
Phone: (907) 334-2679
Email: lesli.schick@alaska.gov

From: Perrin, Don J (DNR)
Sent: Wednesday, December 01, 2010 9:27 AM
To: Schick, Lesli J (DNR); Singer, Sandra J (DNR); Cox, Clark A (DNR); Steinberger, Wendy S (DNR)
Cc: Bittner, Judith E (DNR); Smodey, Melinda J (DNR); Johnson, Erik M (DNR); Bethe, Michael L (DFG)
Subject: FW: ARRC Port MacKenzie Mitigation Measures -- CORRECTED

Attached are ADF&G comments on the ARRC Port MacKenzie Mitigation Measures. Please provide me any additional comments by this Friday so I can consolidate and send to STB. (also attached for your reference is Chap 19 mitigation from the draft EIS)

Thanks
Don
269-7476

From: Satterfield, Cynthia R (DFG)
Sent: Wednesday, December 01, 2010 9:00 AM
To: Perrin, Don J (DNR)
Cc: Kavalok, Tony (DFG); Ivey, Samuel S (DFG); Weiss, Edward W (DFG); Giefer, Joe (DFG); Simpson, Ellen M (DFG); Meehan, Joe (DFG); Ott, Alvin G (DFG); Fink, Mark J (DFG); Daigneault, Michael J (DFG)
Subject: FW: ARRC Port MacKenzie Mitigation Measures -- CORRECTED

Attached is a corrected mitigation comment letter. The comments did not change. The only change to the document was the Fish Habitat Case number. It changed to FH-10-IV-0474. Please contact Mike Bethe (907-761-3859 or mike.bethe@alaska.gov) if you have any questions.

Cindy Satterfield

Cindy Satterfield, Program Technician
Division of Habitat, Mat-Su Office
(907) 761-3855 Fax (907) 745-7369

From: Satterfield, Cynthia R (DFG)
Sent: Tuesday, November 30, 2010 4:45 PM
To: donald.perrin@alaska.gov
Cc: tony.kavalok@alaska.gov; Ivey, Samuel S (DFG) (samuel.ivey@alaska.gov); Weiss, Edward W (DFG) (ed.weiss@alaska.gov); joe.giefer@alaska.gov; ellen.simpson@alaska.gov; joe.meehan@alaska.gov;

al.ott@alaska.gov; mark.fink@alaska.gov; Daigneault, Michael J (DFG) (michael.daigneault@alaska.gov)
Subject: ARRC Port MacKenzie Mitigation Measures

Attached are ADFG Habitat Division's comments on draft EIS mitigation measures for the Alaska Railroad Port MacKenzie Rail Line. Please contact Mike Bethe (907-761-3859 or mike.bethe@alaska.gov) if you have any questions.

Cindy Satterfield

Cindy Satterfield, Program Technician
Division of Habitat, Mat-Su Office
(907) 761-3855 Fax (907) 745-7369

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF HABITAT

SEAN PARNELL, GOVERNOR

1800 Glenn Highway, Suite 12
Palmer, AK 99645-6736
PHONE: (907) 745-7363
FAX: (907) 745-7369

FISH HABITAT CASE NO. FH-10-IV-0474

November 30, 2010

Mr. Don Perrin
Alaska Department of Natural Resources
Office of Project Management and Permitting
550 W 7th Ave, Suite 1430
Anchorage, AK 99501-3566

Re: Alaska Railroad Port MacKenzie Rail Line; ADFG Habitat Division's Comments on
Draft EIS Mitigation Measures

Dear Mr. Perrin:

As discussed during the November 10th teleconference with the STB, we are providing additional comments on the Draft EIS mitigation measures. We appreciate the opportunity to provide these additional comments.

Attached are our suggested changes to the wording of mitigation measures 23, 29, 33, 38, 41, and 46. In reviewing these mitigation measures, we realized that various impacts were best addressed through the development of mitigation plans prior to final design. This approach replaces the recommendations that the applicant consults with the appropriate agencies to resolve various issues with no solid timeline or expected product.

We also have several comments regarding implementation of the mitigation measures:

1. Please describe how our comments on these mitigation measures, consisting of our May 10, 2010 letter and the attached additional comments will be addressed in the Final EIS.
2. Please describe how the final mitigation measures will be carried through into the STB's final decision and licensing decision document.
3. Provided the mitigation measures set forth in the Final EIS are incorporated into the STB's licensing document, please describe what mechanisms exist for resolving differences between the Alaska Railroad and the various state agencies during implementation and construction.

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

November 30, 2010

We look forward to working closely with the SEA and the applicant as this process continues. Please contact me at (907) 761-3859 or by email at mike.bethe@alaska.gov if you have any questions.

Sincerely,



Michael L. Bethe, Habitat Biologist
Division of Habitat
(907) 745-7363

Attachment: Mitigation measure comments

cc:	T. Kavalok, WCD	S. Ivey, SFD	E. Weiss, WCD
	J. Geifer, SFD	E. Simpson, SFD	J. Mechan, WCD
	A. Ott, Habitat	M. Fink, Habitat	M. Daigneault, Habitat

**Alaska Department of Fish and Game, Division of Habitat
Recommended Changes to SEA's Mitigation Measures
Port MacKenzie Railroad Extension
November, 30, 2010**

- 23.) Prior to final engineering design, the applicant shall consult with appropriate agencies, including the U.S. Fish and Wildlife Service (USFWS) and the Alaska Department of Fish and Game (ADF&G), to locate project-related facilities to minimize the size and degree of impacts to highly sensitive habitat areas. Where possible, impacted areas shall be restored in accordance with a reclamation plan developed prior to final engineering in cooperation with the USFWS, ADF&G, and/or other appropriate agency staff. The reclamation plan shall clearly designate:
- Areas to be reclaimed;
 - Reclamation materials, methods, and timing;
 - Monitoring schedule and contingency plans.
- 29.) Prior to project-related construction, the applicant shall consult with the Alaska Department of Natural Resources to develop a mitigation plan to address the spread and control of nonnative invasive plants (NIPs). This plan must be completed prior to final engineering and shall designate:
- Potential approved seed mixes;
 - Weed prevention and eradication procedures;
 - Equipment washing protocols;
 - Revegetation methods;
 - Post-construction monitoring protocols.
- 33.) The Applicant, in consultation with the Alaska Department of Fish and Game (ADF&G) and the Alaska Department of Natural Resources, shall evaluate, implement, and monitor various aspects of project-related rail design, maintenance, and operations to minimize mortalities due to collisions and document moose mortality from collisions with trains. The applicant shall develop a plan to minimize moose-collision mortality. The plan will be developed prior to the completion of final engineering plans and shall designate:
- Vegetation management methods;
 - Snow removal methods;
 - Train operation methods (e.g. speed limits, operation timing, pilot cars, etc.);
 - Collision accounting methods;
 - Design and construction methods specific to minimizing collisions.
- 38.) Prior to final design, the Applicant shall develop a plan in consultation with the Alaska Department of Natural Resources (ADNR) and the Alaska Department of Fish and Game to ensure that project-related bridges and culverts placed on navigable or public waters are designed and installed to accommodate:
- Navigation by recreational boat users in a manner that shall not impede existing uses, to the extent practicable, and;

- Public access and use of the statutory easements as established by the reasonable requirements of Alaska Statute 38.05.127, Access to Navigable or Public Water.

41.) Prior to final design, the Applicant shall develop a plan in consultation with resource management agencies including the Alaska Department of Natural Resources, the Alaska Department of Fish and Game, and appropriate trail user groups to provide for access across the rail alignment. The plan shall:

- Identify all crossing locations including formal trail easements, informal public trails on state lands, and section lines;
- Identify crossing locations for dispersed uses such as hunting, fishing, and wintertime recreation such as skiing and snowmobiling on long stretches of rail lines without designated public crossings;
- Identify crossing locations to provide for future use and development of public lands.
- Describe appropriate crossing designs.

46.) If the Surface Transportation Board authorizes the Mac West Segment, the applicant shall consult with the Alaska Department of Fish and Game and other appropriate resource agencies prior to final design to develop and implement a mitigation plan to address refuge impacts. The plan will include measures designed to:

- Avoid and minimize impacts to refuge resources via construction siting, methods, timing, and design;
- Avoid and minimize impacts associated with train operation procedures;
- Provide for compensatory mitigation for those impacts that cannot be avoided and minimized to a *de minimis* level.

EI - 18587



RE: Alaska RR, Port MacKenzie PA, revised preamble

Krauthoefer, Tracie A (DNR) to: Starzak, Richard

12/15/2010 08:13 PM

Cc: "Gasek, Douglas F (DNR)", David.Navecky, "Summerville, Alan"

From: "Krauthoefer, Tracie A (DNR)" <tracie.krauthoefer@alaska.gov>
To: "Starzak, Richard" <RStarzak@icfi.com>
Cc: "Gasek, Douglas F (DNR)" <doug.gasek@alaska.gov>, David.Navecky@stb.dot.gov, "Summerville, Alan" <ASummerville@icfi.com>

1 attachment



STB draft whereas 12 15 tak.docx

Hi Rick,

Doug and I sat down and went over the whereas clauses.....don't be too frustrated, it looks really blue but a lot of that is because we moved things around. This track changes version incorporates both of our comments.

Also, remember that you'll need to involve the ACHP and other signatories at some point for input/review. We are happy to help get it to a certain point and beyond the rough/outline phase, but then the other parties should be consulted, particularly the ARRC and Knik TC (and you may already be doing this individually, I don't know). I was in a meeting with ARRC on Monday and they did inquire as to the status of the PA and consultation so you may want to check back in with the invited signatories and let them know where the project is and what the timeline is for review and ultimately signature.

Let me know if you have any questions and we look forward to the stipulations-

Tracie

Tracie Krauthoefer

Archaeologist, Review and Compliance

Alaska State Historic Preservation Office / Office of History and Archaeology

550 W 7th Ave, Ste 1310, Anchorage Alaska 99501-3565

907-269-8722 Phone 907-269-8908 Fax

tracie.krauthoefer@alaska.gov

From: Starzak, Richard [mailto:RStarzak@icfi.com]

Sent: Wednesday, December 15, 2010 7:25 AM

To: Krauthoefer, Tracie A (DNR)

Cc: Gasek, Douglas F (DNR); David.Navecky@stb.dot.gov; Summerville, Alan

Subject: Alaska RR, Port MacKenzie PA, revised preamble

Hi Tracie,

Per our discussion on Monday, attached is the preamble section of the revised PA for your review and comment. The file is in track changes from the version of the draft PA that was in the March 2010 DEIS. I'll be working on the revisions to the Stipulations today for you. Please note I've limited the parties being cc'ed for these separate section reviews, following your suggestion that we can circulate to all the

other parties after we're done.

Thanks very much for your time and cooperation.

Rick

RICHARD STARZAK | Senior Architectural Historian/Technical Director | 213.627-5376 x 222 |

rstarzak@icfi.com | icfi.com

ICF INTERNATIONAL | 811 W. 7th Street, Suite 800, Los Angeles, CA 90017 | 213 627-6853 (f) or 213 840-7480 (m)

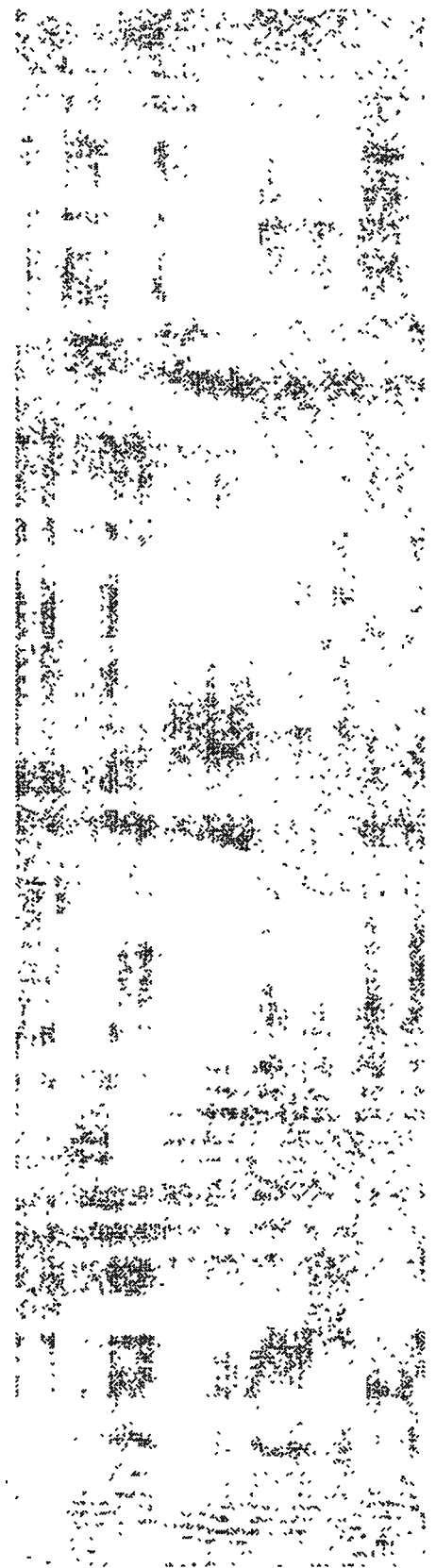
In January, ICF Jones & Stokes became ICF International.

Check out icfi.com/evolution.



Please consider the environment before printing this e-mail.

APPENDIX J
DRAFT PROGRAMMATIC AGREEMENT
REVISED DRAFT 12-15-2010



DRAFT PROGRAMMATIC AGREEMENT

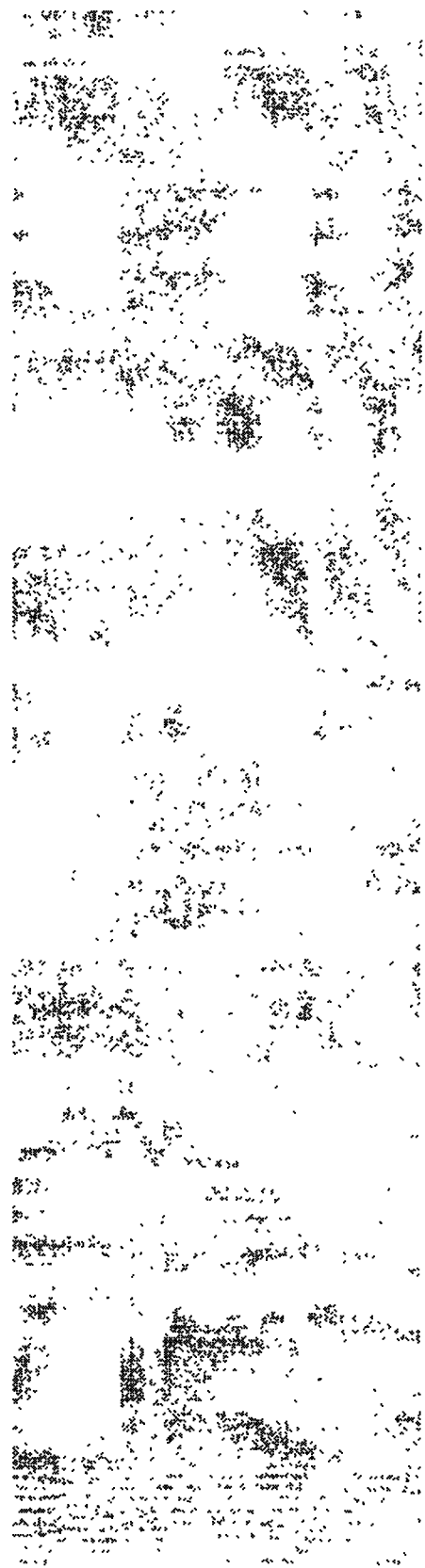
Among

**Surface Transportation Board,
Advisory Council on Historic Preservation,
Federal Railroad Administration, and
Alaska State Historic Preservation Officer,**

Regarding

**The Alaska Railroad Corporation Construction and Operation of a Rail Line Extension to
Port MacKenzie, Alaska**

STB Finance Docket No. 35095



J.1 Draft Programmatic Agreement

WHEREAS, the Surface Transportation Board (STB)¹, the lead Federal agency, has received an application from the Alaska Railroad Corporation (ARRC or applicant) to construct and operate approximately 30 to 45 miles of the proposed rail line to connect the Port MacKenzie District in Matanuska-Susitna Borough (MSB) to a point on the existing ARRC main line between Wasilla and north of Willow, Alaska (Undertaking); and,

WHEREAS, the STB has determined that the proposed project is an Undertaking subject to Section 106 of the National Historic Preservation Act, (Section 106) 16 U.S.C. 470(f), which may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NRHP), *i.e.*, "historic properties" as defined at 36 CFR 800.16 (1)(1), and

WHEREAS, the STB has deferred, until after the STB licenses an alternative, the final evaluation, assessment of effect and consideration of alternatives to avoid, minimize, or mitigate effects to historic properties
the full extent of which will not be known until after execution of this Agreement; and,

WHEREAS, the STB ~~consulted~~ is in consultation with the Advisory Council on Historic Preservation (ACHP); Federal Railroad Administration (FRA); and the Alaska State Historic Preservation Officer (SHPO), pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing Section 106; and,

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

WHEREAS, the FRA is a Signatory because it may provide grant funding to ARRC for the Undertaking; and,

WHEREAS, the ARRC is an Invited Signatory pursuant to 36 CFR 800.6(c)(2) and has the same authority to amend or terminate this Agreement as Signatories; and,

WHEREAS, the Knik Tribal Council is an Invited Signatory pursuant to 36 CFR 800.6(c)(2) because it is a -Federally Recognized Tribe pursuant to 73 FR 66), attaches a religious and/or cultural significance to the Dena'ina cultural landscape archaeological sites that may be affected by the Undertaking and has the same authority to amend or terminate this Agreement as Signatories; and and has a responsibility under this agreement;

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 Port MacKenzie Rail Extension Project.

Comment [TAK1]: Is STB truly the lead as per 36 CFR 800.2(a)(2), if not need to figure this out

WHEREAS, the Native Village of Eklutna (NVE), a Federally Recognized Tribe; the Cook Inlet Region, Incorporated (CIRI), an Alaska Native Regional Corporation pursuant to the Alaska Native Claims Settlement Act of 1971 (ANSCA, P.L. 92-203); and the Knikatnu, Incorporated, an Alaska Native Village Corporation pursuant to ANSCA; are Concurring Parties pursuant to 36 CFR 800.6(c)(3) because they have expressed an interest to consult on ways to avoid, minimize, and mitigate effects on the Dena'ina archaeological sites that could be affected by the Undertaking; and,

WHEREAS, the STB has consulted with and continues to consult with other Indian Tribes and Alaska native corporations (Tribes) listed in Attachment A of this Agreement who may want to consult on ways to avoid, minimize, and mitigate effects on the Dena'ina archaeological sites that could be affected by the Undertaking and these Tribes have been invited to participate in this Agreement as Concurring Parties; and,

WHEREAS, the ARRC is an Invited Signatory pursuant to 36 CFR 800.6(e)(2) and has the same authority to amend or terminate this Agreement as Signatories; and,

WHEREAS, the Matanuska-Susitna Borough (MSB) is a Concurring Party pursuant to 36 CFR 800.6(c)(3) because it is a certified local government under the NHPA (16 U.S.C. 470a(c))

WHEREAS, the State of Alaska's Department of Natural Resources (ADNR) is a Concurring Party pursuant to 36 CFR 800.6(c)(3) because it is a major land holder in the study area and may for some alternatives and if the STB licenses an alternative that crosses ADNR land, ADNR would need to grant right-of-ways associated with the Undertaking; and

WHEREAS, the STB has consulted with and continues to consult with the Indian Tribes and Alaska native corporations (Tribes) listed in Attachment A 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 Matanuska-Susitna Borough (MSB) is a Concurring Party pursuant to 36 CFR 800.6(c)(3) because it is a certified local government under the NHPA (16 U.S.C. 470a(c)) and therefore has the ability to manage its own historic properties; and

WHEREAS, the Happy Trails Kennels and Willow Dog Musers Association are Concurring Parties pursuant to 36 CFR 800.6(c)(3) because they regularly use a historic property, the Iditarod Dog Sledding Historic District, and have agreed to consult on ways to avoid, minimize, and mitigate effects on the historic property; and,

WHEREAS, the refusal of any party invited to consult with this Agreement does not invalidate the Agreement; and,

WHEREAS, the STB, in consultation with the SHPO, has established the Undertaking's Area of Potential Effects (APE), as defined at 36 CFR 800.16(d), as the following: The APE is outlined and identified in Appendix A for direct effects would include the 200-foot-wide right-of-way as well as areas where the ground will be disturbed such as staging areas, work camps, cut-and-fill

Comment [TAK2]: Are there any other tribes, if so they should be named in a whereas clause otherwise no need to really say this. Also, if there are other tribes, you should combine all into the same whereas clause above

Comment [TAK3]: This is in regulation, can fall back on that if necessary, does not need to be in agmt

Comment [TAK4]: Simplify by putting ape description into an appendix

areas, material sources, gravel quarries, overburden disposal areas, associated buildings/structures (e.g., sidings, bridges, etc.) and associated infrastructure (e.g., communication towers, power lines, etc.). Indirect effects may include an APE larger than the 200 foot right-of-way, may include vibration, noise, and access to trails and traditional use areas, and are dependent on the frequency of railroad traffic and the sensitivity of the historic property. The APE for visual effects may extend beyond the 200 foot right-of-way, and is dependent on topography, vegetation and the built environment beyond the right-of-way, the visual sensitivity of the historic property, and whether that portion of the Undertaking would be constructed at grade or above grade; and,

WHEREAS, the STB, as lead Federal agency, in conjunction with the FRA the United States Army Corps of Engineers, Alaska District (USACE); and U.S. Coast Guard, Seventeenth Coast Guard District (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 a *Cultural Resources Work Plan: Proposed Port MacKenzie Rail Extensions Project, Port MacKenzie to Willow, Alaska STB Finance Docket No. 35095 (ID Plan)* for inventory of potentially-eligible historic properties prior to construction, and has conducted potentially-eligible historic properties inventories for a range of alternatives, which were subsequently narrowed down for inclusion in the EIS; and,

WHEREAS, the STB determined the Iditarod Dog Sledding Historic District eligible for listing in the NRIIP under Criterion A at the national level of significance, and SIPO concurred with this determination for the period of significance of 1967-1978; and,

WHEREAS, in the event FRA provides grant funding to ARRC for the Undertaking, the FRA intends to make a *de minimis* impact finding for the Iditarod Dog Sledding Historic District based on avoidance, minimization, and mitigation measures developed in the EIS and this Agreement to address use as defined in Section 4(f) of the Department of Transportation Act and to comply with 23 CFR 771; and,

WHEREAS, the STB has made a reasonable and good faith effort to identify and evaluate identified 82 historic properties within the APE for the purposes of comparing impacts in the EIS, including 59 prehistoric archaeological sites, cultural resources and 23 historic archaeological sites, cultural resources related to, the Denaina cultural landscape and the Iditarod National Historic Trail and Iditarod Race cultural landscape; and,

WHEREAS, the STB has deferred, until after the STB licenses an alternative, the final identification, evaluation, assessment of effect and consideration of alternatives to avoid, minimize, or mitigate effects to historic properties that may be affected by this Undertaking, and the Signatories have agreed to develop this Agreement in accordance with 36 CFR 800.14(b)(1)(ii) to provide for the phased identification of historic properties and evaluate effects to historic properties caused by construction of the Undertaking that cannot be fully

Comment [TAK5]: What is the purpose of including this in the whereas clause? I know we talked about whether or not to include, but now I'm foggy. Probably don't need in a whereas clause, unless somewhere else in the agmt we refer to this plan for evaluations for example.

Comment [TAK6]: If 4f needs to be dealt with at a later date, we'll deal with it then. Can't have it in here if it's just intended.

~~assessed at this time; and,~~

WHEREAS, the STB, as lead Federal agency, in conjunction with the FRA the United States Army Corps of Engineers, Alaska District (USACE); and U.S. Coast Guard, Seventeenth Coast Guard District (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,

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.

Comment [TAK7]: For purposes of NEPA or for 106 see comment in first whereas clause

Comment [TAK8]: Should these agencies have a role in this as well?