

1. PURPOSE AND NEED FOR AGENCY ACTION

1.1 Introduction

On December 5, 2008, Alaska Railroad Corporation (ARRC or the Applicant) filed a petition with the Surface Transportation Board (STB or the Board) pursuant to 49 U.S. Code (U.S.C.) § 10502 for authority to construct and operate approximately 31 to 46 miles of rail line to connect the Port MacKenzie District in the Matanuska-Susitna Borough (MSB) to a point on the existing ARRC main line between Wasilla and just north of Willow, Alaska (See Section 1.5.1 for more information on the Board's authority). Referred to as the Port MacKenzie Rail Extension, the proposed rail line would provide a rail connection for freight services between Port MacKenzie and Interior Alaska. The port facility is owned and operated by the MSB, and the MSB is a co-sponsor of the proposed rail line.

As shown in Figure 1-1 below, which presents various routing alternatives, the southern terminus of the proposed rail line extension would be in the Port MacKenzie District, and the northern terminus would be at 1 of 4 locations along the existing ARRC main line, depending on the alternative that would be authorized and constructed. The southern terminus would be approximately 2 or 3 miles from the Port MacKenzie docks, depending on the alternative. In addition to constructing the rail line, the Applicant would construct other structures (such as access roads, sidings, and communications towers) to support rail line operation. The anticipated train traffic would be 2 trains daily – 1 train traveling in each direction.

This Final EIS reflects changes made to the Draft EIS in response to agency and public comments and the availability of new and updated information. Copies of the agency and public comments on the Draft EIS are located in appendices Q and R, respectively. Substantive changes in this Final EIS are indicated by change bars in the left-hand margin of each chapter and appendix. OEA's responses to the comments are summarized in Chapter 23.

1.1.1 Existing Port Facilities and Activity

Port MacKenzie is an existing deepwater port on the north side of Knik Arm. It lies approximately 30 miles southwest of Wasilla and 5 miles north of Anchorage across Knik Arm. Port Mackenzie's deep-draft dock has a depth of 60 feet at the mean lower low water (tidal measurement that represents the 19-year average of the lower low water height of each tidal day) (NOAA, 2009). With this water depth, it can serve some of the largest vessels in the world including Capesize and Panamax vessels, which can have approximately 40- to 90-foot drafts. Capesize vessels are too large to pass through the Panama Canal and only a small number of deep-water ports can accommodate them. Panamax vessels, the largest vessels that can pass through the Panama Canal, are over 1,000 feet long, over 100 feet wide, and have a maximum cargo tonnage of approximately 50,000. In addition, the port is surrounded by 8,940 upland acres,¹ which are available for commercial or industrial development, and 1,300 tideland acres (collectively called the Port MacKenzie District).

¹ Upland refers to all non-tidal areas and can include features such as wetlands.

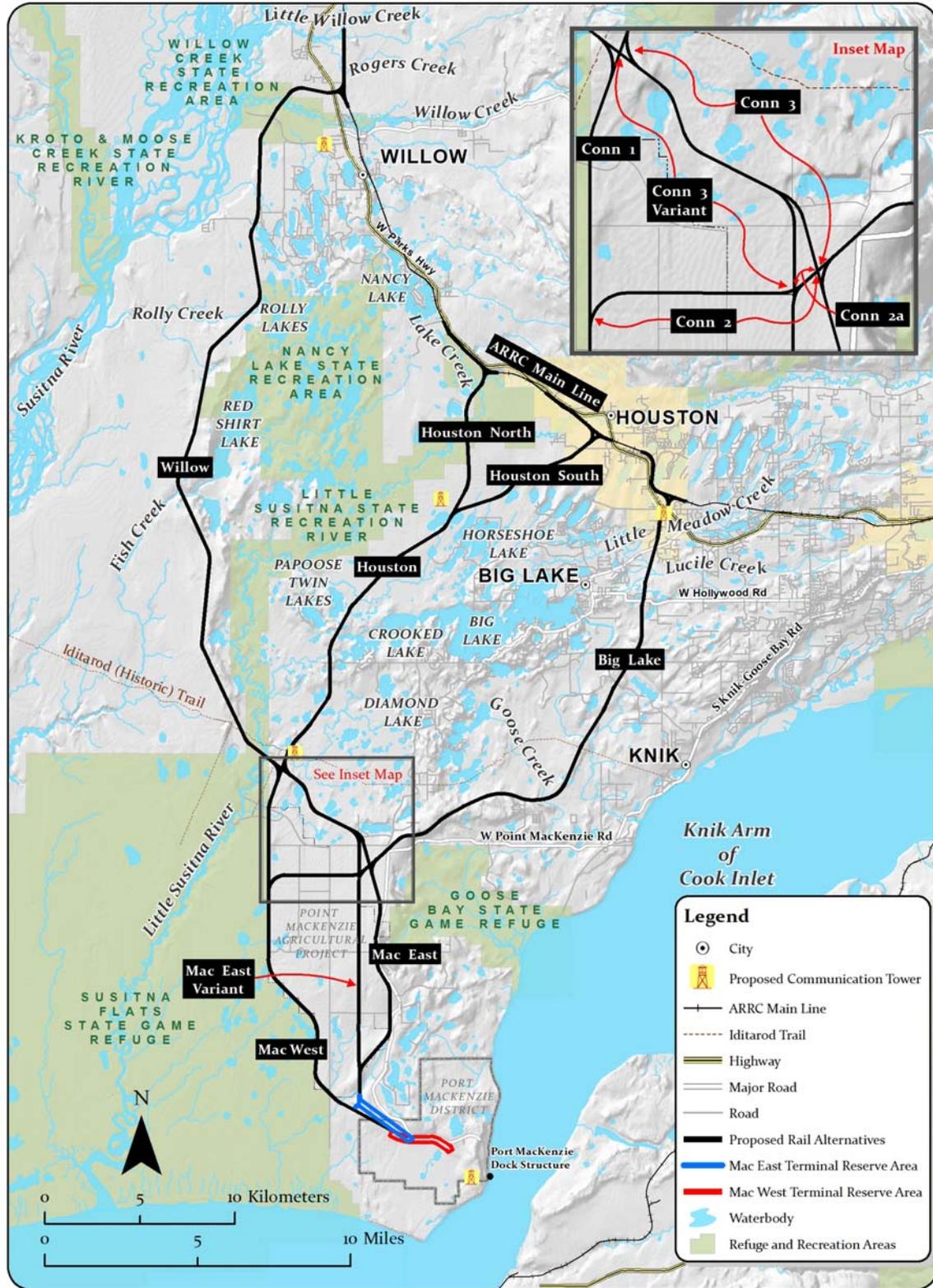


Figure 1-1. Overview of Proposed Port MacKenzie Rail Extension Route Alternatives

To address its market opportunities, Port MacKenzie has published tariff rates for a variety of materials including bulk commodities, containers, iron or steel materials, vehicles and heavy equipment, and mobile or modular buildings. The Port's past customers have included shippers of wood chips, saw logs, sand/gravel, cement, and scrap metal. Ship traffic was irregular at Port MacKenzie from 2005 through 2008, ranging from no ships to 6 ships per year. In August of 2008, there were also 185 barges associated with gravel transportation for ongoing development at the Port of Anchorage (Van Dongen, 2009b).

1.1.2 Previous Port and Rail Planning Studies

The MSB began investigating the development of Port MacKenzie and supporting infrastructure, including a rail line, in the 1970s. In 1993, the MSB established the port district area and designated the land for development, including development of Port MacKenzie, in the MSB Coastal Management Plan. A rail extension to Port MacKenzie has been part of previous planning studies, which have noted that good surface transportation access would be necessary to accommodate growth at Port MacKenzie and to develop it as a strong economic driver in the MSB. At present, trucks are the only available mode of surface transportation for bulk materials and other freight to and from Port MacKenzie.

The 1997 MSB Long Range Transportation Plan (MSB, 1997) described the need for rail and improved road access to Port MacKenzie. In 2003, the MSB completed a preliminary study of road and rail corridor alternatives that would connect Port MacKenzie to the Alaska Railroad (MSB, 2003). In 2007, the state appropriated \$10 million to the MSB to perform conceptual engineering and environmental documentation for the proposed rail line, which resulted in publication of the Preliminary Environmental and Alternatives Report (ARRC, 2008). Subsequently, the MSB requested ARRC to investigate providing rail service to Port MacKenzie. Alaska also appropriated \$17.5 million in 2008 and \$35 million in 2010 to the MSB to support the project. The MSB intends to secure additional state funding for the proposed rail line.

1.2 Purpose and Need

The Applicant has stated that the purpose of the proposed rail line is to provide rail service to Port MacKenzie and to connect it with the existing ARRC main line, providing Port MacKenzie customers with rail transportation between Port MacKenzie and Interior Alaska.

According to the Applicant, Port MacKenzie is the closest deep-water port to Interior Alaska and has capacity to handle bulk commodities. The Port's market includes bulk commodities (such as wood chips, saw logs, sand/gravel, and cement), iron or steel materials (such as scrap metal), vehicles and heavy equipment, and mobile or modular buildings. The nearest other port in the area is the Port of Anchorage, which is an additional 35 roadway/rail miles from Interior Alaska. The Applicant opines that a rail connected Port MacKenzie would primarily compliment, not compete with, the Port of Anchorage.

Port MacKenzie is situated on nearly 9,000 acres of land, and has existing dockside bulk materials loading capacity with a conveyor system to move materials from existing stockpile staging areas to the docks. The dredge-free draft of the port is in excess of 60 feet, providing the

ability to load nearly any sized vessel. Unlike similar port facilities that serve Panamax and Capesize vessels, Port MacKenzie currently does not have rail service. At present, trucks are the only available mode of surface transportation for bulk materials and other freight to and from Port MacKenzie. Trucks, as compared to rail, are inefficient for bulk commodity movements and generally are used for short-haul movements of these commodities. Bulk commodity shippers, which already have access to the existing ARRC network, currently utilize a combination of rail and transload to truck 30 miles away for final delivery to Port MacKenzie. However, such intermediate movements and handling requirements are not efficient and impose increased costs to the shipper and consumer, due to multiple handlings of materials when they are transferred to or from different transportation modes. The Applicant states that the cost of intermediate transloading from rail to truck and the additional truck ton-mile cost for final delivery places Port MacKenzie at a significant disadvantage to other regional ports with rail service. The Applicant believes that by creating a rail connection with Port MacKenzie, the proposed project would make the development of existing natural resources in Interior Alaska, including the coal, limestone, timber, and metallic mineral resources along the existing ARRC main line corridor, more economically feasible.

For example, a railroad can move 1 ton of freight 457 miles on a gallon of diesel fuel, compared to 133 miles for a truck.² The Federal Railroad Administration (FRA) recently compared overall fuel efficiency of rail and truck transport on 23 competitive corridors throughout the nation and concluded that, in all cases, moving freight by railroad is more fuel efficient than by truck.³ The report concluded that, “rail fuel efficiency varies from 156 to 512 ton-miles per gallon, truck fuel efficiency ranges from 68 to 133 ton-miles per gallon.” Both efficiency in handling and reduction in fuel use translate into substantial cost savings for freight shipped via rail transport rather than transport by truck over the highway.

Because of the economics and efficiencies that would be offered by direct rail service, the Applicant anticipates that bulk commodity movements to and from Port MacKenzie would likely be by rail, if such an option were available. The proposed rail line would provide Port MacKenzie's customers with multi-modal options for the movement of freight to and from Port MacKenzie similar to that offered by other ports in Alaska handling large vessels.

The proposed project would also support ARRC's statutory goal to foster and promote long-term economic growth and development in the state. In support of this goal, the state has appropriated a total of \$62.5 million for the MSB to support the design, environmental documentation, and permitting of the rail line.

1.3 Project Context

The proposed rail line would end at a terminal reserve (rail yard) approximately 2 or 3 miles, depending on the route that is authorized, from the existing Port MacKenzie docks. Rail facilities that Port MacKenzie might construct to connect to the proposed rail line would depend on specific traffic needs and would be expected to be generally consistent with Port MacKenzie

² <http://www.aar.org/Environment/Environment.aspx>.

³ Federal Railroad Administration, Comparative Evaluation of Rail and Truck Fuel Efficiency on Competitive Corridors, Final Report November 19, 2009.

master planning documents. These facilities might include buildings, roads, industrial spurs, sidings, loading/unloading tracks, and other associated facilities throughout the upland portions of the Port MacKenzie District.

According to the MSB, it will develop additional facilities to support Port MacKenzie’s growth, with or without the proposed rail line. At present, the MSB is constructing a bulk materials facility at Port MacKenzie to provide expanded facilities to handle bulk material cargo to be transported to Port MacKenzie by truck, independent of the proposed rail line. The facilities include upgrades to truck roads, staging, and storage areas.

ARRC expects the proposed rail line to result in the diversion of some bulk materials from truck to rail. However, a portion of bulk materials going to or from Port MacKenzie would continue to travel by truck regardless of the proposed rail line because of the short distances involved for the particular shipments or logistics (such as shippers lacking access to the existing rail line).

1.4 National Environmental Policy Act Process

The Board is the agency responsible for granting the authority to construct and operate proposed rail lines and associated facilities under 49 U.S.C. §§ 10901 and 10502 (see Section 1.5.1 for more detail). Accordingly, the Board, through its Office of Environmental Analysis (OEA), formerly known as the Section of Environmental Analysis (SEA)⁴, is the lead agency responsible under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332, for preparing this Environmental Impact Statement (EIS) to identify and evaluate potential environmental impacts associated with the proposed action and alternatives. The proposed action is to construct and operate a rail line extension from Port MacKenzie to the existing ARRC main line between Wasilla and just north of Willow, Alaska. Under the alternatives, the proposed rail line would follow one of several reasonable and feasible routes. Under the No-Action Alternative, ARRC would not construct the proposed rail line.

Three Federal agencies – the FRA, U.S. Army Corps of Engineers (USACE), and U.S. Coast Guard (the Coast Guard) – cooperated in the preparation of this Final EIS pursuant to Council on Environmental Quality (CEQ) NEPA implementing regulations at 40 Code of Federal Regulations (C.F.R.) § 1501.6. CEQ regulations emphasize agency cooperation early in the NEPA process and allow a lead agency (in this case, the Board) to request the assistance of the other agencies with either jurisdiction by law or special expertise in matters relevant to preparing this Final EIS. Table 1-1 lists each cooperating agency and describes its roles and responsibilities.

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

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

⁴ Subsequent to the close of the comment period on the Draft EIS, the Section of Environmental Analysis became the Office of Environmental Analysis. Thus, the Final EIS refers to the Board’s environmental staff as OEA.

OEA and the cooperating agencies (collectively OEA unless specified otherwise) prepared the EIS in accordance with NEPA, CEQ regulations, and the Board's environmental regulations (49 C.F.R. part 1105) to provide the Board; the cooperating agencies; other Federal, state, and local agencies; Alaska Natives; and the public with information on the potential environmental impacts of the proposed action and alternatives, including the No-Action Alternative.

OEA also prepared the EIS in accordance with FRA NEPA guidance at 64 *Federal Register (FR)* 28545 (May 26, 1999); USACE NEPA-implementing regulations at 33 C.F.R. part 230; and Coast Guard COMDTINST M16475.1D—NEPA-Implementing Procedures and Policy for Considering Environmental Impacts.

Following scoping, OEA issued the Draft EIS for public review and comment on March 16, 2010. OEA considered all comments received on the Draft EIS and responded to all substantive comments in this Final EIS. A summary of all comment responses and changes made to this Final EIS is located in Chapter 23. This Final EIS also includes appropriate final recommended environmental mitigation conditions. The Board will consider the entire environmental record, including the Draft EIS and this Final EIS, all public and agency comments, and OEA's environmental recommendations in making its final decision on whether to authorize the construction and operation of the proposed rail line.

The Board will decide whether to approve, approve with conditions (which could include conditions designed to mitigate impacts on the environment), or deny the Applicant's request for a license to construct and operate a proposed rail line from the Port MacKenzie District to the existing main line to the north. The EIS has been drafted so as to provide the cooperating agencies that could issue individual decisions concerning the proposed action with the information they will need for their own decisionmaking purposes.

1.5 Agency Responsibilities

As noted, the EIS is intended to give the STB, FRA, USACE, and Coast Guard the information needed to exercise their statutory responsibilities related to the proposed action. Sections 1.5.1 and 1.5.2 describe the roles of the lead and cooperating agencies. Additional Federal agencies have environmental review and oversight responsibilities for the proposed rail line. Section 1.5.3 briefly describes these agencies and their responsibilities. Appendix A contains all correspondence between the lead agency and other Federal, state, and local agencies during the EIS process.

1.5.1 Lead Agency

The STB, pursuant to 49 U.S.C. §§ 10901 and 10502, is the agency responsible for authorizing the construction of the proposed rail line and associated facilities and their subsequent operation. Accordingly, the STB is the lead agency responsible for preparing the EIS.

The STB is a bipartisan, decisionally independent adjudicatory body, organizationally housed within the U.S. Department of Transportation (USDOT). The ICC Termination Act of 1995 (ICCTA), 49 U.S.C. § 10101, established the STB to assume some (but not all) functions of the

Interstate Commerce Commission (ICC), particularly those related to the regulation of freight rail lines.

The construction and operation of rail lines require prior Board authorization either through an application filed under 49 U.S.C. § 10901 or, as requested here, by granting an exemption under 49 U.S.C. § 10502 from the formal application procedures of section 10901. Section 10901(c) as amended by the ICCTA is a permissive licensing standard. It directs the Board to grant rail line construction proposals “unless” the Board finds the proposal “inconsistent with the public convenience and necessity (PC&N)”.⁵ Thus, Congress has made a presumption that rail construction projects are in the public interest unless shown otherwise. See Mid States Coalition for Progress v. STB, 345 F.3d 520, 552 (8th Cir. 2003); Alaska R.R. - Constr. and Operation Exemption – Rail line Between North Pole and Delta Junction, Alaska, FD 34658, slip op. at 5 (STB served January 5, 2010).⁶

Under 49 U.S.C. § 10502, the Board must exempt a proposed rail line construction from the detailed application procedures of 49 U.S.C. § 10901 when it finds that: (1) those procedures are not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. § 10101; and (2) either (a) the proposal is of limited scope, or (b) the full application procedures are not necessary to protect shippers from an abuse of market power.

CEQ regulations at 40 C.F.R. § 1501.6 emphasize agency cooperation early in the NEPA process and allow a lead agency (in this case, the Board) to request the assistance of other agencies with either jurisdiction by law or special expertise in matters relevant to preparing an EIS. OEA prepared this Final EIS in accordance with NEPA, CEQ regulations, and the Board’s environmental regulations (49 C.F.R. part 1105) to provide the Board; the cooperating agencies; other Federal, state, and local agencies; Alaska Natives; and the public clear and concise information on the potential environmental impacts of the proposed action and alternatives, including the No-Action Alternative.

1.5.2 Cooperating Agencies

1.5.2.1 Federal Railroad Administration

The FRA administers Federal rail line assistance programs and consolidates government support of rail transportation activities. The FRA also has primary responsibility for developing and enforcing rail line safety regulations and would enforce these regulations on ARRC’s proposed

⁵ Although the statute does not define the term “public convenience and necessity”, historically a three-part test has been used to evaluate that term: whether an applicant is financially fit to undertake proposed construction and provide the proposed service; whether there is public demand or need for the proposed service; and whether the proposal is in the public interest and will not unduly harm existing services.

⁶ Congress had first relaxed the section 10901 standard in the Staggers Rail Act of 1980, Pub. L. No. 96-448, 96 Stat. 1895. Before 1980, Congress directed the ICC, the STB’s predecessor agency, to scrutinize rail construction proposals closely to prevent excess rail capacity. The ICC was to issue a license only if it found that the PC&N “require” the construction. See former 49 U.S.C. § 10901(a) (1978); see, e.g., Chesapeake & Ohio Ry. v. United States, 283 U.S. 35, 42 (1931). In the Staggers Act, Congress made it easier to obtain agency authorization for a new line by providing that the ICC need only find that the PC&N “permit,” as opposed to “require” the proposed new line. See former 49 U.S.C. § 10901(a) (1995); H.R. Rep. No. 1430, 96th Cong., 2d Sess. 115-16 (1980), reprinted in 1980 U.S.C.C.A.N. 4147-48. With ICCTA, Congress completed its policy shift, directing that the Board “shall” issue construction licenses “unless” the agency finds a proposal “inconsistent” with the PC&N. See 49 U.S.C. § 10901(c).

rail line. Although no requests for Federal funding of the proposed rail line have been submitted to date, the FRA anticipates that ARRC might apply for a grant to help fund the proposed rail line; and therefore, it has become a cooperating agency. The “section 4(f)” process (23 C.F.R. part 774)⁷ under the USDOT Act of 1966 (49 U.S.C. § 1653(f) and later recodified as 49 U.S.C. § 303) has been followed in the EIS because of a potential grant request to the FRA and the involvement of the FRA as a cooperating agency⁸. Based on the provisions of section 4(f), the FRA would not be permitted to provide funding for any STB authorized alternative that would involve the use of a section 4(f) property, unless the impacts would be *de minimis*, or there were no prudent and feasible alternatives that avoided section 4(f) properties. FRA intends to use this EIS to fulfill its NEPA responsibilities related to this project. See Appendix M of this Final EIS for more detail about section 4(f) resources.

1.5.2.2 U.S. Army Corps of Engineers

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

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

The USACE could use this EIS to fulfill its NEPA responsibilities associated with permit evaluation under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act.

1.5.2.3 U.S. Coast Guard

The Coast Guard, under section 9 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 401, the General Bridge Act of 1946, as amended, 33 U.S.C. § 525, and the Department of Transportation Act of 1966, 49 U.S.C. §§ 1651–1659, has authority for approval of bridges over navigable waters of the United States. The Coast Guard is responsible for assessing the navigational and environmental impacts of constructing, maintaining, and operating the proposed bridges that would be associated with the proposed rail line. This assessment would be a component of the Coast Guard review of whether to issue bridge permits under section 9 of the Rivers and Harbors Act. The Coast Guard intends to use this EIS to fulfill its NEPA responsibilities associated with deciding whether to grant bridge permits related to the proposed rail line.

⁷ 23 C.F.R 774 is an FHWA regulation that does not apply to FRA. FRA follows 49 U.S.C 303 and uses this FHWA regulation as guidance.

⁸ Section 4(f) does not apply to the Board, which is an independent agency.

1.5.3 Other Federal Agencies

1.5.3.1 U.S. Environmental Protection Agency

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

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

The USEPA also provides guidance on compliance with certain Executive Orders (E.O.), including *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*, E.O. 12898, 59 FR 7629 (Feb. 16, 1994); *Protection of Wetlands*, E.O. 11990, 42 FR 26961 (May 25, 1977); and *Floodplain Management*, E.O. 11988, 42 FR 26951 (May 25, 1977). Under section 309 of the Clean Air Act, 42 U.S.C. § 7609, the USEPA reviews and comments on the environmental impacts of major Federal actions for which an agency prepares an EIS under NEPA. The USEPA Office of Federal Activities, which is responsible for reviewing EISs, evaluates and comments on the quality of analysis in EISs and the extent of the proposal's impact on the environment. The USEPA also announces the availability of any Draft EIS in the *Federal Register*. OEA has considered the USEPA evaluations and comments on the Draft EIS in this Final EIS.

1.5.3.2 Advisory Council on Historic Preservation

The Advisory Council on Historic Preservation administers the National Historic Preservation Act, 16 U.S.C. § 470, which requires Federal agencies to consider the effects of their actions on historic and cultural resources. Under the National Historic Preservation Act, the STB consults with the appropriate State Historic Preservation Officer. For the proposed action and alternatives, the STB has consulted and will continue to consult with the State Historic Preservation Officer at the Alaska Office of History and Archaeology, a part of the Alaska Department of Natural Resources (ADNR).

The Advisory Council is an independent Federal agency created under the authority of the National Historic Preservation Act. It is responsible for advocating consideration of historic values in agency decision making, issuing regulations to implement section 106 of the National Historic Preservation Act, and reviewing Federal programs and policies to further historic preservation.

The Advisory Council also is responsible for ensuring that projects are in compliance with other requirements concerning historic and cultural resources. These include the Archaeological Resource Protection Act, 16 U.S.C. § 470; the Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001; the American Indian Religious Freedom Act, 42 U.S.C. § 1996; and Executive Orders requiring consultation with Native American Tribes.

OEA developed a draft Programmatic Agreement (PA) for the proposed action that would govern the completion of the section 106 process if the proposed rail line is authorized by the Board and the rail line is built. The regulations implementing section 106 allow for the development of a PA when the effects on historic properties cannot be fully determined prior to approval of an undertaking (36 C.F.R. § 800.14.). A PA is useful in this situation, as a detailed cultural resources survey on all alternatives for such a long, linear project would be prohibitively expensive. The PA for the proposed rail line provides for the completion of a Level 2 identification survey if the Board authorizes the proposed rail line. Additionally, the PA establishes responsibilities for the treatment of historic properties, the implementation of mitigation measures, and ongoing consultation efforts. OEA provided the draft PA for review to the Advisory Council on August 2, 2010 and extended an invitation to participate in PA development. The Advisory Council on Historic Preservation accepted the invitation on August 23, 2010. A copy of their correspondence is located in Appendix A. The latest draft of the PA is included as Appendix J of this Final EIS.

In Cook Inlet Region, Incorporated's (CIRI) comments on the Draft EIS, CIRI requested an invitation for participation in the PA process. OEA consulted with CIRI on this matter and added CIRI to the PA as an invited signatory.

1.5.3.3 U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service (USFWS) is the Federal agency with primary expertise in fish, wildlife, and natural resources issues. The USFWS is responsible for implementation of the Endangered Species Act (16 U.S.C. § 1531) and, through its field offices, for consulting with other Federal agencies on potential impacts to threatened and endangered species. It is also responsible for implementation of the Migratory Bird Treaty Act (16 U.S.C. §§ 703-712) and the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668-668d).

Under section 7 of the Endangered Species Act, the USFWS is responsible for the review of Federal agency actions and potential impacts to terrestrial and freshwater threatened and endangered species, and could issue a determination, in the form of a biological opinion, that details projected impacts to threatened and endangered species in the area of a proposed agency action. As the lead agency, the STB is responsible for initiating section 7 consultation with the USFWS. As part of that process, OEA consulted with the USFWS during the development of the EIS. OEA requested information regarding the presence of threatened and endangered species and designated critical habitat in the proposed project area on February 4, 2009. On March 9, 2009, the USFWS confirmed that there are no federally listed or proposed species, and/or designated or proposed critical habitat within the action area of the project; the USFWS response also stated that the requirements of section 7 had been satisfied. OEA provided the USFWS with the Draft EIS for review and comment. OEA has considered the USFWS's comments on the Draft EIS in this Final EIS.

1.5.3.4 National Marine Fisheries Service

Under section 7 of the Endangered Species Act, the National Marine Fisheries Service (NMFS) is responsible for the review of Federal agency actions and potential impacts to threatened and endangered marine and anadromous fish species, and could issue a determination, in the form of

a biological opinion, that details projected impacts to threatened and endangered species in the area of a proposed agency action. As the lead agency, the STB is responsible for initiating section 7 consultation with the NMFS. OEA consulted with the NMFS during the EIS process. The NMFS requested an assessment of the potential impacts of the proposed rail line on the Cook Inlet beluga whale. OEA completed a Biological Assessment (Appendix H in the EIS) and sent it to the NMFS on November 25, 2009. NMFS responded on March 9, 2010 concurring that the project is not likely to adversely affect the Cook Inlet beluga whale or its proposed Critical Habitat. Under the Marine Mammals Protection Act (16 U.S.C. § 1361), the NMFS is responsible for the review of Federal agency actions that may cause “take” of marine mammals protected under the act.

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801) requires that Federal agencies consult with the NMFS on Federal actions that could adversely affect Essential Fish Habitat (50 C.F.R. §§ 600.905–930). The Act requires coordination between the STB and the NMFS to protect, conserve, and enhance Essential Fish Habitat. The NMFS requested an assessment of the potential effect of the proposed rail line on Essential Fish Habitat in the area of the proposed action and alternatives. OEA completed a draft Essential Fish Habitat Assessment, which was included as Appendix G of the Draft EIS. OEA has considered the NMFS’s comments on the Draft EIS in this Final EIS and has updated the Essential Fish Habitat Assessment accordingly. OEA has included this updated assessment in Appendix G of this Final EIS. OEA consulted with the NMFS and NMFS included comments on the draft EFH assessment in their comments on the Draft EIS (see Appendix R). NMFS elected to provide conservation recommendations at a later time, perhaps during their review of the Applicant’s 404 permit application.

1.6 Public Involvement

1.6.1 Scoping Process

On February 12, 2008, OEA published the Notice of Intent to Prepare an EIS, Draft Scope of Study, Notice of Scoping Meetings, and Request for Comments (73 *FR* 8106 [Feb. 12, 2008]). OEA distributed a letter to more than 7,700 citizens; elected officials; Federal, state, and local agencies; tribal organizations; and other potentially interested stakeholders to introduce the Port MacKenzie Rail Extension Project, announce OEA’s intent to prepare an EIS, request comments, and give notice of 6 public scoping meetings. The distribution encompassed the communities surrounding the proposed action and possible alternatives and groups outside the project area that could have an interest in the proposed rail line. OEA posted meeting notices in public locations (such as post offices, grocery stores, and restaurants) within the project area and initiated a toll-free project hotline. OEA also provided project information on the STB Web site at www.stb.dot.gov and on an STB-sponsored project Web site at www.stbportmacraileis.com. OEA placed notices of the scoping meetings in several newspapers, including the *Frontiersman*, the *Talkeetna Times*, and the *Anchorage Daily News*.

OEA held public scoping meetings in Knik, Big Lake, Willow, Houston, Wasilla, and Anchorage, Alaska, on March 3, 4, 5, 6, 10, and 11, 2008, respectively. OEA used a workshop format to allow attendees to provide comments to and ask questions of OEA. Approximately 146 citizens, representatives of organizations, elected officials, and officials from Federal, state,

and local agencies attended the meetings. Some attendees submitted written comments during the meetings OEA received additional scoping comment letters during the scoping comment period, which closed on March 21, 2008.

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

In short, beginning with the earliest stages of the environmental review process, OEA has conducted broad public outreach activities to inform the public about the proposed action and to facilitate public participation. OEA consulted with Federal, state, and local agencies; tribal organizations; affected communities; and all interested parties to gather and disseminate information about the proposed project.

1.6.2 Draft EIS Comment Process

The Draft EIS was issued on March 16, 2010. In it, OEA encouraged the public and any interested parties to submit written comments on all aspects of the Draft EIS. OEA considered all comments in preparing this Final EIS, which includes responses to all substantive comments, OEA's final conclusions on potential impacts, and OEA's final recommendations. All comments on the Draft EIS were to be submitted within the prescribed comment period, which closed on May 10, 2010. When submitting comments on the Draft EIS, OEA encouraged commenters to be as specific as possible and substantiate concerns and recommendations.

Commenters were also able to submit comments electronically. Comments submitted electronically were given the same attention as mailed comments. Persons who submitted comments electronically did not have to also send those comments by mail. Environmental comments were filed electronically on the STB Web site at www.stb.dot.gov by clicking on the "E-FILING" link. By selecting "Environmental Comments" after the link, individuals were not required to log in to submit their comments. Comments could have been typed into the online form provided, or attached as Microsoft Word[®], Corel Word Perfect[®], or Adobe[®] Acrobat[®] files.

On March 16, 2010, OEA published the Notice of Availability of the Draft EIS and delivered the EIS to the USEPA. The USEPA published the Notice of Availability of the Draft EIS in the *Federal Register* on March 26, 2010. OEA distributed the Draft EIS to elected officials; Federal, state, and local agencies; interested organizations; and citizens who had requested a copy. OEA also made the Draft EIS available for public review in the reference section of 26 public libraries.

After publishing the Draft EIS, OEA hosted 6 public meetings to share information and gather comments from the general public. At each meeting, OEA gave a brief presentation of the proposed action and environmental review process and then accepted oral comments from the public. OEA retained a court reporter at each meeting to record the oral comments. Written comments were also submitted at the meetings. Meetings were held in Anchorage, Big Lake,

Wasilla, Houston, Willow, and Wasilla, Alaska on April 6, 7, 8, 12, 13, and 14, 2010, respectively. An average of 38 people signed in at each meeting. A total of 68 oral comments and 18 written comments were received at these meetings. Appendix Q of this Final EIS contain copies of the transcripts from the public meetings.

OEA received a total of approximately 162 written and oral comments during the Draft EIS comment period, which closed on May 10, 2010. Comments were received from elected officials; Federal, state, and local agencies; Tribes; organizations; and citizens. Appendix R of this Final EIS contains copies of the comment letters.

1.7 Tribal and Government-To-Government Consultation

OEA consulted with Federally Recognized Tribes and other tribal organizations during the preparation of the Draft EIS (see Appendix B). Prior to issuing the Notice of Intent to Prepare an EIS, OEA informed tribal organizations of the proposed rail line and requested comments on the project. OEA also contacted the following Federally Recognized Tribes, tribal groups, and Alaska Native Regional Corporations for input in the development of the Government-to-Government Consultation and Coordination Plan:

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

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

After sending consultation letters and following up with phone calls, OEA received completed questionnaires from Knikatu, Incorporated and the Native Village of Eklutna. Both organizations asked to continue to receive project information by mail and to participate in the public involvement process.

1.8 Final EIS Organization and Format

This Final EIS is organized in a manner consistent with NEPA and CEQ NEPA implementing regulations at 40 C.F.R. § 1502.10. It is intended to provide clear and concise information on the proposed action and alternatives to agency decisionmakers and the public. This Final EIS is a republication of the Draft EIS, with modifications. Comments on the Draft EIS and responses to those comments are provided in Chapter 23 of this Final EIS. Substantive modifications to the Draft EIS in this Final EIS are indicated by change bars in the left-hand margins of each chapter and appendix. This Final EIS describes the proposed action and alternatives, existing

environmental conditions, and potential environmental impacts associated with the proposed action and alternatives. The Table of Contents lists chapters and specific topics within chapters to help readers find topics of interest. The Table of Contents lists tables and figures numerically by the chapter in which they appear. The Index at the end of the main body of this Final EIS more specifically identifies the locations of topics of interest. Appendices are lettered and are provided in alphabetical order after the main body of this Final EIS on the attached CD.

Analyses in this document address proposed activities associated with construction and operation of the proposed rail line and associated facilities and their potential environmental impacts, as appropriate. This Final EIS addresses potential direct and indirect impacts from construction and operation of the proposed rail line and associated facilities, and for the No-Action Alternative, the potential impacts of not implementing the proposed action. Impacts were analyzed for the 12 build alternatives considered for detailed study and the No-Action Alternative. Impact areas addressed include geology and soils, water resources, biological resources, cultural and historic resources, subsistence, air quality, noise and vibration, energy, transportation safety and delay, navigation, land use, socioeconomics, and environmental justice.

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

CEQ NEPA implementing regulations (40 C.F.R. § 1502.14(e)) require an agency to identify its preferred alternative in this Final EIS if it has not already done so in the Draft EIS. After extensive evaluation of the potential impacts associated with each of the alternatives, OEA has identified the Mac East Variant-Connector 3 Variant-Houston-Houston South Alternative as its environmentally preferable alternative for the proposed rail line. OEA believes that this alternative, when combined with OEA's final mitigation recommendations, would most effectively avoid, minimize, and reduce potential environmental impacts to the extent reasonable if the Board decides to authorize the construction and operation of the proposed rail line. OEA notes however, that notwithstanding OEA's final recommended mitigation, adverse impacts would still occur to recreational access, wetlands, anadromous fisheries, and other resource areas. The only means to completely avoid these potential impacts would be for the Board to deny the proposed action. In making its final decision, the Board will consider the entire environmental record (including these unavoidable impacts), as well as the transportation merits of the proposed rail line.

Chapter 19 of this Final EIS presents OEA's final recommended mitigation measures. Most of the recommended mitigation measures in this Final EIS appeared as preliminary or voluntary mitigation measures in the Draft EIS. However, as explained further in Chapter 19, OEA has modified and deleted some mitigation measures from the Draft EIS and has also added some new mitigation measures in this Final EIS.

OEA's final recommended mitigation is arranged by environmental resource area. No mitigation is included for the environmental resource areas discussed in the EIS where OEA concluded that the impacts would be negligible (energy resources, socioeconomics, subsistence, and environmental justice).