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OEA

SERVICE DATE – NOVEMBER 2, 2017

SURFACE TRANSPORTATION BOARD

NOTICE

Docket No. FD 34797 (Sub-No. 1)

NEW ENGLAND TRANSRAIL, LLC, d/b/a
WILMINGTON & WOBURN TERMINAL RAILWAY
—CONSTRUCTION, ACQUISITION AND OPERATION EXEMPTION—
IN WILMINGTON AND WOBURN, MASS.

Decided: October 31, 2017

AGENCIES:

Lead: Surface Transportation Board

Cooperating: U.S. Environmental Protection Agency

ACTION: Notice of Availability of Final Scope of Study for the Environmental Impact Statement (EIS).

SUMMARY: On June 24, 2016, New England Transrail, LLC (NET) filed a petition for exemption with the Surface Transportation Board (Board) pursuant to 49 U.S.C. §§ 10502 and 10901 in Docket No. FD 34797 (Sub-No. 1). NET intends to acquire, construct, and operate various rail lines and construct and operate transloading facilities in the towns of Wilmington and Woburn, Massachusetts. NET proposes to acquire 5,727 feet of existing track, to rehabilitate or construct a combined 10,838 feet of track, and to operate as a rail carrier over the total 16,565 feet of track on and adjacent to property currently owned by the Olin Corporation at 51 Eames Street in Wilmington.¹ NET anticipates moving goods and materials (e.g. bricks, newspaper, steel, glycols, biofuels, liquid natural gas, vegetable oils, wood chips, sand, and gravel) and transloading them from rail cars directly onto trucks, into holding tanks, or into an on-site warehouse for temporary storage.

¹ Generally, Board authorization is not required for proposals by existing carriers to acquire or construct rail facilities (as opposed to rail lines) and “excepted” ancillary track (spur, industrial or side tracks used to support line-haul services). 49 U.S.C. § 10906; Nicholson v. ICC, 711 F.2d 364, 367-8 (D.C. Cir. 1983); but see Effingham R.R.—Pet. for Declaratory Order—Constr. at Effingham, Ill., 2 S.T.B. 606, 609-10 (1997) (Board has licensing authority over proposal by new carrier to construct and operate over § 10906 track that would constitute its entire operation).

Because this project has the potential to result in significant environmental impacts, the Board's Office of Environmental Analysis (OEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. §§ 4321 *et seq.*). To help determine the scope of the EIS, and as required by the Board's regulations at 49 C.F.R. § 1105.10(a)(2), OEA published in the *Federal Register* on September 30, 2016, a Notice of Intent to Prepare an EIS, Notice of Availability of Draft Scope of Study for the EIS, Notice of Scoping Meeting, and Request for Comments on Draft Scope. OEA held a public scoping meeting in Wilmington, Massachusetts on October 25, 2016. Additionally, OEA consulted with federal, state, and local agencies for input during the scoping process. The U.S. Environmental Protection Agency (EPA) is participating as a cooperating agency in the preparation of the EIS.

The scoping comment period ended on November 29, 2016. After review and consideration of all comments received, this Notice sets forth the Final Scope of Study for the EIS. The Final Scope reflects any changes to the Draft Scope as a result of the comments, summarizes and addresses the principal environmental concerns raised by the comments, and briefly discusses pertinent issues concerning this project that further clarify the Final Scope.

FOR FURTHER INFORMATION CONTACT: Danielle Gosselin by mail at Office of Environmental Analysis, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, or call OEA's toll-free number for the project at (877) 573-8930. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. The website for the Board is www.stb.gov. For further information about the proposed project, the Board's environmental review process, or this EIS, you may also visit a Board-sponsored project website at www.newenglandtransraileis.com. The project website includes a map of the project area including NET's proposed project.

BACKGROUND:

I. The Prior Proceedings. In December 2003, NET filed its original petition for exemption for authority to acquire, construct and operate track to use in conjunction with a reload facility at the Olin site in Docket No. FD 34391. OEA² conducted an environmental review and issued an Environmental Assessment (EA) in August 2004 and a Post-EA in December 2004. After issuance of the Post-EA, several parties informed the Board that NET had modified its proposed project to include, among other changes, the processing of municipal solid waste (MSW) at the facility without notifying OEA and that therefore, the environmental review was incomplete.

In May 2005, the Board issued a decision dismissing the case without prejudice to NET filing a new petition or application based on its revised project plans. The Board concluded that the project had changed significantly from the proposal presented in the petition and that NET had not informed OEA of the changes until after the environmental review had been completed. Because the petition was modified to the point that analysis already performed by the Board

² OEA was formerly known as the Board's Section of Environmental Analysis (SEA).

became substantially deficient and required extensive revision, the Board found that it was appropriate to terminate the proceeding.³

In December 2005, NET filed a petition for exemption in a new docket, Docket No. FD 34797, for acquisition, construction, and operation authority. NET outlined its plans to rehabilitate the existing track on the property and to construct new sections of track to support a facility to handle construction and demolition debris (C&D) and MSW. Following NET's filing, opposing parties argued that some or all of NET's planned activities would not constitute "rail transportation," and in 2006, a coalition of parties asked the Board to address the threshold issue of the extent of this agency's jurisdiction over the proposed project. Additionally, in 2006, the U.S. Environmental Protection Agency (EPA) added the project site to the National Priorities List (NPL) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). EPA suggested that, to fully address the proposal's effect on potentially contaminated soil and groundwater, the Board should defer issuing even a preliminary analysis under NEPA of the potential environmental impacts of NET's proposal until EPA had completed the relevant portion of its Remedial Investigation and Feasibility Study (RI/FS) of the site.

In July 2007, the Board issued a decision finding that NET would, if authorized, become a rail carrier subject to the Board's jurisdiction and thus would need authority to acquire, construct and operate the track. The Board also addressed the extent to which the handling of C&D and MSW would come within the scope of the Board's jurisdiction, but the issue was not decided because the Board deferred environmental review until EPA had completed the relevant portion of its RI/FS Study at the site.⁴ In May 2016, the Board lifted the deferral after EPA submitted a letter stating that the facts no longer supported continuing to defer the Board's environmental review in the case.⁵ The Board also directed NET to file an updated petition for exemption in a new sub-docket detailing its current plans for the site.⁶

II. The Instant Proceeding. On June 24, 2016, NET filed an updated petition for exemption outlining its current proposal with the Board in Docket No. FD 34797 (Sub-No. 1).⁷ As stated above, NET proposes to acquire, construct and operate track and to construct and operate transloading facilities on and adjacent to the Olin site. NET plans to move goods and materials,

³ See New Eng. Transrail, LLC—Constr., Acquis., & Operation Exemption—in Wilmington & Woburn, Mass., FD 34391 (STB served May 3, 2005).

⁴ See New Eng. Transrail, LLC—Constr., Acquis., & Operation Exemption—in Wilmington & Woburn, Mass., FD 34797 (STB served July 10, 2007).

⁵ See Letter from EPA (Nov. 6, 2015).

⁶ See 2016 Decision.

⁷ NET's current plans do not include operating a municipal solid waste transfer station at the facility or handling construction and demolition debris.

including bricks, newspaper, steel, glycols, biofuels, liquid natural gas, vegetable oils, wood chips, sand, and gravel and transload them from rail cars directly onto trucks, into holding tanks, or into a warehouse on site for temporary storage. This Notice sets forth the Final Scope of Study for the EIS for this project.

Environmental Review Process: The NEPA process is intended to assist the Board, EPA (as a cooperating agency), and the public in identifying and assessing the potential environmental impacts of a proposed action, and any reasonable and feasible alternatives, before a decision is made. ICF, OEA's independent third-party contractor, is assisting in the environmental review process pursuant to 49 C.F.R. § 1105.10(d). OEA, the office within the Board responsible for ensuring that the agency complies with NEPA and related environmental laws, is directing and supervising the preparation of the EIS.

After issuance of this Final Scope of Study, OEA will prepare a Draft EIS for the project. The Draft EIS will examine the potential environmental issues and concerns identified during the scoping process and assess and compare alternatives, including the no-action alternative. The Draft EIS will also contain OEA's preliminary recommendations for environmental mitigation measures. Upon its completion, the Draft EIS will be made available for review and comment by the public, government agencies, and other interested parties. OEA will then prepare a Final EIS that considers and responds to comments on the Draft EIS. In reaching its decision in this case, the Board will consider the Draft EIS, the Final EIS, all environmental comments received, and OEA's recommendations regarding the environmentally preferable alternative and environmental mitigation measures.

During scoping, the Mashpee Wampanoag Tribe requested to participate in government-to-government consultation, and the Narragansett Indian Tribe requested to consult under Section 106 of the National Historic Preservation Act (NHPA). OEA has begun consultation with, and will continue to consult with both Tribes under Section 106 of NHPA. As noted above, EPA is participating as a cooperating agency in the preparation of the EIS. Throughout the scoping process and during the development of the EIS, OEA has, and will continue to coordinate with EPA as it completes its CERCLA process for the project site.

FINAL SCOPE OF STUDY FOR THE EIS

Purpose and Need

According to NET, the principal purpose of the proposed project is to add rail transloading capacity close to the center of the Boston metropolitan area. Further, NET states that the proposed facility would allow for lower rail rates and improved service scheduling for customers.

The proposed project involves a request by NET for a license or approval from the Board. The proposed project is not a federal government-proposed or -sponsored project. Thus, the project's purpose and need should be informed by both the applicant's goals and the agency's enabling statute, here, 49 U.S.C. §§ 10502 & 10901. Section 10901 provides that the Board must approve a construction request unless it finds that the construction is "inconsistent

with the public convenience and necessity.” Therefore, the statute creates a presumption that rail construction is in the public interest and will be approved.

Proposed Action and Alternatives

NET’s proposed project involves the acquisition of 5,727 feet of existing track, the rehabilitation and construction of a combined 10,838 feet of track, and operation as a rail carrier over the total 16,565 feet of track. Other major elements of the proposed project would include demolishing existing buildings, constructing transloading facilities and warehouses, and moving goods and materials and transloading them from rail cars directly onto trucks, into holding tanks, or into a warehouse on site for temporary storage.

NET estimates that it would operate two round trip trains per day with approximately 30 rail cars. NET estimates that approximately 400 round trip vehicle trips per day (365 truck trips per day and 35 employee vehicle trips per day) could be generated at the height of operations. All operations are expected to occur between 11:00 pm and 6:00 am, and truck deliveries are generally expected to occur outside weekday morning and evening commuter peak hours.

The EIS will analyze and compare the potential impacts of (1) acquisition, construction, and operation for the proposed project, (2) any reasonable and feasible alternatives that could allow NET to meet its purpose and need, and (3) the no-action alternative (denial of the application).

Public Participation

As part of the environmental review process to date, OEA has conducted public outreach activities to inform the public about the proposed action and to facilitate public participation. OEA consulted with and will continue to consult with federal, state, and local agencies; affected communities; and all interested parties to gather and disseminate information about the proposal.

Response to Comments

OEA reviewed and considered the comments received on the Draft Scope (16 comment letters from approximately 37 parties or individuals) in preparing this Final Scope of Study for the EIS. In preparing this Final Scope, OEA considered all comments received and will continue to do so during the EIS process. The Final Scope of Study reflects changes to the Draft Scope as a result of these comments. Additional changes from the Draft to the Final Scope were made for clarification or because of additional analysis conducted by OEA. In developing additions and modifications to the Draft Scope, OEA has considered the comments summarized below.

- **Discussion of applicable federal, state, and local law.** Comments requested clarification of the Board’s jurisdiction for the project and of preemption of state and local law. The EIS will include a discussion of applicable federal, state, and local laws, as well as the Board’s jurisdiction and authority.

- **Analysis of costs.** Comments requested that the EIS include a financial analysis of the proposed project, including a cost benefit analysis. The Board’s review of NET’s proposal consists of two separate but parallel processes—consideration of (1) the transportation merits under 49 U.S.C. § 10901 of the Interstate Commerce Act, and (2) the environmental impacts under NEPA and related environmental laws. Comments concerning the financial viability of the proposal relate to the transportation merits review by the Board. It is the Board, and not OEA, that will weigh the transportation benefits against potential environmental harms.⁸ OEA does not plan to do a cost benefit analysis in the EIS because the regulations implementing NEPA (see 49 C.F.R. § 1502.23) do not require one. However, as part of the transportation merits review, the Board will consider the financial fitness of the applicant and the financial viability of the proposed project.
- **Analysis of detailed project plans and activities.** Comments requested that the EIS include detailed plans and descriptions of all proposed construction- and operations-related work associated with the proposed project. OEA will request written information needed from NET to properly assess impacts from proposed construction activities and operations. The EIS will include such information in Chapter 2 of the EIS, and all requests for information from NET pertaining to the EIS will be posted on the project website.
- **Analysis of alternatives.** Comments stated the need for a comprehensive look at project alternatives. NET explained as part of its September 7, 2016 information request response that alternative sites required at least 30 acres of developable land and a location close to highway entrances/exits within 15 miles of the center of the Boston metropolitan area. Using these criteria NET examined several alternative sites in the area, including one in Tewksbury, MA, and one in North Billerica, MA, but neither site met its criteria. As required by 40 C.F.R. §1502.14(a), OEA will evaluate all reasonable and feasible alternatives, including the possibility for alternative project layouts on NET’s proposed site in the EIS.
- **Analysis of impacts on road and rail congestion.** Comments stated concerns over the potential impacts on road and rail congestion in the project area. Comments also stated concerns over the quality and scope of NET’s traffic study. The EIS will address project-related effects on road and rail congestion in the project area. Additionally, OEA will independently verify all information provided by NET, including the traffic study, and determine what, if any, additional studies are necessary.

⁸ OEA notes that the Board is not required to withhold approval of a proposed construction project in the absence of formal financing and traffic commitments. This is consistent with the current permissive licensing policy adopted by Congress in 1995, which provides that rail constructions are to be approved unless found to be inconsistent with the public convenience and necessity.

- **Analysis of rail and traffic safety.** Comments stated concerns over rail and highway safety related to increased train and truck activity in the area. Comments also raised concerns over rail operation proximity to neighborhoods and schools. Comments recommended addressing the potential for rail accidents involving hazardous and flammable materials. The EIS will consider these potential impacts.
- **Analysis of land use impacts.** Comments stated concerns over impacts to private properties and property values as a result of possible disturbance of on-site contaminated areas. Analysis of potential for disturbance of on-site contaminated areas and any impacts that would result from this will be included in the EIS.
- **Analysis of impacts of the project on CERCLA cleanup activities.** Comments recommended that the EIS evaluate the potential of site construction and operations to disturb the ongoing site clean-up and the slurry wall in the containment area. OEA will work closely with EPA to assess the potential for such impacts in the EIS.
- **Discussion of EPA's CERCLA work on-site and its timing in relation to the proposed project.** Comments stated concerns over the timing of the environmental analysis and proposed project activities in relation to the issuance of EPA's Record of Decision. OEA will work closely with EPA and consider all current information available regarding the site remediation as the EIS process moves forward.
- **Analysis of impacts on water resources.** Comments requested that the EIS evaluate the potential impacts of stormwater run-off pollutants contaminating the Boston Harbor/Mystic River watersheds. Comments stated concerns about discharges to groundwater and project impacts on the hydrology of the site and surrounding area. Comments also recommended including an analysis of the existing wetlands and the impacts of past, present, and foreseeable future alterations. The EIS will consider potential impacts to these water resources in the EIS.
- **Analysis of hazardous materials and spills.** Comments stated concerns over the handling of hazardous materials during site operations (i.e., transloading) and the potential impact of spills on the project site and surrounding area. The EIS will address impacts from transloading hazardous materials.
- **Analysis of impacts on public health.** Comments stated concerns over the project's possible impact on public health from air emissions, groundwater contamination, train derailments, and hazardous and explosive liquids. Comments requested that the EIS evaluate the capacity of local emergency responders to deal with possible flammable and explosive materials accidents. Comments also stated concerns about the potential impacts on children's health (i.e., children's physiological and behavioral traits render them more susceptible and vulnerable than adults to health and safety risks). The EIS will examine the potential public health impacts of the proposed action and consider Executive Order 13045 on Children's Health and Safety.
- **Analysis of air pollution impacts.** Comments recommended including an analysis of air pollution generated from construction-related activities in the EIS. Comments also

requested that the EIS include an analysis of operations-generated air pollution (i.e., emissions from locomotives, trucks, and other operations equipment). The EIS will address these issues.

- **Analysis of impacts on floodplains.** Comments stated the need to consider floodplain-related issues in the EIS. The EIS will address potential impacts to floodplains.
- **Analysis of impacts on wildlife.** Comments requested that the EIS evaluate the impact of removing at least 166 trees in three areas, and how this tree removal would affect wildlife habitat. The EIS will include analysis of the impacts to wildlife from the proposed project.
- **Analysis of Environmental Justice.** Comments stated concerns over disproportionate environmental impacts to an already burdened community. The EIS will address Environmental Justice.
- **Suggestion of mitigation measures.** Comments suggested mitigation measures spanning many resource areas to be included in the EIS. OEA will consider the mitigation suggested during scoping when it develops preliminary mitigation measures after completing the environmental analyses. As noted above, the Draft EIS will include OEA's preliminary mitigation measures, and the public will have an opportunity to comment on them after the Draft EIS is issued. OEA will make its final recommendations on environmental mitigation to the Board in the Final EIS after considering all public comments received on the Draft EIS. The Board will then make its final decision regarding the proposed project and any environmental conditions it might impose.

Environmental Impact Analysis

Proposed Acquisition, Construction, and Operation

Analyses in the EIS will address the proposed activities associated with the acquisition, construction and operation of the project and their potential environmental impacts, as appropriate.

Impacts Categories

The EIS will analyze potential direct, indirect, and cumulative impacts⁹ of NET's proposed acquisition and construction and operation activities, or in the case of the no-action alternative, the lack of these activities.

⁹ NEPA requires the Board to consider direct, indirect, and cumulative impacts. Direct and indirect impacts are both caused by the agency's action (here, the Board's potential grant of NET's petition for exemption for rail line acquisition, construction, and operation authority). 40 C.F.R. §§ 1508.8(a)–(b). A cumulative impact is the “incremental impact of the action when

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Impact areas addressed will include the analysis of transportation systems, safety, land use, recreation, biological resources, water resources, including wetlands and other waters of the U.S., geology and soils, air quality and climate, noise and vibration, energy resources, socioeconomics as they relate to physical changes in the environment, cultural and historic resources, aesthetics, and environmental justice. The EIS will include a discussion of each of these categories as they currently exist in the project area and will address the potential direct, indirect, and cumulative impacts associated with the proposed action under each reasonable and feasible alternative and the no-action alternative:

1. Transportation Systems

The EIS will:

- a. Evaluate the potential impacts resulting from the proposed project on the existing transportation network in the project area.
- b. Propose mitigation measures to avoid, minimize, or eliminate potential project impacts to transportation systems, as appropriate.

2. Safety

The EIS will:

- a. Describe existing road/rail grade crossing safety and analyze the potential for an increase in accidents related to the proposed operation, as appropriate.
- b. Describe existing rail operations and analyze the potential for increased probability of train accidents, as appropriate.
- c. Evaluate the potential for disruption and delays to the movement of emergency vehicles due to any grade crossing delays.
- d. Evaluate safety related to increased truck activity in the area.
- e. Analyze the potential for accidents involving hazardous and flammable materials.
- f. Propose mitigation measures to avoid, minimize, or eliminate potential project impacts to safety, as appropriate.

3. Land Use

The EIS will:

- a. Evaluate the potential impacts on existing land use patterns within the project area and identify those land uses that would be potentially impacted by the proposed project.
- b. Analyze the potential impacts associated with each alternative to land uses identified within the project area including the Conservation Restriction area.
- c. Evaluate consistency with Coastal Zone Management Program, as applicable.
- d. Propose mitigation measures to avoid, minimize, or eliminate potential impacts to land use, as appropriate.

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added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non- federal) or person undertakes such other actions.” 40 C.F.R. § 1508.7.

4. Recreation

The EIS will:

- a. Evaluate existing conditions and the potential impacts of the proposed project on recreational areas and opportunities for recreational activities provided in the project area.
- b. Propose mitigation measures to avoid, minimize, or eliminate potential project impacts on recreational areas and opportunities for recreational activities, as appropriate.

5. Biological Resources

The EIS will:

- a. Evaluate the existing biological resources within the project area, including vegetative communities, wildlife, fisheries, wetlands, and federal and state threatened or endangered species, and the potential impacts to these resources resulting from the proposed project.
- b. Describe existing wildlife habitat on the project site and in the vicinity of the project and address the potential effects on endangered species, such as the threatened Northern Long-Eared Bat.
- c. Propose mitigation measures to avoid, minimize, eliminate, or compensate for potential impacts to biological resources, as appropriate.

6. Water Resources

The EIS will:

- a. Describe the existing surface water and groundwater resources within the project area, including lakes, rivers, streams, ponds, wetlands, and floodplains and analyze the potential impacts on these resources.
- b. Describe the permitting requirements for wetlands, river crossings, water quality, floodplains, stormwater and erosion control.
- c. Analyze the impacts of stormwater run-off pollutants on the Boston Harbor/Mystic River watersheds.
- d. Evaluate the potential for discharges to groundwater and project impacts on the hydrology of the site and surrounding area.
- e. Describe and consider EPA's CERCLA process-related activities as they relate to on and off-site water resources.
- f. Propose mitigation measures to avoid, minimize, eliminate, or compensate for potential project impacts to water resources, including impacts from stormwater runoff, as appropriate.

7. Geology and Soils

The EIS will:

- a. Describe the geology, soils, and seismic conditions found within the project area and analyze the potential impacts on these resources. OEA will coordinate closely with EPA on this analysis.
- b. Consider the potential for impacts on the existing Containment Area.
- c. Describe and consider EPA's CERCLA-related activities as they relate to geology and soils.

- d. Propose mitigation measures to avoid, minimize, or eliminate potential project impacts to geology and soils, as appropriate.

8. Air Quality and Climate

The EIS will:

- a. Evaluate the air emissions from the potential operation of the proposed project including potential greenhouse gas emissions, as appropriate.
- b. Evaluate the potential air quality impacts resulting from the proposed project construction activities, including exhaust emissions from construction vehicles.
- c. Propose mitigation measures to avoid, minimize, or eliminate potential project impacts including using different technologies to reduce impacts, as appropriate.

9. Noise and Vibration

The EIS will:

- a. Evaluate the potential noise and vibration impacts during the proposed project construction, including excavation, grading, and massive loading and vibrations.
- b. Evaluate the potential noise and vibration impacts of the proposed project operation.
- c. Propose mitigation measures to avoid, minimize, or eliminate potential project impacts to sensitive noise receptors, as appropriate.

10. Energy Resources

The EIS will:

- a. Describe and evaluate the potential impact of the proposed project on the distribution of energy resources in the project area.
- b. Propose mitigation measures to avoid, minimize, or eliminate potential project impacts to energy resources, as appropriate.

11. Socioeconomics

The EIS will:

- a. Analyze the effects of the potential temporary influx of construction workers and the creation of permanent rail facilities and jobs in the project area.
- b. Propose mitigation measures to avoid, minimize, or eliminate potential project-related adverse impacts to social and economic resources, as appropriate.

12. Cultural and Historic Resources

The EIS will:

- a. Identify historic buildings, structures, sites, objects, or districts eligible for listing on or listed on the National Register of Historic Places (historic properties) within the area of potential effects. The cultural resources identified will be categorized into three major groups: tribal resources, archaeological resources, and built resources.
- b. Consult with federally recognized Native American tribes, including the Mashpee Wampanoag Tribe and the Narragansett Indian Tribe to identify properties with religious and cultural significance within the area of potential effects (tribal resources), and analyze potential project impacts to any properties identified.

- c. Identify prehistoric-era and historic-era archaeological resources by using professionals who meet the Secretary of the Interior Professional Qualifications Standards (SOIPQS) in the discipline of archaeology, and analyze potential project impacts to any prehistoric-era and historic-era archeological resources identified.
- d. Identify built resources by using professionals who meet the SOIPQS in the disciplines of history or architectural history, and analyze potential project impacts to any built resources identified.
- e. Propose measures to avoid, minimize, or mitigate potentially adverse project impacts to tribal resources, built resources, and archaeological resources that are historic properties, as appropriate.

13. Aesthetics

The EIS will:

- a. Evaluate the potential impacts of the proposed project on any areas identified or determined to be of high visual quality.
- b. Propose mitigation measures to avoid, minimize, or eliminate potential project impacts on aesthetics, as appropriate.

14. Environmental Justice

The EIS will:

- a. Evaluate the potential impacts resulting from the proposed project on local and regional minority and low-income populations.
- b. Propose mitigation measures to avoid, minimize, or eliminate potential project impacts on Environmental Justice populations, as appropriate.

15. Cumulative Impacts

The EIS will evaluate the cumulative and incremental impacts of the proposed action when added to other past, present, and reasonably foreseeable future actions in the project area, including an appropriate analysis of NET's proposed construction and operation of the transloading facilities.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis