

Chapter 3: Comments and Responses

State Agencies

S1 Office of the Governor: Judy Martz

S2 Montana Department of Transportation

S3 Montana Fish Wildlife and Parks

S4 Montana Department of Natural Resource Conservation

OFFICE OF THE GOVERNOR

STATE OF MONTANA

JUDY MARTZ
GOVERNORSTATE CAPITOL
PO Box 200801
HELENA, MONTANA 59620-0801

November 16, 2004

Surface Transportation Board
Case Control Unit
Washington, DC 20423-0001
Attn: Kenneth Blodgett

RE: STB Docket No. FD 30186 (Sub-No. 3)

Dear Mr. Blodgett:

The purpose of this letter is to express my support for the Surface Transportation Board ("Board") to approve the Tongue River Railroad Company, Inc. ("TRRC") application in the proceeding entitled Tongue River Railroad Company, Inc.– Construction and Operation – Western Alignment, STB Finance Docket 30186 (Sub-No. 3). The Board issued a Draft Supplemental Environmental Impact Statement ("Draft SEIS") on October 15, 2004 addressing the environmental impact and mitigation measures associated with the construction and operation of the TRRC's proposed 17.3 mile Western Alignment located in southern Rosebud County and portions of Big Horn County, Montana.

The TRRC proposed Western Alignment provides the most efficient and economic means of providing transportation to the coal assets located in southeastern Montana near the community of Ashland, Montana as well as to the surface coal mines in the Decker, MT area. In April 2002, pursuant to the Crown Butte Exchange legislation, the Federal government transferred to the State of Montana the mineral ownership to 533 million tons of economic coal beneath Otter Creek Tracts 1, 2 and 3. In addition, the State of Montana owns 100 million tons of coal beneath State School Trust lands within the Otter Creek Tracts. Approximately 4.5 billion tons of coal lies in the vicinity of the Ashland, Montana including Otter Creek, the Tongue River drainage, and the Northern Cheyenne Reservation. The three Otter Creek Tracts alone contain approximately 1.2 billion tons of low sulfur, high quality coal reserves.

During the 2003 Montana legislative session, the State of Montana passed legislation to fund development drilling, coal quality analysis and cultural surveys. The State has worked with Native Americans and southeastern Montana communities to provide employment opportunities related to development of the Otter Creek coal assets. Timely development of these coal assets will reverse the trend of declining coal severance tax revenues to the State, provide new sources of funding for K through 12 education, and create new economic opportunities for southeastern Montana communities. The transportation provided by the

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Kenneth Blodgett
November 16, 2004
Page 2

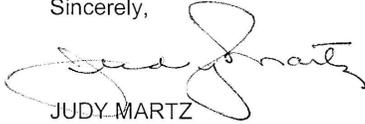
currently permitted Tongue River Railroad along with the approval of the proposed Western Alignment is essential to ensuring the State of Montana recognizes the value of its coal assets contemplated by the Crown Butte legislation and transfer of the Otter Creek Tracts.

1 cont.

I want to reiterate Montana's continued support for the Tongue River Railroad project and the Western Alignment application. The Western Alignment presents the best balance between meeting environmental requirements and providing the most efficient, economic, reliable and safe operating rail alignment. I urge the Board's timely action on the application in Finance Docket No. 30186 (Sub-No. 3) to ensure Montana's ability to encourage the development of its coal resources in southeastern Montana. It is essential that Montana is able to attract the private sector development expertise and funding in order for the State to enjoy the economic benefits for its citizens and our educational system.

As the Governor of Montana, I urge your approval of the Western Alignment and I trust the Board can reach an expedited decision in accordance with your regulatory procedures.

Sincerely,



JUDY MARTZ
Governor

SEA's Response to Comment S1
Judy Martz, Office of the Governor (November 16, 2004)

S1.1 The comments in support of the project are noted.

[Montana Department of Transportation]

S2

EI#1145

From: Martin, Dan
Sent: Friday, November 26, 2004 11:27 AM
To: Axline, Lisa
Cc: Martin, Dan
Subject: MDT Comments on the Tongue River Railroad Company Inc. Draft Supplemental EIS - Western Alignment

Lisa:

Our comments on the subject EIS are as follows:

Recommended Changes: Page 4-38, Affected Environment - Transportation and Safety, lines 24 thru 28 should read as follows:

1

Secondary highways are eligible for State and Federal construction funding, and all gravel surface Secondary Highways are maintained by the counties. Most paved Secondary Highways are maintained by the State of Montana. They are functionally classified as rural collector..... The recommended changes are in Bold print.

Comments/Concerns:

Sidings and Passing tracks are not mentioned in relation to at-grade crossings. Sidings should not extend through or be in close proximity to any at-grade crossings. Where possible, passing tracks should not go through grade crossings. If passing tracks are required through an at-grade crossing the passing track should terminate at a location where there is sufficient room to store a train past the grade crossing. Additionally, the train should be far enough from the grade crossing to allow sufficient sight distance down the track for a motorist to detect a second train.

2

One other area of concern is the close proximity of the two public road at-grade crossings near the end of the proposed Western Alignment as shown on figure 4-10, page 4-130. The short distance between the two crossings certainly appears to be doubling train/vehicle exposure. Hopefully, there will be an engineering solution that can reduce the impact of this situation.

3

If you have any questions, please give me a call at 444-6303. Thanks

Dan Martin

SEA's Response to Comment S2
Montana Department of Transportation (November 26, 2004)

- S2.1 The suggested text has been included in this Final SEIS. Please refer to Chapter 5: Errata, where it references Page 4-38, lines 24-28 for the full text revision.
- S2.2 The proper siting of sidings is an important consideration in rail construction projects. SEA expects that concerns regarding the location of siding and passing tracks will be included in the provisions of the memorandum of agreement (MOA) to be entered into by Tongue River Railroad Company, Inc. (TRRC) and the Montana Department of Transportation (MDT), as stated in recommended Mitigation Measure 55. A specific reference to sidings has been added to Mitigation Measure 55. Please refer to Chapter 5 (Errata).
- S2.3 Potential safety issues related to the proximity of the two crossings identified in the comment would be addressed through the MOA. Recommended Mitigation Measure 55 would require TRRC to enter into a MOA with MDT for evaluating project-related safety needs. The MOA would be based on an evaluation of each crossing for safety needs and development of an appropriate process to address potential traffic problems during construction and operation, including passage of emergency vehicles. In short, the MOA would set forth specific safety measures, such as warning signal and devices, and appropriate measures to alleviate any traffic problems, such as grade separations.

[Montana Department of Fish, Wildlife, and Parks]

EI# 1117

S3

P.O. Box 200701
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Ref: DO0503-04

Dear Mr. Blodgett:

With regards to the “ *Draft Supplemental Environmental Impact Statement – STB Finance Docket No. 30186 (Sub – No. 3) Tongue River Railroad Company, Inc. – Construction and Operation – Western Alignment* ” Montana Fish, Wildlife, & Parks (FWP) is submitting comment on the content and conclusions of this document.

Comments regarding the SEIS are broken out into four Specific topics: 1. General comments; 2. Wildlife; 3. Miles City Hatchery; and 4. Fisheries. It is FWP’s intent through these comments to assure that FWP’s and its constituents’ concerns and interests are addressed prior to STB’s final decision. If you have questions or need clarification regarding any statements of this document, fell free to contact my staff through FWP’s Helena office.

Sincerely,

M. Jeff Hagener
Director

**MONTANA FISH, WILDLIFE & PARKS
OFFICIAL COMMENTS TO
SEIS – PROPOSED TONGUE RIVER RAILROAD
STB FINANCE DOCKET NO. 30186 (SUB-NO.3)**

GENERAL COMMENTS:

Montana has a great history and heritage with respect to ranching, hunting, fishing, and the uniqueness of wide-open spaces that are found nowhere else in the world. The Tongue River Valley, river, and surrounding countryside is a largely unspoiled natural ecosystem that will be altered forever by this proposed rail line.

The following comments are just a few examples that demonstrate the issues FWP would like to focus on. There are numerous other examples throughout the SEIS, but FWP's points can be made with these examples. The major areas of concern are the lack of supporting documentation, the use of outdated data and information, the lack of response and documentation to comments submitted in the past by FWP, and the failure to address multiple areas of concern that should be addressed in any EIS.

- 1) Page 2-1 lines 18 and 19; Based on the information and lack of information in the SEIS, the conclusions that SEA make that there will be “some environment impacts” is very conservative. When looking at the overall value of the Tongue River Valley, river and fisheries, and surrounding ecosystems and wildlife, any commercial venture of this magnitude will have ecological and environmental impacts. 1
- 2) Page 3-1 lines 12 – 18; SEA states the environmental impacts are addressed in the SEIS and that they are appropriate. However many environmental issues related to wildlife, fisheries, aquatic habitat, terrestrial habitat are not evaluated. The list of species of special concern is out dated along with many other forms of data and conclusions are made based on poor or old data. 2
- 3) Page 3-1 line 20 – 47; SEA relied on outdated information (20 years out of date) TRI and TRII, data that is erroneous and full of errors as documented in responses from FWP and sent to PAM in 1999 and 2003 (MCFH studies). TRI and TRII were identified as outdated and were to be updated through this process as agreed on in 1998 by STB, PAM, Montana DNRC and the represented agencies. This does not appear to be the case. 3
- 4) Page 3-2 lines 24 – 42; SEA used the Environmental Report that TRRC submitted. This report was never provided to FWP. All the participating agencies and the public have the right to provide public comment to TRRC's report. Without public review, SEA should not use this report to make any conclusions and therefore the SEIS is incomplete. The report should be included in the SEIS. 4
- 5) Page 3-6 lines 21 –31; Chapter 5 is referenced as where SEA thought TRI and TRII EIS needed updating. There is very cursory analysis that looks at a few things but nothing that 20 plus years of change has done for wildlife, fisheries, the change in the TR dam and water use and control on the TR river. 5

- 6) Page 3-6 line 35-40; Changes to the environment were determined by use of aerial photos 12 years apart and then people who never visited the site until 1998 made conclusions. A determination that there were no changes in the aerial photos and therefore, no changes to the environment is an extremely cursory analysis and the conclusions are not substantiated by other baseline data. 6

FISHERES and WILDLIFE:

- 1) What cumulative impacts do these actions have on the dynamics of this ecosystem? There is significant concern over impacts likely to be caused by activities of TRRC. There are also multiple references to documents, information, reports, and discussions with conclusions by TRRC that the SEIS take for fact. Where is the supporting documentation and the information supplied by TRRC? Without that information, how can comment be made to a document without appropriate documentation? 7
- 2) Although there is mention of impacts to fisheries and wildlife due to multiple factors (vibrations, game crossings, rip rap, wet lands, native species, ESA species etc.) there is no plan to mitigate for potential losses.. Mitigation Measure 14 page 4-69 & 70 may take authority away from agencies and does not allow experts to determine appropriate action and require appropriate cost to be assessed to TRR. Also the document does not address mitigation after SEA has certified TRRC has completed construction. 8
- 3) Recommend public access as a form of mitigation throughout this project. 9
- 4) The DSEIS discusses crossings of ephemeral streams in relationship to only surface flow and animal crossings. Some of these systems act as short-term refugia and potential spawning sites for fish, and wildlife areas of importance along the Tongue River. 10
- 5) Sloughing of grade material is described in the DSEIS as being expected to happen. This seems like poor planning. The amount of sediment added to the system, not to mention the impact of potential derailments at these points, is not acceptable. Planning to mitigate for poor engineering is irresponsible. Many of these sites are associated with the comments listed above in that culvert sizes need to be increased in order to avoid sloughing. 11
- 6) Pg. 4-20. Fishery Resources. The citation used on this page is very dated. 12
- 7) Pg. 4-91. Mitigation measure 34. This is baseline data collection, which is necessary for determining a change in the ecosystem due to railway impacts. Why are surveys listed as mitigation? Mitigation implies that a problem is corrected or compensation made for the loss caused by the problem. 13
- 8) There is no review of cumulative effect – rail road / coal bed methane / coal mining / increased development. 14

MILES CITY HATCHERY

- 1) Page 3-8 lines 36 – 41, appendix F, Appendix J page 10 –11, According to the TRI and TRII and the SEIS - MFWP “*is fully empowered to delineate the terms or conditions under which it will allow a railroad ROW across state property*” FWP will assure its constituents that MCFH will be protected.
- 2) Page 3-8 lines 36 – 41, appendix F, Appendix J page 10 –11; The studies that TRRC has commissioned by Womack, did not address FWP concerns relating to MCFH. This has been expressed many times to SEA, PAM, TRRC, and STB. FWP has expressed that they will do the studies necessary to provide sound science to assure that zero impacts resulting from the construction and operations of TRR. The cost should be reimbursed to FWP from TRRC. All mitigation measures will be identified prior to granting an easement and an agreement between TRRC and FWP will be signed to assure TRRC is legally responsible (mitigation agreement) for all unforeseen impacts to MCFH infrastructure and to the ability to produce fish (biological impacts).
- 3) Since Wallop-Breaux federal funding has been and continues to be used at MCFH, FWP must maintain a zero impacts position, plus assurances that if there are impacts to MCFH due to unforeseen issues, TRRC will agree to mitigate up to the complete replacement of the MCFH in a new suitable location. The other option is that TRRC place an indemnity insurance policy in FWP’s name in the amount of \$25 million dollars to cover any and all impacts including the need to replace the facility if necessary, for a period of 20 years from the date of the initiation of construction.
- 4) A mitigation plan must be in place before any decision is made. MCFH provides economic value to the state year after year and the SEIS does no analysis on the impacts to the state fisheries if impacts occur at MCFH, and the cost to the state and local economies.
- 5) There are very detailed plans for the LARR and when LARR put forth information that a rail line would impact their operation, a change in alignment was shifted to MCFH and all mitigation requests for LARR were addressed for those sites still being crossed. SEA, STB, SEIS does not provide for MFWP to address mitigation in the SEIS for the MCFH but leaves it to later discussion and negotiation.
- 6) Mitigation Chapter 7. There needs to be a major overhaul of the mitigation section (Chapter 7) to provide for a detailed study for the hatchery. FWP is requesting new and very specific studies to be done under FWP control. If there is a result from that study that shows no impacts FWP will consider the application for an easement. If impacts are identified then FWP will assess its authority to deny an easement to TRRC or require mitigation up to complete replacement of the hatchery at TRRC expense.

15

- 7) Page 7-4 & 7-5 Miles City Hatchery – This section is inadequate to address the MCFH, which could be the most important and most costly mitigation measure for TRRC. SEA and this SEIS should have addressed this issue at a level commensurate with the value and importance it deserves.
- 8) The SEIS does not address human resources on the facility, health and human safety, and does not identify that there are residences along the proposed route that may require mitigation plans.
- 9) Pages 7-6 & 7-7 plus Mitigation measure 86 7-34; FWP reserves the right to only grant an easement when all FWP concerns and studies provide for adequate information to determine if an easement is appropriate.

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**Attachment A:
Vibration and Impact Studies**

**Suggested Study Plan to Evaluate Potential Biological Impacts
Of Tongue River Railroad to the Miles City Fish Hatchery**

Background

Tongue River Railroad Company (TRRC) is proposing to construct and operate a 120-mile railroad (TRR) that links into the existing Burlington Northern (BN) railroad at Miles City and extends in a southerly direction along the Tongue River to Decker, Montana. The primary purpose of the link is to transport coal from three surface mines near Ashland, Montana to electric power plants in the Midwest (Davis 1997). By the year 2000, TRRC proposes to carry 23 million tons of low sulfur coal; and it plans to increase this to 43 million tons by the year 2015 (Davis 1997). This will result in at least 14 train movements per day on the rail line (7 round trip coal trains). Every train will have approximately 113 coal cars that each carries 117 tons of coal (13,200 tons per train).

The proposed railroad will pass along the east side of the Miles City Fish Hatchery (MCFH). This hatchery is owned and operated by Montana Department of Fish, Wildlife and Parks (FWP); hence the state of Montana must grant TRRC an easement to cross state lands. Before an easement will be granted, FWP needs to fully identify impacts of the project, and require full mitigation of these impacts.

TRRC developed a study to assess the potential vibration effects of the TRR on hatchery operations (Womack and Associates- WAI - 1998). This study called for geotechnical analysis of soil types, movement and analysis of vibration, soil chemistry analysis, and evaluation of the potential effects of these factors on fish production. WAI conducted a literature review and consulted with fisheries experts regarding expected impacts. WAI also predicted vibration levels on-site and compared these with "threshold values" associated with adverse effects to fish. This report was received by the state in March of 1999.

FWP does not believe this study addressed all the potential project-related impacts (Bertellotti 1998, Peterson 1999). For example, WAI's literature review contained studies that address avoidance responses of fish to vibrations, rather than the physiological effects on sensitive life stages and spawning and feeding behavior (Popper and Carlson 1998). This is because there is little, if any, existing information on vibration effects to fish in captive (closed system culture) situations where the fish are unable to avoid these conditions. In addition, studies from this review were not being predictive of impacts to MCFH because of differences in species, physical environment, and processes associated with hatchery operations. WAI's study did not address vibration effects to egg/fry survival, forage species (plankton), feeding behavior, fish physiology, cumulative effects of elevated train traffic (Popper, pers. comm. 1999); or other potential impacts resulting from herbicide use, coal dust, interruption of water supplies, derailments, or other

detrimental conditions that may occur. The lack of biological information beyond anecdotal references weakens the WAI study's applicability to the MCFH situation, and was the impetus for the inclusion of this study request.

Before FWP can consider granting TRRC an easement, considerable additional information must be provided. This information is outlined in the study design below.

Justification

This scope of work suggests more detailed studies to determine potential acute, chronic, and sub-lethal effects of TRR operations on MCFH. Vibration studies pose the greatest challenge because of: 1) a lack of data in the literature, 2) logistics and specialized equipment needed to simulate vibrations in situ similar to that experienced by the TRR diversion, and 3) the complexities involving behavioral studies of fish. By comparison, quantifying the effects of herbicides, incidental coal dust, water shortages, and catastrophic events is straightforward because they draw on a more extensive body of existing data has direct implications for fish health and survival, and involves calculations of risk assessment using established formulas.

FWP proposes that an independent third party, such as one or more graduate student projects through a local university or college or other researchers, conduct these studies. The final study plan and data analysis would take place under the supervision of a committee including, one or more fisheries professors with expertise in hatchery management and mitigation requirements, fisheries professionals with comparable hatchery background, and a statistician who could evaluate the study design and aid in the data analysis. By subjecting the study design process to outside scrutiny, FWP hopes to ensure that it will be statistically sound, and will provide much-needed information for other fisheries professionals.

Studies

We have provided general descriptions and preliminary objectives for each aspect of the proposed studies below. The independent researchers will develop the final study design and scope. These studies should cover impacts due to:

- Vibration and sound effects,
- Herbicide applications – *agreement reached*
- Incidental exposure to coal dust – *agreement reached*
- Derailment events and subsequent spills.

Vibration / Sound Effects.

Most fish species have well-developed sensory systems for detecting vibration signals (Parker 1976; Tavolga 1976). The octavolateralis system (ear and lateral line) uses mechanosensory hair cells as the transducing structure for signal detection (Popper and Carlson 1998). Some species possess ears that detect sound frequencies from below 50 Hz to over 2,000 Hz.

Studies that determine acoustic effects on fish have focused on behavioral responses that affect behavior and movement to help fish avoid potentially dangerous environments such as hydroelectric dams (Popper and Carlson 1998). However, there is little information on

immediate and long-term effects where fish are unable to escape from low frequency vibrations such as those from a railroad (A. Popper, pers. comm., 1999).

A comprehensive study is needed to determine vibration effects of the TRR to MCFH fish. Species of primary concern to hatchery operations include walleye, largemouth bass, smallmouth bass, and northern pike. All life stages of these species will need to be assessed (egg, larval fish, fry, fingerling, and adult). In addition, vibration effects on production of natural forage are desired because plankton is the sole food source for most hatchery fish.

Questions to be addressed in vibration studies should include:

- What is the effect of increased exposure due to TRR on MCFH fish?
- Are there species-specific differences in response (behavior, feeding, spawning, egg survival, fry survival)?
- What will be the effect to hatchery production due to increased railroad traffic?
- What are cumulative effects to spawning success of brood stock (where applicable)?
- How does vibration affect egg hatching success, feeding, growth, behavior, and health?
- How will production of plankton communities be affected?

Objective

The objective of the vibration/sound studies is to determine how increased vibration due to TRR will affect the productivity and quality of fish produced at MCFH. Emphasis will be placed on quantifying the cumulative effects to: 1) spawning behavior of brood stock, 2) survival of egg and fry, 3) feeding behavior of fry & fingerlings, and 4) survival and availability of forage (phytoplankton, zooplankton, and macro invertebrate communities).

Description

We propose conducting laboratory experiments on-site that simulate vibration frequencies and duration of TRRC proposed operations. These tests would evaluate impacts to critical life stages (egg development, egg and fry) of target fish species as well as phytoplankton and zooplankton populations. The design of the experiments and number of replicates are directly related to the amount of changes that MCFH finds acceptable. For example, detection levels for small differences (e.g., 10%) require a larger number of replicates than that for large differences (e.g., 30%).

Replicates and controls should be included for each species and life stage. The density, water supply, feed ration, and other regular MCFH conditions would need to be mimicked as closely as possible. If there is large variation in the amount of vibration transmitted to various parts of the hatchery, expanding the study to a blocked design, where levels of vibration will define the blocks, may be necessary.

Data should be analyzed to determine the pattern of survival, production (adult fertility/fecundity), and growth data and whether there are statistically significant differences due to the vibration exposure. Experts in fish physiology and statistics should be consulted as part of the data analysis.

Derailment events

Catastrophic events of concern to FWP include train derailments within the vicinity of MCFH and anywhere upstream where the hatchery's secondary water supply from the Tongue River may be contaminated with potentially hazardous chemicals and materials. Although the risk of derailment associated with a single trip may be minuscule, over the course of a year there can be as many as 4,400 train trips that increase the likelihood. This risk also increases as the number of trains and the loads increase throughout the life span of the railroad.

Derailment may result in a spill of petrochemicals, such as diesel fuel and lubricants, which are harmful to aquatic life and pose a threat to the hatchery operations. Current estimates have been provided for defined sections of the railroad that are of interest to TRRC (Davis 1997). However, should be an assessment of this event as it may affect MCFH. This may result in recommendations for emergency spill response either on-site or at MCFH's intake on the Tongue River.

Questions that should be addressed in derailment studies include:

- What is the risk of derailment, spillage, and contamination associated with TRR operations as it affects MCFH?
- What specific petrochemicals does the railroad carry?
- Are there specific actions that can contain spills and reduce the risk to the hatchery?

Information needed for this study include:

- Estimate of derailments per train miles for TRR from MCFH and upstream,
- Bioassay results for target species and life stages for TRR petrochemicals, and
- Review of containment procedures.

Objective

The objective of an assessment of derailment events should be to determine the probability, extent of spill, and biological effects associated with TRR operations as it affects MCFH.

Description

A review of the literature would provide supporting materials for assessing the biological risk to hatchery fish. Also, the EPA's Oil and Hazardous Materials Technical Assistance Data System (OHMTADS) database would provide concentrations that are detrimental to the four-targeted species for the major petrochemicals associated with the TRR. If a particular hatchery species is not listed, a surrogate species will be used instead.

Suggested Tasks

Literature review on biological effects of petrochemicals & containment techniques
OHMTADS database
Risk assessment

SEA's Response to Comment S3
Montana Fish Wildlife and Parks (December 6, 2004)

S3.1 Comment noted. The word "some" has been deleted (see Chapter 5: Errata, where it references Page 2-1, lines 18-19). It is acknowledged that, even with mitigation, the project would have impacts on the environment. Section 4.3 of the Draft SEIS includes a thorough and detailed discussion of the project's environmental impacts, and sub-section 4.3.2 presents the potential ecological impacts of the proposed rail line. Section 8.0 documents and compares unavoidable adverse environmental effects of the proposed Western Alignment and the approved Four Mile Creek Alternative.

S3.2 The list of species of special concern has been updated with the latest listing from the Montana Natural Heritage Program. Please refer to Chapter 5: Errata, where it references Page 4-13, line 1 for the full text revision to page 4-13 of the Draft SEIS.

Master Response 2, Biological Resources – Conclusions and Mitigation, presents a detailed summary of the analysis, conclusions, and mitigation in the Draft SEIS related to potential effects on biological resources. SEA conducted a thorough analysis to ensure that potential adverse effects are identified and are mitigated to the maximum extent possible.

For a discussion of the broad range of data used in completing the Draft SEIS, please see Master Response 4, Information Used in Preparing the EIS. With regard to federally designated threatened and endangered species, a revised Biological Assessment (BA) was submitted to the U.S. Fish and Wildlife Service (USFWS) in September 2005, and the USFWS issued a Biological Opinion on July 12, 2006. Both of these documents are included in this Final SEIS as Appendix D.

S3.3 As stated in the comment, the Draft SEIS references a broad range of informational sources and analyses, some of which were completed several years ago and some of which were performed recently. Chapter 3 of the Draft SEIS lists all of the new analyses that SEA performed and new data that SEA collected as part of the preparation of the document. As explained in the Draft SEIS, SEA performed these new analyses to confirm whether the physical and/or regulatory setting had changed since the previous analysis was completed, such that new significant effects would result that were not previously identified.

An historical analysis is not necessarily unsuitable or inappropriate for current use, so long as the older data are compared to existing conditions to determine whether the analysis and conclusions are still valid. SEA reviewed all of the available data (current and historical), and relied on updated analyses, where the circumstances warranted, to provide a complete and thorough assessment of the

proposed Western Alignment in comparison to the Four Mile Creek Alternative, and the proposed refinements to Tongue River I and Tongue River II in the SEIS.

For more discussion of the sources used and how these sources contributed to completion of the SEIS, please refer to Master Response 4, Information Used in Preparing the SEIS. Regarding the need for updates to Tongue River I and Tongue River II, please refer to Master Response 16, The Need for a New SEIS.

- S3.4 TRRC's environmental report is part of the public record and is available for review through SEA. Consistent with the Board's practice, information contained in the report was independently reviewed and verified by SEA before any information was incorporated into the Draft SEIS. SEA also conducted additional analyses where appropriate, including all of the studies listed in Chapter 3 of the Draft SEIS.
- S3.5 The comment is concerned with the level of analysis completed for the focused review of Tongue River I and Tongue River II in the SEIS. Section 5.1 of the Draft SEIS lists the additional analyses undertaken to determine whether the proposed refinements to Tongue River I and Tongue River II would result in substantial new adverse effects not previously considered. The additional analyses included an initial analysis of waters of the U.S. and a conceptual habitat mitigation plan, a BA, consultation in support of a revised PA, water quality analysis of Otter Creek and the upper and lower Tongue River, analysis of effects to BLM property, analysis of effects to state-administered lands, and studies of the effects of construction and operation of the rail line on the operation of the Miles City Fish Hatchery.

The level of analysis (including recalculation of wildlife habitat acreages and an updated assessment of potential adverse effects to threatened and endangered species and state species of concern) was appropriate and adequate to allow SEA to determine any change to baseline resources, as well as any impacts from the proposed refinements different than those presented in the EISs for Tongue River I and Tongue River II. Based on the analyses, SEA presented a revised analysis in the Draft SEIS, and is recommending revised mitigation measures to apply to the entire rail line via either the approved Four Mile Creek Alternative or the proposed Western Alignment, if approved.

- S3.6 The commenter is concerned that the information provided by aerial photos and site visits, as discussed in Section 3.3.1, does not provide an adequate basis for concluding that there have been no changes in the baseline environment for Tongue River I since 1985. For a discussion of why aerial photo review is an appropriate methodology for this project, as well as a discussion of other data sources used and details on additional baseline surveys that will be conducted prior to construction, please refer to Master Response 1, Adequacy and Timing of Studies.

S3.7 The potential cumulative effects of the proposed action are documented in Chapter 6 of the Draft SEIS. In preparing the cumulative analysis, SEA considered all reasonably foreseeable developments and considered cumulative impacts on the full range of environmental topic areas. The focus of the analysis in the SEIS has been to assess the potential environmental impacts of Tongue River III, and to determine whether the proposed Western Alignment would result in any greater overall adverse effects than the Four Mile Creek Alignment, which was fully considered and approved in Tongue River II.

It was concluded that the Western Alignment would not result in greater overall environmental effects than the Four Mile Creek alignment. NEPA does not require that prior environmental work be repeated if circumstances have not changed, and cross-referencing the conclusions of prior studies is a common approach used in EIS preparation. A complete list of all sources used by SEA for the Draft SEIS is presented in Chapter 13 of the Draft SEIS and is part of the public record.

S3.8 The commenter expresses concern that no plan exists to mitigate for potential losses to fisheries and wildlife. However, the SEIS includes several recommendations for mitigation measures designed to address potential losses of species:

- Mitigation Measure 24 would require TRRC to comply with terms and conditions set forth in the Biological Opinion issued by the USFWS, on July 12, 2006.
- Mitigation Measure 91 would require that TRRC develop a Compensation Program to ensure that there would be no net loss of wildlife habitat values as a result of this project. Mitigation Measure 32 would require TRRC to identify optimal passage locations for pronghorn antelope to ensure that crossings are constructed in areas of heaviest use.
- Mitigation Measure 14 would establish a task force composed of experts in the areas of biological resources and would include representation from the Montana Department of Fish, Wildlife, and Parks (MT DFWP), Montana Department of Natural Resources and Conservation (MT DNRC), and the USFWS to ensure that the actions taken by the task force are consistent with best practices. Therefore, the measure would not take authority away from the relevant agencies because of their participation on the task force. The task force would remain active for a period of 2 years of rail line operation, or any other period the Board may impose. This provision is intended to provide sufficient time for the task force to ensure that the mitigation measures have been implemented satisfactorily and that unanticipated problems, if any, can be appropriately dealt with.

- Mitigation Measures 86 and 87 (MCFH) would require that TRRC continue consultation with the State of Montana regarding potential effects to the fish hatchery, and adhere to mitigation conditions imposed by the state in issuing an easement across fish hatchery property. A workplan to guide vibration monitoring and the potential effects on fish is included in this Final SEIS as Appendix G.

S3.9 SEA understands that the Tongue River Valley is used by many people for active and passive recreation, and that maintaining public access to the area is important. However, for purposes of public safety and security, SEA believes the right-of-way (ROW) should be fenced off on all land traversed by the railroad, including private, state, and federal lands. Access gates would be provided to landowners at private grade crossings. It would be up to the individual landowners to determine who may utilize the crossings. During construction and operation, only TRRC personnel would have access to areas within the ROW. The public would continue to have access to all block management areas outside the ROW for recreational purposes.

S3.10 As discussed Section 4.2.2.2 of the Draft SEIS, ephemeral (non-perennial) stream ecosystems provide refuge for wildlife and spawning sites for fish, and the Draft SEIS includes several mitigation measures that address potential effects on these ecosystems. For example, Mitigation Measure 46 states that activities involving stream and river crossings would occur during periods of low or no flow in the streams affected. This would reduce the potential for adverse effects on spawning fish. Mitigation Measure 34 requires that TRRC conduct a fish survey and, if necessary, a spawning habitat survey in areas such as intermittent and ephemeral draws that the rail line would cross. Mitigation Measure 49 specifies that culverts would be incorporated into the existing grade of the streambed to avoid, to the maximum extent feasible, changing the character of the streambed and impacting migrating amphibians and reptiles. The potential impacts on these ecosystems as refuge for wildlife would be addressed through recommended Mitigation Measure 91. This measure would require that TRRC use the USFWS Habitat Evaluation Procedures to assess the value of habitat lost and to guide the acquisition of lands designated for replacement habitat.

S3.11 The comment raises concerns regarding sloughing of material; however, slumping (not sloughing) is described as a potential impact. SEA is aware that slumping could contribute to a structural failure of the rail line and an increase in sediment in the Tongue River or adjacent streams.⁶ Due to the potential for such an occurrence, SEA has recommended new mitigation measures in this Final SEIS to address potentially significant effects, including recommended Mitigation Measures 38 and 39, which pertain to geotechnical investigations, soil surveys,

⁶ Slumping is a condition that results when surface or groundwater undercuts and erodes an embankment, causing it to weaken or fail.

slumping preventions, and erosion and sediment delivery. Mitigation Measure 38 identifies actions to be taken by TRRC prior to construction to identify areas where slumping is likely to occur. Based on these investigations, appropriate slope stabilization measures would be employed as part of the construction process, such as the use of flattened slopes, retaining and drainage structures, terracing, and surface water run-off control. Despite these best efforts and because of the sensitivity of the Tongue River, SEA spells out (in new Mitigation Measure 39) the specific actions that TRRC should take in the event that slumping occurs during construction. Based on its analysis of the issue in light of the comment, and inclusion of these new measures in the project, SEA has determined that the potentially adverse effects from slumping would not be significant. Furthermore, SEA concludes that the likelihood of a derailment associated with slumping is very low.

- S3.12 SEA consulted with MT DFWP to obtain updated information on the status of fisheries in the Tongue River Reservoir. According to the Regional Fisheries Manager for Region 7 (Miles City), data from the past 4 years have shown that the northern pike experiencing a resurgence in the reservoir. The text has been revised to omit the prior statement about the northern pike and to update the citation.
- S3.13 Due to the rural nature and often rugged terrain of the project corridor, and access restrictions to private property, there have been limitations on the amount of baseline information that could be collected in preparation of the SEIS. These limitations and SEA's decision to respond by recommending Mitigation Measure 25, which requires that TRRC conduct additional pre-construction surveys, are discussed in Master Response 1, Adequacy and Timing of Studies. As explained in this response, the surveys required as part of a mitigation measure are intended to provide supplemental data to allow existing mitigation measures to be refined by the task force based on the basis of actual site conditions or changes that may have occurred prior to construction. The requirement for these future surveys does not indicate that SEA conducted an insufficient analysis to determine whether or not an adverse effect would occur, as required by NEPA. (See the CEQ Regulations for Implementing NEPA at 40 Code of Federal Regulations [CFR] Section 1502.16.)
- S3.14 The Cumulative Analysis in Chapter 6 of the Draft SEIS discusses each of the issues identified in the comment.

Coal Bed Methane development is discussed in Section 6.5.2 of the Draft SEIS, and further information is provided in Master Response 21, Adequacy of Cumulative Analysis. Potential coal mining is discussed in Section 6.4.3 of the Draft SEIS and in Master Response 21 of this Final SEIS, while increased development other than coal mining, including planned power plants and Custer National Forest timber sales, are discussed in Sections 6.5.1 and 6.5.3, respectively.

S3.15 As indicated in Section 5.3.1 of the Draft SEIS, TRRC has continued to consult with the MT DFWP regarding measures to reduce or avoid impacts to the MCFH. Mitigation Measure 86 requires six months continued consultation to reach resolution on outstanding issues.

The Tongue River Railroad Company has also agreed to implement a work plan to assess potential vibration impacts to the MCFH and the pallid sturgeon in particular. The work plan, entitled “Revised Work Plan for High Resolution Vibration Monitoring, Evaluation of Potential Effects of Tongue River Railroad Construction and Operation, and Potential Mitigation at Miles City Fish Hatchery”, is dated April 13, 2006. A copy of the work plan is included in Appendix G of this Final SEIS. A new mitigation measure (92) has been included in this Final SEIS to require TRRC to implement the work plan.

S4
DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION

EI# 1210



JUDY MARTZ
GOVERNOR

DIRECTOR'S OFFICE (406) 444-2074
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STATE OF MONTANA

WATER RESOURCES DIVISION (406) 444-6601
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1424 9TH AVENUE
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HELENA, MONTANA 59620-1401

December 2, 2004

Attention: Kenneth Blodgett
Surface Transportation Board
Case Control Unit
Washington, DC 20423



Re: STB Docket No. FD 30186 (Sub-No.3)

Dear Mr. Blodgett:

Thank you for the opportunity to review the Draft Supplemental Environmental Impact Statement (SEIS) concerning the construction and operation of the proposed Tongue River Railroad - Western Alignment.

Our comments are as follows:

1. It was noted that the proposed railroad route crosses over Leaf Rock Creek on the northwest side of the Tongue River Reservoir (figure 4-13, page 4-158; Volume I, of the SEIS). It is not very clear from the information, maps and diagrams in the SEIS if the fill area, which appears to be very large for this particular crossing, could affect Tongue River Reservoir storage (i.e. loss of storage due to the fill area being within the post rehabilitation high water level). This issue needs to be addressed before the actual design and engineering work for this crossing is finalized. Any loss of reservoir storage would require mitigation. 1
2. There is a potential for adverse water quality impacts to the Tongue River from the placement of new culverts, crossing and bridges, and the related soil disturbance from the construction. This may cause an increase in erosion, sedimentation and turbidity, and may increase the possibility of violating the new water quality standards set forth in the Tongue TMDL (the TMDL is a water quality enhancement planning process administered by the Environmental Protection Agency, and is required for all waters in Montana classified as impaired). 2
3. The cumulative effects of the railroad construction and operation, along with potential Coal Bed Methane developments in the area may further potentially degrade water quality in the Tongue River. 3
4. The construction will increase the threat of spreading noxious weeds. Noxious weed control must be addressed in both the construction and operation phases of the railroad. 4

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Page 1 of 2

5. The increased road traffic and heavy equipment on the county road along the reservoir will greatly increase the maintenance requirements and will likely damage the road. Any increase in maintenance and damage to the road will need to be mitigated and addressed as part of the final design. 5
6. Wildfire danger will increase along the railroad route. Trains are notorious for starting brush and grass fires. This could negatively impact local and state firefighting resources in the region. 6
7. Air quality may be impacted from increased dust (specifically coal dust). 7
8. There will be an increase in noise from the operation of the trains. This may negatively affect recreational users at the Tongue River Reservoir, which is a very popular recreation site. 8

Please contact me at (406) 444-2932 if you have any questions or wish to discuss our concerns in more detail. Thank you for the opportunity to comment on the Draft SEIS.

Sincerely,



Kevin Smith, P.E.
State Water Projects Bureau Chief
Water Resources Division

Cc: File
Jim Domino, DNRC
Jack Stults, DNRC
Fred Robinson, DNRC
Art Hayes, TRWUA
Keith Kerbel, DNRC

SEA's Response to Comment S4
Montana Department of Natural Resource Conservation (December 2, 2004)

- S4.1 According to information obtained from the MT DNRC Billings office in April 2005, the newly constructed Spillway-Crest Elevation for the Tongue River Reservoir is 3428.4 feet above sea level. The present design for the proposed Western Alignment, as it crosses Leaf Rock Creek (the closest location of the proposed Tongue River Railroad to the reservoir), shows a "toe-of-fill" elevation of 3441 feet above sea level, 12.6 feet higher than the new reservoir spillway-crest elevation. Because the toe of the fill slope for the rail line would be 12.6 feet higher than the spillway-crest, there would be no loss of storage in the reservoir as a result of the project.
- S4.2 SEA is aware that the crossing of streams and the Tongue River, as well as other construction activities, have the potential to adversely affect water quality. The potential impacts related to erosion and sedimentation, and the associated mitigation measures, are discussed in Section 4.3.3 of the Draft SEIS and are further discussed in Master Response 12, Effects of the Project on Erosion and Sedimentation Rates. For a detailed discussion of the project in relation to forthcoming total maximum daily load (TMDL) standards, please refer to Master Response 20, Total Maximum Daily Load (TMDL).
- S4.3 In Section 6.6.4 of the Draft SEIS, SEA acknowledges that coal bed methane development and the proposed project could create cumulative impacts on water quality in the Tongue River. Proposed mitigation measures for the TRRC line, from Miles City to Decker, would address the increased total suspended solids, and require the use of best management practices (BMPs). Moreover, revegetation requirements during construction would significantly reduce sediment erosion and delivery to near existing levels.

On the basis of commonly accepted success ratios for BMPs and erosion control measures, the Draft SEIS notes that sediment delivery resulting from the project could be reduced to near existing levels. As a result, estimated total suspended solids volumes in the Tongue River would be reduced by 50 to 70 percent. See the mitigation measures in Chapter 4, Section 4.3.3.2, "Environmental Consequences – Soils and Geology; Construction-period Impacts." See also Chapter 4, Section 4.3.2, "Environmental Consequences – Biological Resources," for a discussion of mitigation measures designed to promote revegetation.

- S4.4 The spread of noxious weeds is recognized as a potential problem at all construction sites. Accordingly, the SEIS recommends Mitigation Measure 21, which would address the spread of noxious weeds through a rigorous program during construction and operation that would include the use of sterile ballast, weed free seed straw, mulching and hydroseeding materials. Please refer to recommended Mitigation Measure 21 in Chapter 4 of this Final SEIS for the complete text of the measure.

- S4.5 While existing county and state roads would be utilized to some degree during construction of the TRRC line, these roads would not serve as a primary access to the construction area. As stated in Mitigation Measure 54, new access roads would be confined, to the extent possible, to the areas within the 400-foot railroad ROW. Should roads outside the ROW be required, and result in the displacement of land, TRRC would be required to ensure that contractors make necessary arrangements with landowners or affected agencies to gain access from private or public roadways. The access roads would be used only during construction of the railroad grade, after which construction would be confined to the ROW. On the basis of this mitigation measure, SEA does not expect that construction or operation of either the proposed Western Alignment or the Four Mile Creek Alternative would significantly increase the use of public roads or result in related additional maintenance requirements.
- S4.6 SEA acknowledges that operation of the rail line could pose a potential hazard in terms of wildfires. As a result, SEA has developed several recommended mitigation measures intended to reduce the potential for such events and to ensure an effective response in the event that a wildfire does occur. These Mitigation Measures are numbered 9 through 13 and are identified in Section 4.3.1.3 of the Draft SEIS and Chapter 4 of this Final SEIS. Based on the information available to date, SEA preliminarily concludes that the implementation of these mitigation measures would be adequate to ensure that wildfire impacts resulting from implementation of the proposed Western Alignment, or the approved Four Mile Creek Alternative, would not be significant.
- S4.7 As stated in Section 4.3.7.2 of the Draft SEIS, temporary emissions would result from the construction of either the proposed Western Alignment or the Four Mile Creek Alternative. These emissions would primarily include fugitive dust from construction activities and the increased volume of vehicles on unpaved roads. In Tongue River II, the Board adopted mitigation measures to minimize the impacts of fugitive dust. These measures (Measures 69 through 72) would also apply to Tongue River III. SEA believes that the implementation of these measures would be adequate to ensure that impacts of fugitive dust emissions from the construction of either the proposed Western Alignment or the Four Mile Creek Alternative would not be significant.

Coal dust is discussed in Section 4.3.7.3 of the Draft SEIS, and is recognized as a source of fugitive dust emissions related to the operation of the rail line. However, as explained in that section of the Draft SEIS, there is ample evidence that coal, especially dust from the Powder River region, contributes only negligible amounts of dust and that, because of its weight, any dust that does leave the rail car falls to the ground within a very short distance (well within the ROW). Please refer to Section 4.3.7.3 for additional information.

S4.8 The comment raises concerns that project-related noise may adversely affect the outdoor recreational experience at the Tongue River Reservoir State Park. Figure 4-13 in the Draft SEIS shows the camping areas in the park. As stated in Section 4.3.8.3 of the Draft SEIS, the vast majority of visitors to the park congregate at these camp sites for swimming, boating, picnicking, fishing, and camping. Therefore, these sites are the areas that would be most sensitive to noise intrusion from operation of either the proposed Western Alignment or the approved Four Mile Creek Alternative. However, neither alternative would result in significant noise impacts to the sites. As shown on Figure 4-13 of the Draft SEIS, both the proposed Western Alignment and the approved Four Mile Creek Alternative would be, at their closest points, approximately 1.25 miles west of these sensitive areas, which is well outside the 65 A-weighted decibel (dBA) noise contour (see Table 4-37) for either alignment. Therefore, SEA concludes that these recreational areas would not be adversely affected by noise increases associated with the operation of trains on either the proposed Western Alignment or the approved Four Mile Creek Alternative.

Chapter 3: Comments and Responses

Regional and Local Agencies

R1 County of Custer

R2 Miles City Chamber of Commerce

R3 Board of County Commissioners

R4 Minnesotans for an Energy Efficient Economy and Minnesota Center for Environmental Advocacy

R5 Montana Preservation Alliance

L1 City of Miles City

L2 Miles City Area Economic Development Council

L3 Montanans for Responsible Energy Development

L4 Miles City School District

L5 Miles Community College



County of Custer

Custer County Courthouse
1010 Main
MILES CITY, MONTANA 59301

November 16, 2004

Attn: Mr. Kenneth Blodgett
Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

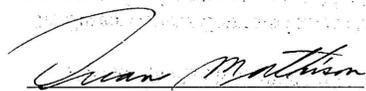
Dear Mr. Blodgett,

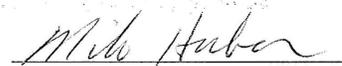
Re: "Draft Supplemental Environmental Impact Statement" Tongue River Railroad STB
Finance Docket No. 30186 (Sub-No.3)

The Custer County Commissioners strongly support the conclusions of the above referenced Environmental Impact Statement on the Western Alignment of the proposed Tongue River Railroad. We see this amendment as an improvement to the whole project, both from environmental concerns and from rail use concerns. The remediation improvements should set well with the impacted property owners of the Tongue River Valley as they only improve upon the existing approved applications.

The timely completion of the proposed Tongue River Railroad and the development of the Otter Creek Coal Tracts can create an "economic boom" in southeastern Montana that will be felt across the state and throughout our school systems. Coal sales and power generation create many well-paying jobs, provide significant new tax base and should at least stabilize, if not improve upon, our eroding population base. The completion of the Tongue River Railroad opens the door to this potential development bonanza.

Again, the Custer County Commissioners strongly endorse this amendment to the existing environmental impact statements. We thank you for the opportunity to comment upon this action.


Duane Mathison
County Commissioner


Milo Huber
County Commissioner

**SEA's Responses to Comment Letter R1
County of Custer (November 16, 2004)**

R1.1 The comment in support of the project is noted.

R2

E#1127



PROUD
PAST



PROGRESSIVE
FUTURE

November 22, 2004

Attn: Mr Kenneth Blodgett
 Surface Transportation Board
 Case Control Unit
 Wahsington, D. C. 20423

Dear Mr Blodgett:

Re: "Draft Supplemental Environmental Impact Statement" Tongue River Railroad STB
 Finance Docket No. 30186 (Sub - No. 3)

The Miles City Area Chamber of Commerce strongly supports the conclusions of the above referenced Environmental Impact Statement on the Western Alignment to the whole project both from environmental concerns and from rail use concerns. The remediation improvements should set well with the impacted property owners of the Tongue River Valley as they only improve upon the existing approved applications.

1

The timely completion of the proposed Tongue River Railroad and the development of the Otter Creek Coal Tracts can create an "economic boom" in southeastern Montana that will be felt across the state and throughout our school systems. Coal sales and power generation create many well-paying jobs, provide significant new tax base and should at least stabilize, if not improve upon, our eroding population base. The completion of the Tongue River Railroad opens the doors to this potential development bonanza.

Again, our organization strongly endorses this amendment to the existing environmental impact statements. We thank you for the opportunity to comment upon this action.

Sincerely,

Linda Wolff
 Miles City Area Chamber of Commerce
 Executive Director

Miles City Area Chamber of Commerce • 511 Pleasant Street • Miles City, MT 59301 • 406/234-2890 • FAX 406/234-6914
 Email - mcchamber@midrivers.com

SEA's Response to Comment Letter R2
Miles City Chamber of Commerce (November 22, 2004)

R2.1 The comment in support of the project is noted.

BOARD OF COUNTY COMMISSIONERS

POWDER RIVER COUNTY
PO Box 270
Broadus, Montana 59317

Fax: 406-436-2151
Phone: 406-436-2657

Ray Traub, Broadus
Betty Aye, Broadus
Nancy Espy, Broadus

November 22, 2004

Att: Kenneth Blodgett
Surface Transportation Board
Case Control Unit
Washington, DC 20423

Re: Draft Supplemental Environmental Impact Statement, Tongue River Railroad STB Finance
Docket #30186 (Sub-# 3)

Dear Mr. Blodgett:

The purpose of this letter is to state our support for the conclusions of the above referenced EIS on the Western Alignment of the proposed Tongue River Railroad. The Western Alignment is, in our opinion, an improvement to the whole project and addresses the environmental and rail use concerns. The remediation improvements should satisfy the impacted property owners of the Tongue River Valley as they only improve upon the existing approved applications.

The timely completion of the proposed Tongue River Railroad and the development of the Otter Creek Coal Tracts can create an economic boom in southeastern Montana that will be felt across the state. Coal sales and power generation create many well-paying jobs, provide significant new tax base and should at least stabilize, if not improve upon, our eroding population base. The completion of the Tongue River Railroad opens the doors to this potential development bonanza.

Again, Powder River County Board of Commissioners strongly endorses this amendment to the existing environmental impact statements. Thank you for the opportunity to comment.

Sincerely,

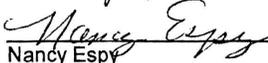
BOARD OF COUNTY COMMISSIONERS
POWDER RIVER COUNTY



Ray Traub, Chairman



Betty Aye



Nancy Espy

1

SEA's Response to Comment Letter R3
Board of County Commissioners (November 22, 2004)

R3.1 The comment in support of the project is noted.

**SURFACE TRANSPORTATION BOARD
SECTION OF ENVIRONMENTAL ANALYSIS**

Tongue River Railroad Company, Inc, Construction and
Operation, Proposed Western Alignment (Tongue River III)
Draft Supplemental Environmental Impact Statement (SEIS)

Docket No. FD-30186-3

**COMMENTS OF MINNESOTANS FOR AN ENERGY-EFFICIENT ECONOMY AND
MINNESOTA CENTER FOR ENVIRONMENTAL ADVOCACY**

Minnesotans for Energy-Efficient Economy (ME3) is a Minnesota non-profit corporation, working in the public interest to increase commitments to renewable energy, energy efficiency in homes, government and business, to protect public health and quality of life, and to promote an energy-efficient economy. Minnesota Center for Environmental Advocacy (MCEA) is a Minnesota non-profit corporation seeking to protect the quality of Minnesota's air and other natural resources. ME3 and MCEA submit the following comments on the Tongue River III Draft SEIS and, in particular, the section within Chapter 6.6.7 Air Quality, entitled **Potential Air Quality impacts within the upper Midwest region.**

The Draft SEIS cites estimates that 30 to 40 million tons of coal would be carried annually on the Tongue River rail line, and that a possible indirect effect of the line is that more mines will open near the rail line or that existing mines will be exploited more rapidly, and that transportation costs for coal could be reduced, or the use of coal as an energy source prolonged over other, less polluting energy sources. Draft SEIS at 6-22.

However, the Draft SEIS stops short of admitting that the project will increase the demand for coal, even though the conclusion is inescapable, as a matter of basic economics. Instead, the Draft SEIS claims that it need not examine the environmental effects of increased

1

coal burning that will inevitably occur as a result of this project (by increasing present supply, lowering cost, stimulating new coal plants, and prolonging the use of coal into the future.) The Draft SEIS avoids such analysis on the grounds that such effects are “speculative” and that the relationship between the approval of the line as a cause of increased pollution and the effect is not sufficiently close or proximate, citing Department of Transportation v. Public Citizen 124 S. Ct. 2204: U.S. Lexis 4027 at 27. (“Public Citizen”). As discussed here in, Public Citizen is not apposite.

1 cont.

The draft SEIS ignores the recent (one year ago) decision of the Eighth Circuit Court of Appeals, which reversed and admonished this same agency, in the case reviewing the EIS for the Dakota, Minnesota & Eastern Railroad Corporation’s (DM&E) proposal. In that case, Mid States Coalition for Progress v. Rochester Area Chamber of Commerce et al. (“Mid States Coalition”) 345 F. 3d 520 (8th Cir. 2003), the court responded to a position of the STB’s Section of Environmental Analysis (“SEA”) identical to that set forth in the Draft SEIS here, that the increased use of coal is “speculative” and that the demand for coal will be not be sufficiently affected to require an environmental analysis. In dismissing that argument, the Eighth Circuit wrote:

2

But the proposition that the demand for coal will be unaffected by an increase in availability and a decrease in price, which is the stated goal of the project, is illogical at best. The increased availability of inexpensive coal will at the very least make coal a more attractive option to future entrants into the utilities market when compared with other potential fuel sources, such as nuclear power, solar power, or natural gas. Even if this project will not affect the short-term demand for coal, which is possible since most existing utilities are single-source dependent, it will most assuredly affect the nation’s long-term demand for coal as the comments to the DEIS explained.

Id. at 549.

Quoting the regulations of the Council on Environmental Quality (“CEQ”) which require an examination of “indirect effects” defined as those which are “reasonably foreseeable,” the

court opined that the regulation “leaves little doubt that the type of effect at issue here, degradation in air quality, is indeed something that must be addressed in an EIS if it is ‘reasonably foreseeable’”. *Id.* The court responded to the SEA’s “speculative” argument by saying that even if the extent of the increased use of coal is speculative (noting without deciding the issue that there is a dispute about that), the “*nature* of the effect . . . is far from speculative . . . it is reasonably foreseeable—indeed it is almost certainly true—that the proposed project will increase the long-term demand for coal and any adverse effects that result from burning coal.” *Id.* The court noted that “when the *nature* of the effect is reasonably foreseeable but its extent is not, we think that the agency may not simply ignore the effect.” *Id.* The court also noted that the parties had identified computer models that are widely used in the electric power industry to predict the need for generation resources to meet customer needs, which could be used to forecast the effects of the project on the consumption of coal. *Id.* at 550. The same is true here, and such models are discussed below.

2 cont.

The Draft SEIS for Tongue River III also seeks to avoid an analysis of air emissions by taking the same position SEA did in the DM & E case, that since emissions from coal-fired power plants are limited by each state’s SIP, “Board-issued construction authority, such as for TRRC, would not raise the level of airborne pollutants emitted from coal-burning power plants above state caps.” Draft SEIS at 6-21. In response to SEA’s argument in Mid States Coalition, the Eighth Circuit wrote: “SEA’s ‘assumption’ may be true for those pollutants that the amendments have capped (including, as we have said, sulfur dioxide) but it tells the decision-maker nothing about how this project will affect pollutants not subject to the statutory cap. For the most part, SEA has completely ignored the effects of increased coal consumption and it has made no attempt to fulfill the requirements laid out in the CEQ regulations.” Mid States

3

Coalition, 345 F.3d at 550. The pollutants of principal concern that are not subject to the same cap as sulfur dioxide are mercury and carbon dioxide, both of which result in harmful quantities primarily from the burning of coal. The observations made by the Eighth Circuit in dismissing SEA’s “caps” arguments are applicable here, and it is remarkable that this agency, faced with the identical issues, has decided completely to ignore the Eighth Circuit’s decision, reasoning and advice, as if the DM&E case had never happened. Our legal system, rooted as it is in the doctrine of *Stare Decisis*, does not permit such a struthious approach.

3 cont.

Moreover, the Draft SEIS does not consider the cumulative effects of this project, of 30-40 million tons of coal annually, when coupled with the effects of the DM &E proposal to construct 280 miles of new rail line from Wyoming’s Powder River Basin and to upgrade 600 additional miles, in order to transport approximately 100 million tons of coal annually to many of the same markets that will also be served by Tongue River III project.

4

The attempt of the SEA to ignore the DM & E case and to avoid an environmental analysis of air impacts of the proposed action of the STB in approving the proposed rail line by relying upon Public Citizen is off the mark on several grounds. First, the agency in Public Citizen was merely establishing safety regulations, not approving or evaluating a specific project as the STB is doing here. Second, the Court in that case was only examining the threshold question of whether the agency action was a “major federal action” affecting the environment, thus triggering the obligation to prepare an EIS. Here, an EIS is indisputably required, and the STB action is a major federal action, requiring an EIS because of its environmental effects. Here, the only question then becomes, what are the effects which are attributable to the major federal action that must be discussed. That issue is settled here by Mid-States Coalition, in which it was

held that the indirect effects of increased coal usage as a result of the approval by the STB of a new rail line must be examined in an EIS.

Finally, Public Citizen is factually distinguishable since the agency in that case had no authority to take or refuse to take an action which would have the environmental effects complained of. Thus the environmental effects in question, entry of Mexican trucks into the United States with attendant increased emissions, could not be prevented by the agency action or inaction. In fact, the increase in trucks would result from the lifting of the Congressional moratorium by the President. The court concluded, in a narrow finding:

We hold that where an agency has no ability to prevent a certain effect due to its limited statutory authority over the relevant actions, the agency cannot be considered a legally relevant "cause" of the effect. Hence, under NEPA and the implementing CEQ regulations, the agency need not consider these effects in its EA when determining whether its action is a "major Federal action."

Public Citizen, 124 S.Ct. at 2217 (emphasis added).

Thus, Public Citizen has a narrow holding and is based on different and unique facts, and cannot be extrapolated to the current fact situation. Here, the STB does have the authority and discretion to approve or disapprove the proposed line, and a decision to approve it really will result in 40 million tons of coal a year entering the market, lowering the price of coal, stimulating the construction of new coal-fired plants, prolonging the use of coal as a principal energy source and increasing by many millions of tons the amount of carbon dioxide and other pollutants entering the atmosphere and remaining there for hundreds of years.

Assessing the Environmental Impact of Tongue River III

The effects of burning coal, the hauling of which will be made possible by this line are staggering. The burning of 40 million tons of coal per year will produce approximately 164

4 cont.

5

billion pounds of carbon dioxide per year.¹ The sheer mass of coal to be transported by this line is huge by itself, and becomes gigantic when viewed in concert with the 100 million ton per year DM & E proposed rail line. The amount of carbon dioxide air emissions facilitated by these projects is more than the emissions of many countries. To put this line and the DM & E line in context, since they should be analyzed together, the effect of one hundred forty million tons of coal per year delivered to power plants would be enough to fuel approximately 153 coal-fired generating units at an average size of 300 MW, and a potential increase in the use of coal as an energy source in the United States from its present 68 percent to almost 80 percent.²

5 cont.

In addition to increased emissions of carbon dioxide, the increased use of coal, which will result from the approval of the Tongue River III line will also cause increased emissions of mercury. Coal-burning power plants result in about 40 percent of the mercury emissions in the U.S. See, October 2003, Northeast States for Coordinated Air Use Management, *Mercury Emissions from Coal-Fired Power Plants, The Case for Regulatory Action*³. The relative contribution of power plants is increasing compared to other sources, which have been required to be reduced. *Id.* Airborne mercury in power plants have already raised the levels of mercury in fish in Minnesota lakes, for example, to the point where it cannot be eaten safely more than once a month by women of child-bearing age and children. Chronic low dose exposure to mercury by

¹ The emissions for the 40 million tons of coal carried on the coal train each year is calculated as follows: 40 million tons of coal/year x 20 MMBTU/ton of coal x 205 lbs of CO₂/MMBTU = 164 BILLION lbs of CO₂/year. Technical assistance in preparing these comments was provided by Bruce Biewald, President of Synapse Energy Economics, Inc.

² The assumptions for this calculation are as follows: Heat content of coal at 20 MMBtu/ton. Average heat rate of 10,000 Btu/kWh. Capacity factor of 70% (roughly the national average for coal generators). The calculation is as follows: (40 million tons/year) x (20 MMBtu/ton) / (10 MMBtu/MWH) / (8760 * 0.7 MWH/year/MW) = 46 thousand MW.

³ This report can be found at <http://bronze.nescaum.org/airtopics/mercury/rpt031104mercury.pdf>.

pregnant mothers has been shown to cause abnormal brain and nervous system development in newborns.

5 cont.

Computer models for the purpose of forecasting the location and amount of the increased emissions are available. The National Energy Modeling System (NEMS) is a forecasting model developed and maintained by the Energy Information Administration of the U.S. Department of Energy to provide projections of energy-economy markets in the U.S. and to perform policy analysis. The Integrated Planning Model (IPM) is a large-scale model, which can simulate plant dispatch at various levels for all regions of the U.S., and has the capability to forecast energy usage.⁴

6

Tongue River III's Impacts in Context

The potential vast increase of coal for an energy source that could occur in the next few decades in the U.S. has not gone unnoticed in the national press, and each of the major publications that have published a story on the subject have observed the role that the low price and availability of coal is playing and will continue to play in stimulating the construction of new power plants. For example, the Christian Science Monitor, in an article published on February 26, 2004, noted that least 96 new plants that are now being planned privately have not reached the public stage, and most state and local officials, not to mention environmental groups and the general public, are unaware of the private plans. Robert McIlvaine, president of a Northfield, Ill., company that tracks energy industry developments, is quoted as stating:

7

...if 50 of the 94 planned projects are built, they would add roughly 30 gigawatts or 10 percent of base load generating capacity nationwide. Using industry rules of thumb, he estimates coal consumption would rise about 10

⁴ These models and others are discussed more fully at Keith and Biewald, "Predicting Avoided Emissions from Energy Policies that Encourage Energy Efficiency, and Clean Power", p. 23, 29. Prepared for the Ozone Transport Commission, June, 2002 by Synapse Energy Economics, Inc. Download: <http://www.synapse-energy.com/Downloads/report-otc-avoided-emissions-report.PDF>.

million tons, or 1 percent, from today's 1 billion tons annually. That, in turn, would add 120 million cubic feet of exhaust gases from the stacks every minute of every day for decades to what is currently vented.

An article in the New York Times for November 20, 2004, reports that more new coal plants have been announced in the past twelve months than in the past twelve years, and that among the reasons for the resurgence of coal is the support of the present administration, of which this agency is of course a significant part.

The electricity industry's back-to-the-future approach to coal is soon expected to pit dozens of communities around the country against energy companies that are planning coal-based expansion strategies in their midst. The Bush administration has significantly shifted policy away from three decades of federal efforts to reduce the nation's dependence on coal, which is significantly cleaner than it once was, but still dirtier than natural gas. Now the administration is supporting the push for a new wave of coal-fueled energy, with the Energy Department investing \$2 billion in ventures intended to make coal less polluting. But until coal-fired plants become even cleaner, clashes over their impact on air quality are expected to multiply. Because of restrictions elsewhere, many coal-fired power plants will be put in places with pristine air quality and relatively relaxed pollution restrictions.

7 cont.

The comparatively low price of coal is cited in the article as one of the significant causes of the phenomenon, since the cost of coal to produce a kilowatt hour of electricity is about two cents while the comparable price for natural gas, with a recent significant increase, is five cents per kilowatt hour.

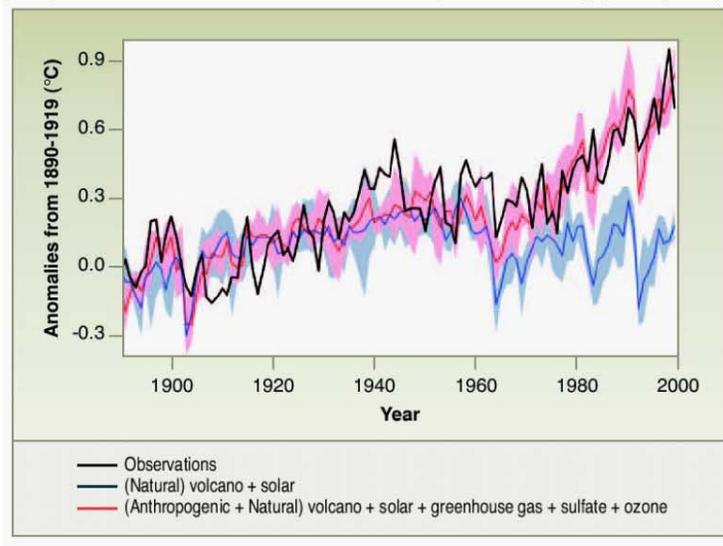
In August, 2004, a report entitled "Our Changing Planet, The U.S. Climate Change Science Program for 2004 and 2005," was presented to Congress by Donald Evans, Secretary of Commerce, Spencer Abrahams, Secretary of Energy, and John Marburger, Director of the Office of Science and Technology Policy.⁵ The report represents the first acknowledgment by the current administration that human-caused emissions are causing the temperature to rise. Tucked away on page 47 of the report is a statement that says, in effect, that human caused emissions have caused the global temperature to rise since about 1970 above the temperatures that would

⁵ The report can be found on the web at <http://www.usgcrp.gov/usgcrp/Library/ocp2004-5/ocp2004-5.pdf>.

have been caused by natural causes such as solar changes and volcanoes. Computer models of climate match the observations only when natural and human “forcings” are included in the models. The human forcings are responsible for most of the rapid warming 1970-2000. The report states at page 47:

The simulations show that observed globally averaged surface air temperatures can be replicated only when both anthropogenic forcings—for example, greenhouse gases—as well as natural forcings such as solar variability and volcanic eruptions are included in the model. These simulations improve on the robustness of earlier work. Comparisons of model results with observations indicate that regionally concentrated increases in precipitation can occur as a function of variability in solar forcing (see Figure 9).

7 cont.



In the above graphic, Figure 9 of the report, the solid black line represents actual temperatures as observed in the times shown. The bottom group of data, blue, represents simulations of climate using only natural causes, such as volcanoes or sun activity, while the top group of data show includes “anthropogenic forcings” such as the emission of greenhouse gases from coal-fired power plants, as well as the natural causes. The line for actual temperature, as

observed, cannot be explained without taking into account, the human generated causes. *Id.* at 47.

The report also notes that the oceans are heating up, that the salinity of the Atlantic and other oceans is changing, and that a growing body of evidence suggests that such changes are linked to global climate change. Moreover, sea level rises are acknowledged to be attributable to melting of the polar ice sheets and thermal expansion of sea water. *Id.* at 46. The future effects of climate change have been well documented by numerous scientific studies, in particular the Intergovernmental Panel on Climate Change of the United Nations. It is also beyond any question that the country that contributes the greatest volume of air emissions, and in particular the greenhouse gases of which carbon dioxide is the principal agent, is the United States and that the greatest single category of contributors of carbon dioxide in this country is our coal-fired power plants.

7 cont.

CONCLUSION

The conclusion is inescapable that looming on the horizon is a potentially huge expansion of the nation's use of coal, driven by government policies and economics. This proposed rail line is directly linked to the economics of the use of coal as fuel, by making it more readily available at a low price. It is thus directly linked to a potential increase in coal use and emissions from coal-fired power plants. Yet the effects on the air of burning significantly more coal, particularly the increase in carbon dioxide and mercury emissions which will result, is largely being ignored.

8

To move forward with federal actions such as the approval of the Tongue River line without addressing impacts of increased use of coal, and increased carbon and mercury

9

emissions, as well as the combined massive effect of this line and the pending DM & E line, makes a mockery of the National Environmental Policy Act.

In light of the foregoing, the Final Supplemental Environmental Impact Statement for the Tongue River III project must contain a thorough discussion of the potential increase in air emissions that will occur over time as a result of the increased availability of Powder River Basin coal, both as a result of the proposed approval of the Tongue River III project, and of the cumulative effect of that project combined with that of the pending DM & E project.

9 cont.

Dated: December 6, 2004

Respectfully submitted,

Elizabeth Goodpaster /s/
Charles K. Dayton
Elizabeth I. Goodpaster
Minnesota Center for Environmental Advocacy
26 Exchange Street E., Suite 206
Saint Paul, MN 55101
651-223-5969

Michael Noble
Minnesotans for an Energy-Efficient Economy
46 E. Fourth Street, Suite 600
Saint Paul, MN 55101
651-225-0878

**SEA's Response to Comment Letter R4
Minnesotans for an Energy Efficient Economy and Minnesota Center for
Environmental Advocacy (December 6, 2004)**

The comments expressed in this letter are addressed in master response 23: Cumulative Air Quality Analysis.



December 6, 2004

Surface Transportation Board
Case Control Unit
Washington, DC 20423
STB Docket No. FD 30186 (Sub-No. 3)

DEC 15 2004
RECEIVED

To Whom It May Concern:

President
Jim McDonald, Missoula

Vice-President
Christine W. Brown, Helena

Secretary
Dorj Skrukrod, Butte

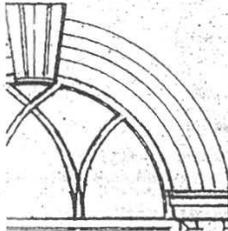
Treasurer
Mara-Gai Katz, Bozeman

Directors
Patricia Boyle, Great Falls
Ann Clancy, Billings
Ellen Crain, Butte
Liza Nicholas, Bozeman
Bruce Selyem, Bozeman

Ex Officio
Barbara Pahl, Denver
Sarah Hanson, Denver
Rolene Schliesman, Helena

Executive Director
Chere Jiusto, Helena

516 North Park, Suite A
Helena, Montana 59601
Tel. 406-457-2822
www.preservemontana.org
e-mail: preservemnt@qwest.net



We write to express concern over the proposed Western Alignment of the Tongue River Railroad (TRR III). As an organization that represents statewide interests in preserving the culture and heritage of Montana, MPA has been involved in issues in the valley for the past few years. And we are urgently concerned that the Tongue River Valley, and the Native American and traditional ranching communities that live there, not be sacrificed to the interests of energy and railroading.

The Tongue River Valley is well known as a region of high cultural and historic significance, on local, state and national levels. Thousands of years of history are reflected in the drainage by a high density of sites that reflect the diverse human history in the valley. From the pre-contact period, rock art, buffalo jumps, fasting beds, tipi rings, medicine wheels, burial sites, rock quarries and vision sites comprise a rich physical record of the ancient history of the region's *First Peoples*. From the late 19th - early 20th century settlement period, family farms and ranches with a wealth of stone, log and wooden buildings reflect more than a century of agriculture along the Tongue River. And from the latter 19th century, there are battlefields and other sites that reflect the turbulence of cultural migrations and conflict, both between indigenous cultures, and between Plains tribes and the US Army.

Among the latter are such nationally-exceptional sites such as those associated with the Great Sioux Wars campaign of 1876-77. As the U.S. Army pursued the Sioux and Cheyenne from Rosebud Battlefield to Little Big Horn and on to the Wolf Mountains, they came directly through this valley. Sites of National Historic Landmark significance such as the Wolf Mountains Battlefield may well lie directly within the proposed railroad corridor.

Remote and undisturbed, the sites within the Tongue River valley retain exceptional levels of preservation and integrity. With a way of life uninterrupted by modern intrusions, the Tongue River landscape has changed little over time. Today, a 90-mile gravel road is still the only travel route through the valley, the land is unbroken, traditional native sites are still in use, and historic ranches remain within the original families who are raising cattle and horses in patterns unbroken since the settlement of these western plains.

With this in mind, it is imperative that cumulative effects of all proposed undertakings within the valley be studied together, for the impacts will be considerable. This includes the comprehensive impact of the entire railroad project, not just the western alignment. As well, the impacts of energy development must be included in that evaluation. With coalbed methane leases issued throughout the valley by BLM and

1

2



MONTANA
PRESERVATION
ALLIANCE

other agencies, and additional leases soon by the Custer National Forest, the entire landscape is threatened by widespread industrialization.

2 cont

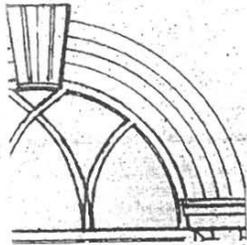
An overview of the historic themes and contexts for the valley has yet to be developed. This level of documentation, along with anticipated property types and potential historic districts is critical to ensure adequate protection of public resources in the valley. A tool of this nature would facilitate responsible cultural resources management and avoid undue impacts to sensitive historic and cultural sites.

3

And finally, the potential impacts to cultural resources and the lives of people in this valley must be weighed against the plan to build this rail line. Meaningful alternatives must be explored in an open public process that allows the people of this valley and of Montana to have a meaningful voice in their future.

Thank you for the opportunity to comment,

Chere Jiusto
Executive Director



**SEA's Response to Comment Letter R5
Montana Preservation Alliance (December 6, 2004)**

- R5.1 Comment noted. SEA acknowledges that the area contains several sites with cultural resources historical significance. A discussion of such sites can be found in Section 4.2.5 of the Draft SEIS. Regarding the Wolf Mountain Battlefield (also known as the Battle at Belly Butte or Miles' Fight on the Tongue, 24RB787), both the approved Four Mile Creek Alternative and the proposed Western Alignment begin immediately to the west of the site. As documented in Section 4.3.5.2 of the Draft SEIS, the site has significant, rare, and irreplaceable historical and cultural value of national significance, and was placed on the National Register of Historic Places (NRHP) in 2001. Neither alignment would directly disturb this site, but both could have a visual effect. Therefore, a method to mitigate the adverse effect of construction of the rail line on this site would be required under the Programmatic Agreement (PA). The boundary of the Wolf Mountains Battlefield in relation to the rail alignment is shown in Figures A-71 to A-73 in Appendix A of this Final SEIS.
- R5.2 The cumulative analysis in Chapter 6 of the Draft SEIS discusses other projects that could, in combination with either the proposed Western Alignment or the Four Mile Creek Alternative, have cumulative effects on the Tongue River Valley. The projects and actions discussed include power plant projects, coal bed methane gas well projects, Custer National Forest Timber Sales, and the Northern Cheyenne Tribe Tongue River Watershed Conservation Plan. For additional information, see Master Response 21, Adequacy of Cumulative Analysis.
- R5.3 Public hearings were held on November 16 and 17, 2004 in Miles City and Ashland, respectively. Public comments on all aspects of the Draft SEIS were solicited at these meetings, and attendees were allowed to speak openly about their feelings on the project.



CITY OF MILES CITY

17 S. 8th, P.O. Box 910
Miles City, MT 59301

Telephone: (406) 232-3462
Fax: (406) 232-2903

November 12, 2004

Attn: Mr. Kenneth Blodgett
Surface Transportation Board
Case Control Unit
Washington, D. C. 20423

Dear Mr. Blodgett:

Re: "Draft Supplemental Environmental Impact Statement" Tongue River Railroad STB Finance
Docket No. 30186 (Sub - No. 3)

The City of Miles City strongly supports the conclusions of the above referenced Environmental Impact Statement on the Western Alignment of the proposed Tongue River Railroad. We see this amendment as an improvement to the whole project both from environmental concerns and from rail use concerns. The remediation improvements should set well with the impacted property owners of the Tongue River Valley as they only improve upon the existing approved applications.

1

The timely completion of the proposed Tongue River Railroad and the development of the Otter Creek Coal Tracts can create an "economic boom" in southeastern Montana that will be felt across the state and throughout our school systems. Coal sales and power generation create many well-paying jobs, provide significant new tax base and should at least stabilize, if not improve upon, our eroding population base. The completion of the Tongue River Railroad opens the doors to this potential development bonanza.

2

Again, our organization strongly endorses this amendment to the existing environmental impact statements. We thank you for the opportunity to comment upon this action.

Sincerely,

C. A. Grenz
Mayor

CAG:mjr

**SEA's Response to Comment Letter L1
City of Miles City (November 12, 2004)**

L1.1 The comment in support of the project is noted.

L1.2 The comment in support of the project is noted.

Miles City Area Economic Development Council, Inc.

511 Pleasant Street
Miles City, Montana 59301

Phone (406) 234-2705
Fax (406) 234-6914

November 16, 2004

Mr. Kenneth Blodgett
Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

Dear Mr. Blodgett:

Re: Public Hearing on Draft Supplement Environmental Impact Statement – Tongue River Railroad
STB Docket No. FD 30186 (Sub – No. 3)

The Miles City Area Economic Development Council stands in support of this Draft Supplemental EIS and the improvements to the Tongue River Railroad alignment contained therein. We believe that the project is improved both environmentally and service wise through these remediation efforts.

1

Miles City, Southeastern Montana and the State of Montana all stand to gain from the development of this railroad and the natural resources (coal) that will be accessible and economically viable to develop as a result of this proposed railroad. We have been waiting over 26 years to see this happen.

The economy of Eastern Montana is largely dependent upon agriculture and in some instances limited natural resource development in coal and oil. The communities that have benefited from natural resource development are the only communities that are thriving. The rest of our counties have lost 25-30% of their population since 1970 and have seen their average age of population move up almost 10 years. We are losing our young people. We are having trouble keeping our towns afloat because of this lack of economic activity and related loss of population and tax base.

2

We see the development of the Otter Creek Coal Tracts, which will happen if the Tongue River Railroad is completed, as a means of stabilizing our economies. Coal-fired power plants should follow the accessing of these coal tracts which will provide the new well paying jobs, tax base and diversification we need in Eastern Montana. Our economic advantage lies in the responsible development of our natural resources.

Thank you for the opportunity to comment upon this Draft Supplemental EIS.

Sincerely,



Tom McKerlick
Executive Director

**SEA's Response to Comment Letter L2
Miles City Area Economic Development Council (November 16, 2004)**

L2.1 The comment in support of the project is noted.

L2.2 The comment in support of the project is noted.

Montanans for Responsible Energy Development "The Grassroots Energizing Montana"

511 Pleasant Street
Miles City, MT 59301

November 16, 2004

Mr. Kenneth Blodgett
Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

Dear Mr. Blodgett:

Re: Public Hearing on "Draft Supplemental Environmental Impact Statement"
Tongue River Railroad
STB Finance Docket No. 30186 (Sub - No. 3)

Montanans for Responsible Energy Development are united in support of the proposed Western Alignment and other remediation measures that are a part of the above Draft Supplemental Environmental Impact Statement. From our position, it seems that the Tongue River Railroad Project is only enhanced by these measures and should be even more acceptable to the residents of this area. Further study of the area around the Miles City Fish Hatchery would also not seem necessary based on the distance between the proposed rail line and the hatchery site. The current BN line is closer and has not seemed to compromise the development of this fish hatchery.

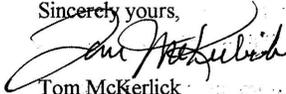
1
2

We believe this rail project should move forward without delay due to the coal development potential opened up by its completion. Southeastern Montana desperately needs this coal development, potential power development, new tax base and new well-paying jobs to keep our communities viable. Without this project, we will continue to lose our young people, our communities and our schools.

3

We believe this action represents the potential for further "responsible" energy development in Montana. We have spent 25-30 years getting this far, it is time to move ahead.

Sincerely yours,



Tom McKerlick
Secretary/Treasurer

**SEA's Response to Comment Letter L3
Montanans for Responsible Energy Development (November 16, 2004)**

L3.1 The comment in support of the project is noted.

L3.2 The comment in support of the project is noted.

L3.3 The comment in support of the project is noted.



COMMENT CARD

There are three ways to submit comments on the Tongue River III Draft Supplemental Environmental Impact Statement.

1. Provide verbal comments at this public meeting (all verbal comments will be transcribed),
2. Submit written comments to the address shown below, or by placing this comment card in the comment box located at the sign-in area; or
3. Submit your comments electronically at the Surface Transportation Board's website, www.stb.dot.gov.

NAME: Jack Regan

ADDRESS: 1604 Main Street
Miles City, MT 59301

TELEPHONE: 406-234-3840

DATE: December 2, 2004

COMMENT: I would like to go on record as supporting the Tongue River Railroad Supplemental Environmental Impact Statement concerning the west 4-mile alignment that was recently discussed at a public hearing in Miles City on November 16, 2004.

I am the Superintendent of Schools for the Miles City School District and this project, the Tongue River Railroad would be of great economic value to Miles City and Custer County and especially the school district. We are a very poor district in terms of taxable valuation. Anything that would add jobs and tax base to our district would be of great value to us and allow us to do many improvements to our infrastructure.

This railroad would add to the economic growth and stability of Miles City and Custer County not to mention all of southeastern Montana and the entire state of Montana. This project has the potential to access the coal reserves at Otter Creek and this railroad being a very important link in the development of those natural resources.

Again, I want to say on behalf of myself and the Miles City School District, we whole heartily support the Environmental Impact Statement concerning the Tongue River III Draft on the west 4-mile alignment.

When submitting comments please be as specific as possible and substantiate your concerns and recommendations.

Please use the reverse side or attach any additional pages.

To submit comments by mail, send to:
Surface Transportation Board
Case Control Unit
Washington, DC 20423
Attn: Kenneth Blodgett, STB Docket No. FD 30186 (Sub-No. 3)

**SEA's Response to Comment Letter L4
Miles City School District (December 2, 2004)**

L4.1 The comment in support of the project is noted.

2715 Dickinson
Miles City, MT 59301
www.milesc.edu



(406) 874-6100
Fax: (406) 874-6282
*Equal Opportunity in
Education and Employment.*

November 26, 2004

Mr. Kenneth Blodgett
Surface Transportation Board
Case Control Unit
Washington, D.C. 20423

Dear Mr. Blodgett:

I am writing in regard to the *Draft Supplemental Environmental Impact Statement* "Tongue River Railroad STB Finance Docket No. 30186 (Sub—No. 3) and the potential it will bring to southeastern Montana if implemented.

The timely completion of the proposed Tongue River Railroad and the development of the Otter Creek Coal Tracts can create an "economic boom" in southeastern Montana that will be felt across the state and throughout our school system, including Miles Community College. Coal sales and powers generation create many well-paying jobs; provide a significant new tax base; stabilize, if not improve, our eroding population base; and provide opportunities for workforce development through Miles Community College. Thus, the completion of the Tongue River Railroad opens the doors to a new future for many people living in and coming to eastern Montana.

1

Miles Community College is a two-year public institution committed to providing a quality learning environment with outstanding teaching; seeking partnerships to strengthen programs and services aimed at helping learners succeed at their chosen goals; serving as a facilitator of economic development through workforce training and continuing education; and strengthening our connections to community, professional, and educational entities.

We believe that Miles Community College can play an important role in the development of the Tongue River Railroad and various peripheral developments. We believe we can do this through the potential workforce development/programming for not only the workers and their families, but also for those who participate in the development of the coal and power generation activities and for those who remain and come to eastern Montana to work on and maintain these various projects.

2

Miles Community College is well-position to offer training programs to you and other development groups. If we can be of further assistance, please contact me at 406.874.6158 or e-mail: hammond@milesc.edu. Our website is www.milesc.edu.

Sincerely,

Darrel L. Hammon, Ph.D.
President

Start Here... Go Anywhere.

**SEA's Response to Comment Letter L5
Miles Community College (November 26, 2004)**

L5.1 The comment in support of the project is noted.

L5.2 The comment in support of the project is noted.