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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 8, MONTANA OFFICE  
FEDERAL BUILDING, 10 West 15<sup>th</sup> Street, Suite 3200  
HELENA, MONTANA 59626

Ref: 8MO

November 7, 2006

Ms. Victoria Ruston  
Section of Environmental Analysis  
Surface Transportation Board  
STB Docket No. FD 30186 (Sub-No. 3)  
1925 K Street, NW  
Washington, D. C. 20423-000

Re: CEQ 20060428; Final Supplemental EIS for  
Tongue River Railroad - Western Alignment

Dear Ms. Ruston:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U. S. Environmental Protection Agency, Region VIII, Montana Office (EPA) has reviewed the Final Supplemental Environmental Impact Statement (FSEIS) for the Tongue River Railroad Company (TRRC) - Construction and Operation - Western Alignment - Tongue River III in Rosebud and Big Horn Counties, Montana.

We appreciate the inclusion in the FSEIS of responses to EPA's comments and the comments of other agencies and the public, as well as the revisions made to improve the recommended mitigation measures. We are pleased that the recommended mitigation measures have been revised/improved to better address environmental concerns, particularly the following mitigation measure revisions:

Mitigation Measure 22 will assure that the Detailed Habitat Mitigation Plan will replace lost wetland functions and values, and shall include monitoring and long-term management and protection goals and objectives, and a commitment to conduct additional work, if required, to meet the goals of the Plan.

Mitigation Measure 41 requires conduct of a pre-construction assessment of sediment delivery and conformance with pending or completed TMDLs and associated water quality restoration plans for segments of the Tongue River, as well as Tongue River Reservoir, Hanging Woman Creek, Otter Creek and Pumpkin Creek that are listed by the Montana DEQ as water quality impaired under Section 303(d) of the Clean Water Act.

Mitigation Measures 34 through 51 address many other sediment and erosion control requirements and other measures to reduce adverse impacts to water quality and aquatic habitat.



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Mitigation Measure 24 requires adherence to all terms and conditions set forth in the July 12, 2006 U.S. Fish & Wildlife Service Biological Opinion for protection and conservation of the bald eagle, whooping crane, black-footed ferret, pallid sturgeon, and interior least tern.

Mitigation Measure 62 addresses spill prevention requirements including measures to prevent contamination of ground and surface waters, and the BMPs to be used in and around rail yards.

Mitigation Measures 84, 87 and 92 require that concerns of the Montana DFWP be addressed in regard to railroad impacts on the Miles City Fish Hatchery, including requiring monitoring and evaluation of vibrational effects to the hatchery. Although we believe that Mitigation Measure #87 should require TRRC to meet all Montana DFWP mitigation conditions, and not only the conditions TRRC considers to be "reasonable."

Mitigation Measure 21 for noxious weed control shall focus on non-herbicide treatments first, and mechanical weed removal near watercourses where feasible, and where herbicides are used, assure that herbicides are used according to the label specifications.

Mitigation Measure 90 requires protection of paleontological resources.

Mitigation Measure 91 requires compensation for lost wildlife habitat.

While we are pleased that revisions have been made to improve the Surface Transportation Board's recommended mitigation measures, the EPA still has environmental concerns in regard to Tongue River Railroad construction and operational impacts to water quality and aquatic habitat, including wetlands; wildlife habitat; air quality; and cultural resources; and the overall cumulative impacts to the environment and to Tribal Trust resources likely to result from expanded coal development induced or facilitated by the Tongue River Railroad.

We appreciate the opportunity to review and comment during the EIS process. If you have any questions please contact Mr. Steve Potts of my staff in Helena at (406) 457-5022 or in Missoula at (406) 329-3313.

Sincerely,



John F. Wardell  
Director  
Montana Office

cc: Larry Svoboda/Julia Johnson, EPA, Denver, 8EPR-EP