



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

EO-1512
KB

Office of Environmental Analysis

September 16, 2010

Mr. Doug Day
Tongue River Railroad Company
2280 Grant Road, Suite B
Billings, MT 59102

**SUBJECT: Finance Docket 30186 (Sub-No. 3), Tongue River Railroad Company, Inc. –
Construction and Operation of the Western Alignment; Extension of
Expiration Date for Programmatic Agreement**

Dear Mr. Day,

I am writing to inform you that the Programmatic Agreement (PA) referenced above will expire on November 1, 2010. I am initiating consultation on the PA with the intention of extending the terms of the PA for an additional ten years, or until November 1, 2020.

The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) prepared the attached PA for the Tongue River Railroad Company's (TRRC) application to construct and operate a rail line in southeastern Montana, known as Tongue River III. The PA was prepared in consultation with the PA signatory and concurring parties. For reasons explained below, no work has been undertaken yet in implementation of the PA. The PA is scheduled to expire on Nov. 1, 2010, after a term of five years from its date of execution. OEA recommends that we extend the terms of the PA for an additional ten year period ending November 1, 2020.

The Board's final decision granting TRRC authority to construct the rail line was issued on October 9, 2007. There have been numerous legal proceedings at the Board as a result of petitions for reconsideration filed by several parties following the Board's October 2007 final decision. Final briefs in the judicial review proceedings are due in December 2010. None of the issues currently being litigated involve historic preservation.

While the legal proceedings have been ongoing, TRRC has been working with interested parties to further develop plans for financing and construction of the rail line. TRRC has also been engaged in discussions with the Montana Department of Fish Wildlife and Parks (MFWP) to complete work on an easement that will allow TRRC access to MFWP property at the Miles City Fish Hatchery. Those discussions are continuing.

On March 18, 2010, the Montana Land Board approved leases of certain state-owned properties that contain coal that might be transported by the TRRC rail line. TRRC anticipates

that it will be moving forward with land procurement and surveying work in the next several years so that the railroad will be in place once mining commences.

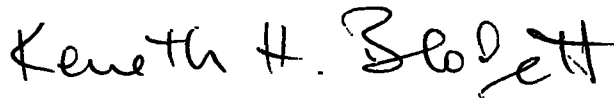
Attached is OEA's recommended Amendment to the PA which addresses the expiration of the PA. Execution of the Amendment will indicate that signatories agree that the PA will remain in effect for an additional ten year period to ensure completion of all tasks and products required under its terms. This package is being sent to all signatory and concurring parties to the PA, including the Northern Cheyenne Tribe, the Crow Tribe, and the Northern Plains Resource Council.

Please feel free to contact me at (202) 245-0305 or blodgettk@stb.dot.gov with any questions or concerns you may have about the Amendment. Written correspondence can be addressed to:

Surface Transportation Board
Office of Environmental Analysis
395 E Street, SW
Washington, DC 20423
Attn: Kenneth Blodgett

I will be contacting you shortly to confirm your receipt of this package and to address the next steps in the execution of the PA Amendment. Thank you in advance for your assistance. I look forward to working with you on extending the PA.

Sincerely,

A handwritten signature in black ink that reads "Kenneth H. Blodgett". The signature is written in a cursive, slightly slanted style.

Kenneth H. Blodgett
Environmental Protection Specialist