



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

December 10, 2012

Ms. Charlene Dwin-Vaughn
Director
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue NW, Suite 803
Washington, DC 20004

Attn: Ms. Najah Duvall-Gabriel

RE: Docket No. FD 30186, Tongue River Railroad Company, Inc.—Rail Construction and Operation—in Custer, Powder River and Rosebud Counties, Montana

Dear Ms. Dwin-Vaughn:

Your involvement, advice, and guidance for the previously proposed undertakings known as Tongue River Railroad I, II, and III is much appreciated. On October 16, 2012, the Surface Transportation Board (Board) received a revised application from the Tongue River Railroad Company (TRRC) to construct and operate a new rail line from Miles City, Montana to two ending points, one near the site of the previously planned Montco mine near Ashland, Montana and another at the proposed Otter Creek mine east of Ashland. The purpose of this letter is to inform the Council of the extent of the undertaking as currently proposed and to seek your guidance and advice as we begin the compliance process with Section 106 of the National Historic Preservation Act (NHPA) and the Council's regulations at 36 CFR Part 800.

As you are aware, the Board is the Federal agency responsible for granting authority for the construction and operation of the proposed rail line by TRRC, and the Board's potential licensing is a Section 106 undertaking. As part of the process for considering whether to grant authority, the Board has already initiated the Section 106 process with the Montana State Historic Preservation Officer (SHPO) and is in the process of identifying other consulting parties, including the Northern Cheyenne and other tribes who now or previously inhabited this area. For your reference, Attachment A to this letter includes a map of the potential alternatives currently being considered and Attachment B includes the list of Section 106 Consulting Parties we have reached out to regarding this undertaking.

The Office of Environmental Analysis (OEA) is the office within the Board responsible for preparing the appropriate documentation for compliance with the National Environmental Policy Act (NEPA) as well as Section 106 of the NHPA. Concurrently, OEA is preparing an Environmental Impact Statement (EIS) to evaluate the potential environmental impacts of the TRRC's proposed rail line, including consideration of potential impacts to cultural resources. ICF International is serving as the independent third-party consultant to assist OEA with the EIS and Section 106.

Description of the undertaking: The proposed rail line would extend approximately 83 miles, depending on the route selected, from Miles City, Montana, to two ending points near

Ashland, Montana. Other major elements of the proposed project would include a 200-foot-wide right-of-way; crossings of local roads, streams, trails, and utility corridors; two passing sidings one near proposed Milepost 27 and the other near proposed Milepost 46; and ancillary facilities. At a minimum, OEA is considering those alternatives analyzed in the Tongue River I EIS – the Tongue River Road Alternative, the Moon Creek Alternative, and the Colstrip Alternative. As part of its alternatives development process, OEA is determining the feasibility of these and other potential rail routes. None of the potential alternatives currently under consideration would enter the Northern Cheyenne Indian Reservation; however, one of the potential alternatives would be located along the opposite side and to the east of the Tongue River, which forms the eastern boundary of the reservation.

As mentioned earlier, OEA very much appreciates your involvement in the Section 106 consultations for the earlier proposed alignments of Tongue River I, II, and III, and would now like to initiate consultation with you for the new undertaking. OEA also appreciates the attendance via teleconference of you and your staff at our meeting held on January 25-26, 2012, with the Northern Cheyenne Indian Tribe, other tribes and other consulting parties to discuss the alignment under consideration at that time. OEA will be re-visiting the definition and documentation of the Area of Potential Effects (APE) and the methodology for the identification of historic properties and traditional cultural properties that was developed in the now expired Programmatic Agreement and will send information on those topics under separate cover for your review and comment. We welcome any advice or guidance you may have for us at this time, in accordance with 36 CFR § 800.2(b)(2).

Additional information on this undertaking is available on the Board's website at http://www.stb.dot.gov/stb/environment/key_cases.html, and on the project website at <http://www.tonguerivereis.com>. As before, Catherine Glidden of my staff will be the Section 106 contact for the undertaking. She can be contacted at 202-245-0293 (gliddenc@stb.dot.gov). You can also contact Richard Starzak with ICF International (our third party contractor) at 213-627-5376 ext. 222 (richard.starzak@icfi.com).

We look forward to continuing consultation with you and your office on this undertaking.

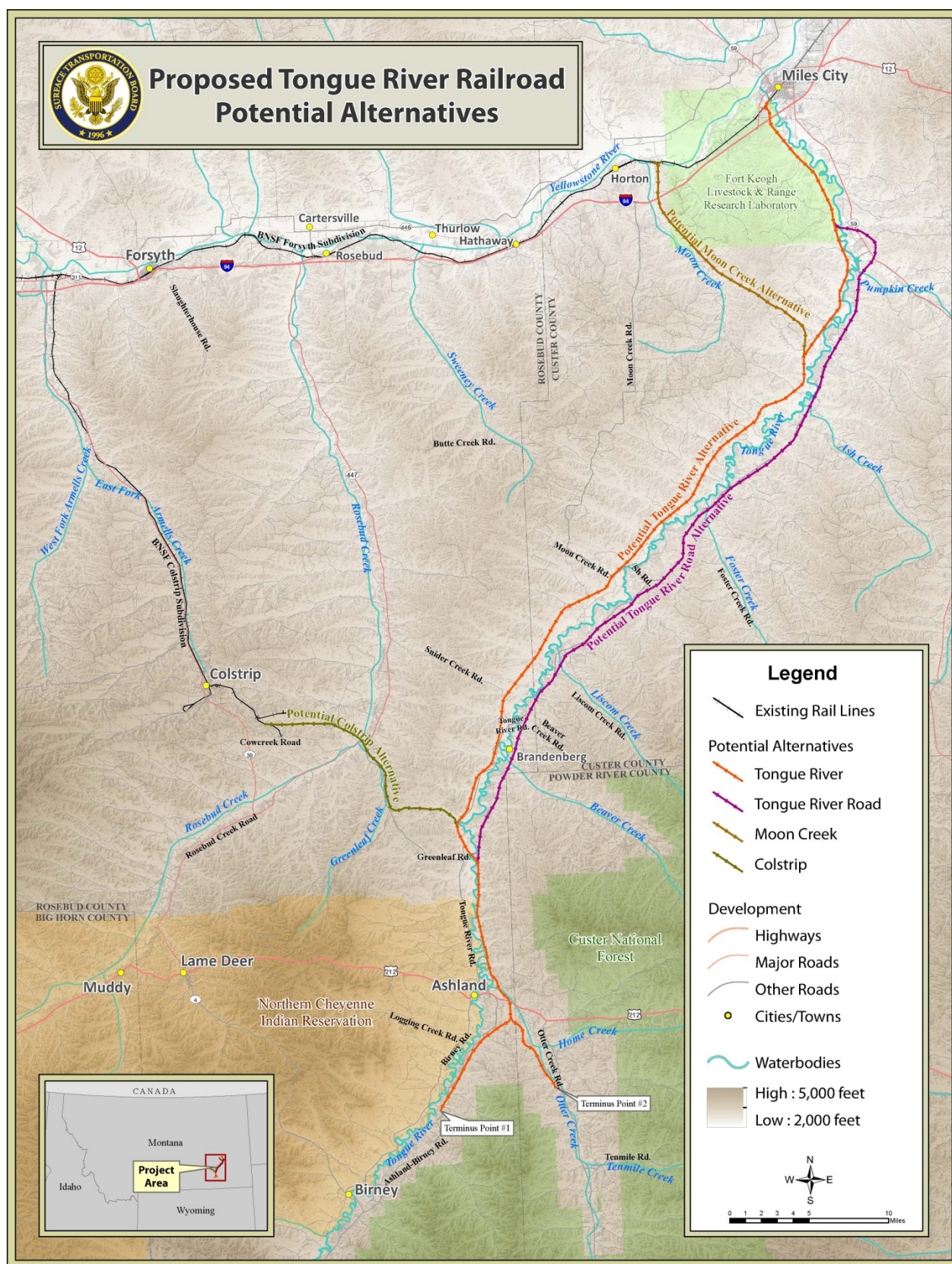
Very truly yours,



Victoria Rutson
Director
Office of Environmental Analysis

Attachments: Map; Background

Attachment A: Map of Potential Alternatives



Attachment B: Section 106 Consulting Party List

800.2(a) Other Federal Agencies

Douglas Melton, Archaeologist, BLM
Shannon L. Johnson, Billings Regulatory Office, USACE
Erica Jones, Realty Specialist, Agricultural Research Service, USDA
Christine Whitacre, Program Manager, Heritage Partnerships Program, NPS

800.2(c)(1) Montana SHPO

Mark Baumler, Ph. D., State Historic Preservation Officer
Stan Wilmoth, Ph. D., State Archaeologist

800.2(c)(2) Indian Tribes

Conrad Fisher, Tribal Historic Preservation Officer (THPO), Northern Cheyenne Tribe
Burton Pretty On Top, THPO, Director, Cultural Department, The Crow Tribe of Indians
Clair S. Green, Cultural Resource Manager, Lower Brule Sioux Tribe
Wilmer Mesteth, THPO, Oglala Sioux Tribe
Waste'Win Young, THPO, Standing Rock Sioux Tribe
Steve Vance, THPO, Cheyenne River Sioux Tribe
Lana M. Gravatt, THPO, Yankton Sioux Tribe
Dianne Desrosiers, THPO, Sisseton-Wahpeton Oyate
James B. "JB" Weston, THPO, Flandreau Santee Sioux
Russell Eagle Bear, THPO, Rosebud Sioux Tribe of Indians
Rick Thomas, THPO, Santee Sioux Nation (Santee Sioux Tribe of Nebraska)
Lynette Gray, THPO, Planning & Development, Cheyenne & Arapaho Tribes
Darlene Conrad, THPO, Northern Arapaho Tribe
Wanda Wells, THPO, Crow Creek Sioux Tribe
Leonard Wabasha, Cultural Committee, Shakopee Mdewakanton Sioux
Elgin Crows Breast, THPO, Three Affiliated Tribes: Mandan, Hidatsa & Arikara Nation
Anthony Morse, THPO, Lower Sioux Indian Community
Marlow LaBatte, THPO, Upper Sioux Community
John Murray, THPO, The Blackfeet Nation
Wilfred Ferris, THPO, Shoshone Tribe of the Wind River Reservation

800.2(c)(3) Representatives of local governments

Lisa Axline, Right-of-Way Specialist, Montana Department of Natural Resources & Conservation
Connie Muggli, Historic Preservation Officer, Miles City Historic Preservation Office

800.2(c)(4) Applicants for Federal assistance, permits, licenses and other approvals

David Coburn, Steptoe & Johnson, representing Tongue River Railroad Company, Inc.
Barbara Ranf, Director, Government Affairs, BNSF

800.2(c)(5) Additional consulting parties

National Trust for Historic Preservation
Betsy Merritt, Deputy General Counsel,
Amy Cole, Regional Attorney/Sr. Program Officer