



Tongue River Railroad Updates and Comment Letters

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Hello All,

I have attached two comment letters that we received regarding the Tongue River Section 106 Programmatic Agreement. I have also pasted an article below detailing the recent sale of the Tongue River Railroad Company.

We now know that the third (previously anonymous) investor is Forrest Mars. We have no other information regarding these developments beyond the recent news reports. I will keep you updated as we hear more.

Please feel free to call me if you have any questions.

All the best,

Cathy

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Great Falls Tribune (Mont.)

Billionaire and candy bar king Forrest Mars buys share of Tongue River Railroad

Railway Co. and coal giant Arch Coal to buy a third of the Tongue River Railroad.

The candy bar and pet food mogul said the purchase would prevent the construction of the proposed railway along a major stretch of the Tongue River Valley in southeastern Montana.

In a July 18 letter to Ed Gulick, chairman of the conservation group Northern Plains Resource Council, Mars said he no longer would help fund ongoing or future litigation related to the controversial 130-mile-long railroad, which would transport coal from Montana to power plants in the Midwest and beyond.

"I have reached an agreement with BNSF Railway Co. and Arch Coal to buy the Tongue River Railroad permits from (Tongue River Railroad President) Mike Gustafson, and

protect a significant area along the Tongue River from future development," Mars wrote. "I sincerely hope that the Northern Plains (Resource Council) is pleased with this result."

Mars concluded the letter by saying, "I should also tell you that I will not be helping you fund the current appeal or any future litigation on these issues."

According to Mark Fix, past chair of the Northern Plains Resource Council and a rancher along the route of the proposed railroad, Mars supported Northern Plains in the past when the Tongue River Railroad threatened to cross Mars' 82,000-acre Diamond Cross Ranch.

In July 2010, Northern Plains and Fix petitioned the Surface Transportation Board, the federal agency that regulates railroad mergers, to stop construction of the Tongue River Railroad, arguing that an adequate study of the environmental impacts of the coal train had not been completed. The STB denied the petition, and the case currently is before the 9th Circuit U.S. Court of Appeals.

Fix said Mars' recent actions will have no affect on the ongoing litigation.

"We've got lots of members, and basically we're a grassroots organization," Fix said. "We rely on our members. We don't look to huge donors to fund our campaigns."

Calls to Mars' attorney and managers at the Diamond Cross Ranch were not returned as of press time.

Mars said in his letter that under the deal the Tongue River Railroad would not be built between Decker, near the Wyoming border, and the southern border of the Northern Cheyenne Indian Reservation near O'Dell Creek Road, about 6 miles northeast of Birney. The portion of the proposed railroad between O'Dell road, approximately 10 miles south of Ashland, and Miles City, would not be affected by the deal, according to Mars' letter.

Conservation groups opposed to the railroad and the development of massive coal mines in the Otter Creek area reacted harshly to the news Wednesday.

Ranchers and farmers along the route have fought for decades to prevent its construction, arguing that it would bisect farms and ranches in the Tongue River Valley and reduce property values, separate grazing land from water, spread weeds and possibly start fires.

"We have always been dedicated to protecting the entire Tongue River Valley," said Jeanie Alderson, vice chairwoman of Northern Plains and a third-generation Tongue River rancher. "I depend on my neighbors as much as they depend on me. Our operations work because we are not dissected by an industrial railroad."

Jim Jensen is the executive director of the Montana Environmental Information Center.

That group sued the state Land Board in May 2010, arguing that the board failed to weigh the environmental and economic consequences – or consider any alternatives that might be more beneficial to the state – when it agreed to lease 500 million tons of Otter Creek coal to Arch Coal for \$86 million. That case still is pending in District Court.

"This letter means that Forrest Mars won't have a railroad crossing his property, and several other ranchers will be saved from that fate, but the Tongue River Railroad between Miles City and Ashland also crosses a lot of property, and the river is beautiful there, too," Jensen said. "We will do everything in our power forever to stop the mining of Otter Creek because coal is the fuel of the past. It's dirty and it's changing our climate."

Opponents of the project have speculated that one of the driving forces behind the proposed Tongue River Railroad was the desire to ship Wyoming coal to power markets in the Midwest. Now landowners say the focus has shifted, and the purpose is to transport Otter Creek coal to ports on the West Coast, and then on to markets in China.

"We will not allow the Tongue River Railroad to be built because it will tear apart Montana ranchland and negatively impact agriculture in southeastern Montana to haul more of our coal to China, just to make corporations and rich individuals richer," Fix said.

Mars said the state would "greatly benefit" from the new jobs and revenue created by the developing of the Ashland to Miles City-stretch of the railroad.

"The agreement with BNSF and Arch is the best of both worlds – it protects a large portion of the Tongue River, and allows for economic development in Montana," Mars wrote.

"I disagree completely with Mr. Mars' contention that that will somehow be good for Montana," Jensen said of the railroad. "It won't be good for Montana, won't be good for the region, and certainly won't be good for the world. We do not need more death trains hauling coal to be burned."



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