



Surface Transportation Board
Washington, D.C. 20423-0001

EO-2051
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Office of Environmental Analysis

March 15, 2013

John J. Robinson, President
Northern Cheyenne Tribe
P.O. Box 128
Lame Deer, MT 59043

Dear President Robinson:

Thank you for your letter dated January 9, 2013, setting forth the scoping comments of the Northern Cheyenne Tribe and requesting information on designating the Tribe as a cooperating agency for the Environmental Impact Statement for the Tongue River Railroad's proposal to build and operate a rail line from two termini points near Ashland, Montana, to an existing BNSF rail line. We are currently working on developing the Final Scope of Study, and the Tribe's comments identify several important environmental issues, as well as an alignment set further away from the Reservation boundary and further from the Tongue River and other waterways in the area. I am writing to you today to respond to your request for information on designating the Tribe as a cooperating agency.

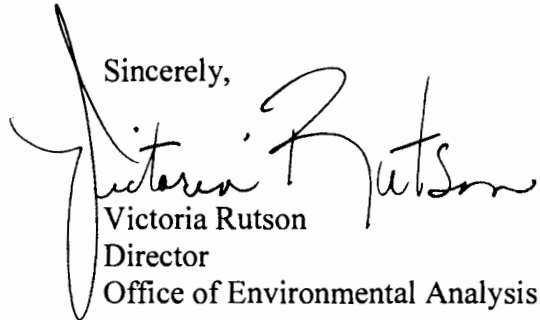
The Surface Transportation Board, like all federal agencies, adheres to the regulations of the President's Council on Environmental Quality (CEQ), which direct agencies on what they must do to comply with the procedures and to achieve the goals of the National Environmental Policy Act. For the Tongue River Railroad proposal, the Board's Office of Environmental Analysis (OEA) is the "lead" agency, meaning that OEA is responsible for preparing the Environmental Impact Statement that will assess the potential environmental impacts associated with construction and operation of the proposed rail line. OEA has asked three other agencies to be cooperating agencies under our lead. They are the Bureau of Land Management, the U.S. Army Corps of Engineers, and the Montana Department of Natural Resources, which is acting for the State Agencies of Montana. We asked these agencies to be cooperating agencies because they would each need to issue a license or permit for the proposed rail line, meaning that they have jurisdiction by law over some aspect of Tongue River Railroad's proposal. See 40 C.F.R. 1501.6. Each of these agencies has accepted our invitation. As small Federal agency with a limited budget (140 people with a yearly budget of less than \$30 million), we cannot fund these agencies or any other agencies to facilitate their roles as cooperating agencies.

Part 1508 of the CEQ regulations provides that when the environmental effects of a proposal or a reasonable alternative to a proposal are on a reservation, an Indian Tribe may, by agreement with the lead agency, become a cooperating agency. 40 C.F.R. 1508.5. The alternative routes for Tongue River Railroad's proposed rail line set out in the Draft Scope of Study, as well as those raised during the scoping meetings and comment period that closed on

January 11, 2013, do not enter the Northern Cheyenne Reservation. Because none of the alternatives under consideration at this point in the environmental review would cross the Northern Cheyenne Reservation, OEA does not anticipate requesting the Tribe to be a cooperating agency. We have and will continue to consult, coordinate, and involve the Tribe in every phase of the Environmental Impact Statement process, as you have requested in your letter. And we appreciate the Northern Cheyenne's willingness to host two of our ten public scoping meetings on the Reservation. Your generosity provided us the opportunity to hear directly from members of the Tribe on the potential environmental impacts from Tongue River Railroad's proposal.

I would be honored to speak with you about this, either in person or by telephone. I have asked our Tribal liaison—Ms. Catherine Nadals—to contact Mr. Conrad Fisher of the Northern Cheyenne Tribe to arrange a convenient time for us to speak. Until then, I am, respectfully, available by phone or email (202-245-0295, rutsonv@stb.dot.gov) to answer any questions or provide additional information.

Sincerely,



Victoria Rutson
Director
Office of Environmental Analysis