

**SURFACE TRANSPORTATION BOARD****Washington, DC 20423**

June 6, 2011

Dear Consulting Party:

On January 1, 2011, we sent you a copy of the 2005 Programmatic Agreement (PA) in the Tongue River Railroad construction cases. The PA was executed in November 2005, expired in November 2010, and has been extended to September 1, 2011. We asked you for your comments and suggestions for amending the 2005 PA to reflect the recent designation of Wolf Mountains Battlefield as a National Historic Landmark and to address any concerns you may have regarding the routing of the Tongue River Railroad. We received 16 comments in response to our request. We have posted the comments on the Surface Transportation Board's web site,¹ and emailed the complete package of comments to each of the consulting parties. The comments you sent raised a number of issues, which will be an important part of our consultations together.

As you know, the three Tongue River Railroad construction cases (Finance Dockets 30186 Sub-No. 1, 2, and 3, also known as "Tongue River I, II, and III") have a long and complicated history. Despite a record that goes back to the 1980s and approvals from the Board and its predecessor agency, the Interstate Commerce Commission, in 1986, 1996, and 2007, Tongue River Railroad has never built any portion of its proposed 130-mile long rail line. We understand from your comments that you have questions about the history of the Tongue River Railroad cases that you would like answered before we move forward with the consultation process. Accordingly, we are providing, as an attachment to this letter, a Frequently Asked Questions document for your reference. We are also including a Timeline highlighting the key environmental reviews and STB approvals, and their dates, and outlining what tasks we still need to complete by September 2011 to amend the PA.

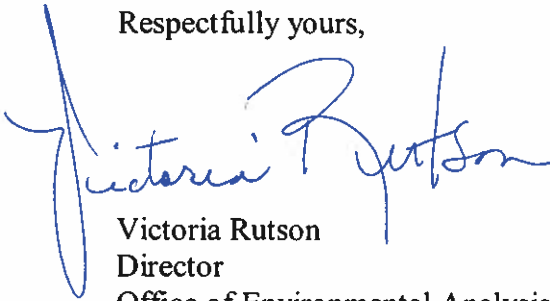
¹ In order to view incoming comments to the STB, [click here and select Docket No. 30186 3](http://www.stb.dot.gov/stb/environment/key_cases_tongueriver.html). To view both incoming and outgoing comments, go to following link and scroll down to the bottom of the page: http://www.stb.dot.gov/stb/environment/key_cases_tongueriver.html

Your comments also propose revisions to the 2005 PA to be included in the amended PA. Some of you suggest the need to overhaul the entire document; others ask that we add a new section addressing Wolf Mountains Battlefield; and some of you offer specific changes to provisions in the 2005 PA. Some comments also express general dissatisfaction with the consultation process that led to the 2005 PA, and request a greater opportunity to participate as consulting parties now. In response, we have drafted an amended PA (copy attached), which attempts to incorporate your comments and concerns, and have also scheduled a 3-day tribal consultation meeting to be held in Rapid City, South Dakota, on June 21-23, 2011, to allow you to comment on the draft amended PA and to have your questions answered. We have also retained Western Cultural Resource Management, Inc. (WCRM) to act as STB's third-party consultant to assist us with the meeting logistics and other matters related to the PA amendment process.

After the meeting, we will review your comments and suggestions, and include them in a new revision of the draft amended PA as appropriate. We hope to be done with this effort by late July, at which time we will circulate the new document to each of you. We will also include the 2005 PA so you can see the changes that we have made. After you have had time to read and reflect on the new version of the draft amended PA, we will schedule a conference call to get your feedback on the new document.

Until we meet, please use the enclosed materials to assist you in the PA updating consultation process. We look forward to continuing the consultation process with you and, as always, we are available by phone and email if you should have additional comments or questions.

Respectfully yours,



Victoria Rutson
Director
Office of Environmental Analysis