

Ken Blodgett
Surface Transportation Board
395 E Street SW
Washington, D.C. 20423-0001

Attention: Environmental Filing, Docket No. FD 30186

January 9, 2013

Dear Mr. Blodgett:

I am submitting the following additional scoping comments to the Surface Transportation Board (STB) in response to its November 1, 2012, decision that directed the Tongue River Railroad Company (TRRC) to file supplemental information related to the transportation merits of the revised rail line that the TRRC now proposes to build as outlined in its original application submitted on October 16, 2012. My original scoping comments, dated November 30, 2012, are attached here again. I also presented comments at the scoping hearing held in Ashland, Montana, on November 14, 2012. I have been a "party-of-record" to the Tongue River Railroad docket for nearly 20 years. Please ensure that all my scoping comments are entered into the public record.

As a former federal NEPA [National Environmental Policy Act] compliance specialist, I must say that I have never in my career (or since) seen anything like what has occurred with this project. The TRRC's original application submitted on October 16, 2012. It took the STB less than a week to issue its decision on October 22 along with a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) as well as a draft scope of study for the EIS, a scheduling of scoping meetings, and a due date for scoping comments of December 6, 2012. There is no precedent in any governmental agency that I am aware of for such a quick turn-around, assuming that the first time that the STB saw the application was on October 16.

Then, a mere 10 days later on November 1, 2012, the STB issued a new decision directing the TRRC to submit supplemental information for their original application! This supplemental information was due December 17 and the scoping deadline was extended to January 11, 2013. However, even though no one knew what supplemental information would be provided and, thus, did not fully understand what the proposed project would be, the STB held the public scoping meetings "on schedule" November 12 through 16. It is likely that many members of the public who were aware of the first application and possibly attended the scoping meetings know nothing about this second application and scoping comment deadline. This has occurred during the end-of-year holiday season when many people are gone and/or preoccupied. Most importantly, the landowners who live along this new proposed alignment and will likely have valid concerns have not been properly involved in the process.

To me, this entire chain of events does not pass the "smell test." In Montana, we have laws mandating open, fair, and honest government/agency dealings with the public. What has happened so far with this docket is an example of why the federal government needs comparable laws and rules. I believe the process to date is suspicious and flawed, and the STB must not only stop and re-start the entire NEPA process, but it must admit the reality that is apparent to those of us who have been involved with the TRR for many years. This December 17 application is no longer a "modification" of Docket No. FD 30186, but an entirely new project – TRR IV.

With this new December 17 application, it is apparent to me and many others that the TRRC is finally “coming clean” with the real reason for the TRR – to transport (hoped for) coal from Otter Creek (and other locations if coal companies get their way) to West Coast ports for shipment to China and other Asian countries. However, this new application continues to mislead the public with its description of the destination markets for the coal being transported.

The use of coal in the United States has been and continues to decline. Coal producers in the Powder River Basin of Montana and Wyoming have shifted their market strategy to Asia in order to continue producing coal and making profits for their executives and shareholders. The TRR is controlled by Arch Coal and the Burlington Northern Santa Fe (BNSF) Railroad (34.68% each). Arch Coal (the lease holder of the Otter Creek coal tracts) has made several representations to investors and others that the Asian export markets would be the primary market for the Otter Creek coal via proposed new coal export terminals in the Pacific Northwest. In particular, Arch Coal is a major investor in the proposed export terminal at Longview, Washington. The port of Longview is serviced by the BNSF Railroad, the railroad that will operate the TRR. (Frankly, the TRR as now proposed is simply an extension of BNSF’s railway system, so BNSF should be submitting the application.)

These facts alone should certainly cause the STB to question and scrutinize the TRRC’s application. But, additionally, the amount of coal to be transported is suspiciously low. The proposed Otter Creek mine could certainly produce more than 20 million tons of coal each year based on its reserves. Why is there still this proposal for Terminus Point #1 if there is no coal proposed for shipment from this location? What is the TRUE amount of coal BNSF and Arch Coal hope to transport?

It appears to me that the 20 million tons of coal proposed for shipment are so-calculated in order to avoid greater scrutiny by the STB. This tonnage conveniently represents 3.7 loaded (coal-bearing) trains or 7.4 total trains each day. If the true amount of coal to be shipped was revealed, the total number of trains would most likely be more than 8 each day. This number of trains would trigger the STB’s threshold for incorporating down-line impacts to all other areas and communities that would result when the TRR traffic is added to the rail system.

It also seems likely to me that the statement in the application that the TRR will be a “single-track” is false and misleading. The width of the proposed right-of-way is 200 feet, which is excessive for a “single track.” It appears to me that this is another clue that the real plans that BNSF and Arch Coal (a.k.a. the TRR) have are to get approval for a rail line that will eventually be significantly modified and expanded (double tracked?) – when the STB no longer has any authority in regulating how the line is maintained and “upgraded.”

The STB must question all of these inconsistencies, half-truths, obfuscations, and distortions in order to properly and thoroughly identify all the issues, alternatives, environmental consequences, and potential mitigations for the TRR not only in the analysis prepared for the EIS but also in the decision on whether or not to permit this project.

The December 17, 2012, application must be treated as a new project – TRR IV, and the STB must issue a new NOI and draft scope of study for the EIS and hold new scoping hearings. Whether or not this railroad serves a “public convenience and necessity” – cannot be fully ascertained until after the environmental analysis of the impacts of the project and the accompanying public process are completed. This is especially true as this December 17 application represents a new proposed rail line route.

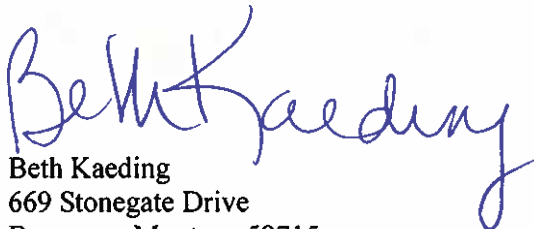
In addition to the scoping comments submitted on November 30, 2012, the EIS needs to address what improvements/impacts to both the Greenleaf Road and Cowcreek Roads will be necessary if the Colstrip Alternative for the TRR is approved. Who will pay for these changes to the roads?

The town of Colstrip is now directly and significantly impacted by the trains that the TRRC proposes to send along this new rail line to its connection with the BNSF line north of the community. How will the TRRC mitigate the impacts to Colstrip? The increased time that rail crossings are blocked, thus impacting emergency services as well as normal traffic as well as the increase in noise, coal dust, and diesel fumes must be addressed in the EIS.

Further, the new route alternative to Colstrip will likely negatively impact the existing coal mines at Colstrip and even Hardin. It is possible that these mines could even be shut down. This would mean that stable communities could face a socioeconomic crisis that is the opposite of the one that could be faced by Ashland. This EIS must include a thorough and honest socioeconomic analysis of what this TRR proposal means for the region's people, communities, services, stability, and economic structure.

I have been involved in the TRR issue for nearly 20 years. The areas encompassing the Otter Creek Valley, Tongue River Valley, and now the Rosebud Creek area should not be destroyed for the profit of a few corporations. The "benefits" of this railroad are only accrued by a couple of corporations wanting to sell Montana's – and the nation's – energy resources to our country's competitors. The STB must fully consider the consequences of this project's significant and severe – in many cases irreparable – impacts to the numerous non-mineral resources in the project area; the agricultural economy and vitality of area residents; the cultural values this area holds for many Native American tribes; and the health, life, and safety of the area's inhabitants and those in the rest of Montana traversed by the coal export rail lines. This is true no matter how many miles of track the TRRC proposes to lay – a reduction in miles does not equate to a reduction in impacts.

This railroad does not deserve to be granted the status of "public convenience and necessity." I firmly believe that an unbiased, scientific, and honest analysis of the issues will show that the environmental consequences of this project are too great to allow the project to go forward. I believe that the "no-action" alternative must be chosen. Thank you for the opportunity to participate in this scoping process.



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