



Tribal Historic Preservation Office

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**Victoria Rutson
Environmental Analysis Director
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423-0001**

RE: Finance Docket 30186, Tongue River Rail Project

Dear Ms. Rutson,

This letter is in reference to the Tongue River Railroad Project mentioned above. During a recent teleconference call with your office; tribes and other interested parties, the consulting tribes voiced concerns about the proposed Tongue River I (TR1) project. The Sisseton Wahpeton Oyate feels it is important that we resolve and clarify any unanswered questions tribes have about the proposed TR1 project with regard to cultural resources, associated environmental issues and routing, before the project moves forth.

The EIS (on TR1) was finalized in the mid eighties (1986) representing data that was collected in the 1970's. This EIS evaluated environmental impacts related to the proposed construction of a rail line along the Tongue River to the Montco mine south of Ashland, MT. It is now the end of 2011. During the past 25 years, many changes have occurred that affect or alter the results of that original environmental work. There has been no supplemental EIS to the entire route that the proposed TR1 specifically represents. Some of these changes are illustrated as follows:

- The TR1 EIS evaluated environmental impacts related to the construction of a rail line along the Tongue River to the Montco mine south of Ashland, Montana. This is misleading as there is no Montco mine. The Montco Mine was issued a surface mining permit in 1984, however in 1994, because no work had begun, the Montana Department of State Lands denied another renewal to its mining permit. In 1997 the MT Supreme Court denied the permit renewal. At this time, the Montco mine has **no** permit to mine coal. The proposed railroad and the proposed mine projects the railroad (as per the

original TR1 EIS) was to serve were never built. The rationales and justifications used by the TRR continue to change over time.

- At present, there is an addition to the original TR1 line – a new spur between Ashland and what will be the Otter Creek mine area. This spur was not appropriately addressed in any earlier environmental work; specifically, it was talked about as “hypothetical” or “speculative” and was not factored into the cumulative effects of either the original proposed action or the proposed actions addressed in supplemental work for the proposed TR2 and TR3.
- Furthermore, it is unclear where the specific alignment will be located, **yet the STB has approved the overall alignment.**
- There was NO consultation with any federally recognized Indian tribe on TR1. (and only minimal consultation on TR2 and TR3, which are currently on hold.)
- Environmental science, technology and regulations, environmental conditions, land development and land use have changed considerably in the last 25 years.

The above bullets only address a few of the changes in the conditions we are concerned about. Before moving further in the process, we would like to remind you that to native people, the natural resources are cultural resources. NEPA is designed to protect those resources through disclosure of impacts.

Section 106 is only one part of a NEPA process. Programmatic agreements, identification and treatment of tribal cultural properties are all areas of critical concern to us, but again are specific to the National Historic Preservation Act (NHPA), which is and should be in this instance, an integral part of an overall current, up to date NEPA analysis on this proposed federal action. It is premature to address a PA at this time.

Furthermore, the many pieces of environmental work completed here and there over 25 years, the constant additions and changes and viability and “hold” of proposed routes (TR1, TR2 and TR3) have created a convoluted, confusing and speculative proposed action “piecemealed” together with unclear cumulative impacts.

We respectfully request a new and complete environmental analysis be undertaken for this proposed action, which addresses TR1 and its additional new spur. This request is based on the age –25 years or more -- since the original FEIS, the virtual absence of tribal consultation over the last 25 years and specifically on TR1, and changes in our environmental and socio-economic understanding of the entire project to the landscape since the 1980’s.

Your attention in this matter is greatly appreciated.

Dianne Desrosiers
Tribal Historic Preservation Officer
Sisseton Wahpeton Oyate

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