



September 11, 2015

Mr. Ken Blodgett
Surface Transportation Board (STB)
395 E Street SW
Washington, DC 20423

RE: Tongue River Railroad Draft Environmental Impact Statement, Docket No. 30186

Dear Mr. Blodgett:

The Montana Preservation Alliance (MPA) opposes the proposed Tongue River Railroad (TRRR) in Southeastern Montana and offers the following comments on the draft Environmental Impact Statement. MPA is a state-wide non-profit organization founded in 1987 to save and protect Montana's historic places, traditional landscapes and cultural heritage. The Tongue River Valley and surrounding project area occupies a vast region that has seen little development. It is beautiful land and an uncommonly well preserved cultural landscape, with a very high density of Native American prehistoric and contact-era sites, including a National Historic Landmark battlefield, a buffalo trap, abundant rock art, eagle catching sites, vision quest sites, tipi rings, encampments, lithic scatters, ethnobotanical sites and other traditional cultural properties. We have conducted extensive fieldwork and research in the past in southeastern Montana, particularly the Tongue River Valley and Rosebud Battlefield. More recently our organization participated as a consulting party in Section 106 discussions regarding the TRRR DEIS and the draft Programmatic Agreement (PA) developed for this project.

Purpose and Need

The TRRR project is propelled by the interests of the Arch Coal company to mine the 12,000 acre Otter Creek tracts for subsurface coal and ship it to the Mid-West or Asia, a speculative venture in a decidedly endangered industry. Arch Coal teeters on the brink of bankruptcy, with stock values that plummeted from a high in late 2013 of over \$82/share to an all-time low last month of just \$1 a share, prompting widespread speculation in business and media outlets that the company will soon fail.

The TRRR would be an expensive prospect at best, involving condemnation and purchase of land at fair market value, as well numerous trestles, bridges, floodplain and creekbed crossings dictated by the broken terrain in this region of Montana. Montana has seen other large-scale energy proposals in recent years that eventually died, including the MSTI transmission line and in particular, the Southern Montana Electric (SME) cooperatives' coal-fired power plant that went bankrupt in October 2011. The reasons for the spectacular demise of the SME project which left the city of Great Falls and member coops more than \$7million in debt -- shrinking coal markets

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and an American public widely opposed to expanded energy development that will exacerbate climate change – likewise threaten the viability of the TRRR and its stated purpose of hauling coal from the undeveloped Otter Creek coal tracts.

Beyond this cautionary tale, the DEIS contains several statements that call the need for this railroad into question and suggest job losses and closure of other mines in favor of Otter Creek coal, as well as the damage to local ranching economy posed by this project:

- “The total volume of coal trains that would move to ports in the Pacific Northwest from the Powder River Basin would be the same regardless of whether or not the proposed railroad is approved and constructed.
- “All exported Tongue River coal would displace other Powder River coal that otherwise would have been exported rather than incrementally adding to the total tonnage of coal exported.”
- “Tongue River coal, with its lower transportation and production costs, would primarily displace other Powder River Basin coal destined for markets in the Upper Midwest.”

Adequacy of DEIS Analysis

Failure to Evaluate Properties for Eligibility

The choice not to make eligibility determinations on identified properties prior to issuing the DEIS stops short of providing information needed by the public and the STB board to weigh out which alternative will be least harmful to cultural resources. If all identified cultural resources are considered eligible, how can one make a judgement regarding which alternative route might offer lesser impacts to significant cultural resources? One could conversely say nothing is eligible and reach the same decision point. Trying to weigh out that decision based on raw data – sheer numbers of resources identified – gives no insight into the relative significance of what lies in harm’s way, and what resources would be considered more sensitive to the impacts of a rail corridor.

The decision not to make any eligibility determinations is not the same as phased identification. The DEIS presents over four hundred sites that have been identified yet we lack any framework for understanding which of those are likely significant, eligible properties and which are not.

Meaningful Tribal Consultation

We recognize that the STB went to considerable effort to collect extensive survey data and to have cultural representatives of 15 interested tribes in the region participate in survey the 10 alternative build routes for the TRRR. However, the tribes still express concern regarding the survey methods and conclusions. Their perspectives are essential to evaluating site significance, impacts and mitigation strategies. It is important to further consult them to ascertain what issues are still outstanding with regard to the survey conducted to date and findings presented in the DEIS.

APE

The APE for this project was defined with two corridor widths depending upon whether sites were historic or archeological/tribal. While the APE may be appropriate to direct damages that result from

railroad construction, they fail to address destruction of the setting and feeling, two key elements of integrity for site preservation. In addition, tribal representatives, not agency archeologists, are best able to determine the adequacy of APE boundaries for aboriginal sites, pre-contact and otherwise. Were tribal perspectives followed to ensure that APE boundaries were appropriate for adequate consideration of Native American sites?

Impacts to Traditional Cultural Practices

The DEIS fails to consider impacts to the lifeways of tribes and cattle ranchers in southeastern Montana, despite the vociferous objections of local residents to the project and concern over the detrimental effect a TRRR would have on their operations and traditions. The ranching community and the Northern Cheyenne Tribe are unified in their opposition to this project; the Northern Cheyenne Tribe unanimously passed a tribal resolution opposing the TRRR on Sept 21, 2015. There is simply no discussion of the impacts on the lifeways of communities most affected by the proposal, including potential to continue ranching and ability to conduct practices essential to native traditional lifeways.

Indirect Impacts

Noise, Visual Effects. This document fails to effectively evaluate noise levels and visual impacts, both of which potentially have harmful and irreversible impacts to sites and to traditional practices. Simply stating “The introduction of the railroad could alter these spatial relationships by introducing a new and incompatible visual element” throughout the document sidesteps meaningful analysis of the specific visual impacts posed by each route.

Downline Impacts

Downline impacts to Montana communities from increased coal traffic are a grave concern across the state of Montana, where numerous towns have rail crossings where already 100-car coal trains interrupt traffic and cause congestion on a frequent, regular and increasing basis. Many of these crossings run through historic districts and will affect historic communities. Fears have been expressed in Billings, Bozeman, Belgrade, Helena and Missoula, among others, over the impact of increased coal train traffic, for such issues as traffic delays, blocking emergency vehicular access to hospitals, and rail accidents. Potential impacts to historic resources and increased traffic associated with construction of the TRRR require that the affected downline communities be formally consulted.

Foreseeable Future Impacts

Although it is nowhere addressed in the EIS, building any one of the TRRR alternatives, could well portend a line extension south to Wyoming and the Powder River Basin for reasons other than to haul Otter Creek coal. In March 2015, the State of Wyoming issued a multi-year rail plan, which states that “without ongoing capacity improvements, the rail network in Wyoming will not be able to handle the 2035 projected volumes” (Wyoming Department of Transportation 2-105) Indeed, Wyoming ships more rail freight than any other state, and much of that is coal or, increasingly, crude oil and liquid gas. The report predicts that in just five years, increasing shipments and limited rail capacity will result in 77 million tons of coal being put on trucks for transport. (WYO DoT p 2-71)

Further, large crude oil transload terminals are under development in Wyoming, and it is worth noting that the Black Thunder Terminal is a joint venture between TRRR-proponent Arch Coal and Meritage Midstream Services. This new project was launched in 2013 “to provide crude oil handling, storage, rail loading, and marketing services to producers in Wyoming’s Powder River Basin and downstream refiners.” In addition, the Powder River Industrial Complex, a BNSF-Enserco Midstream- Inergy Midstream joint venture is also gearing up to service shipments of natural gas liquids out of northeastern Wyoming. (WYO DoT 4-8) If in fact, this is all pending just south of the project area in Wyoming, the DEIS on the TRRR should take into account the predictable interest to tie into the line from the south for freight traffic originating in Wyoming. Were that to happen, the impacts analyzed in the TRRR DEIS would be very much multiplied by far greater volumes of traffic.

Threats to NHL

The Wolf Mountains Battlefield National Historic Landmark (NHL) lies along the Decker alternative route. Under the NHPA, Federal agencies must “exercise a higher standard of care when considering undertakings that may directly and adversely affect NHLs. The NHL’s generally unchanged setting is critical, and the industrialization of the landscape resulting from construction of the railroad and daily coal trains passing through will irrevocably change this. The law requires that agencies, ‘to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark.’” (Sec 106 Regulations User’s Guide, ACHP)

As an NHL, this historic battlefield requires a higher level of consideration of adverse impacts to its historic integrity than other properties listed on the National Register of Historic Places. An immediate course of action to study the impact the Decker Alternative will have on the NHL is an NPS Landmarks Program “Section 213” report, described in the NHPA as the way to evaluate impacts to NHLs. Prior to selection of a preferred alternative, the ACHP should request such a report from NPS.

Conclusion

The best alternative here is a no-build alternative – it is time to put an end to a project that has languished for 35 years. The Tongue River Railroad is widely opposed in the immediate region and throughout Montana. The notion of increased coal traffic running statewide, when the level of rail traffic already disrupts traffic and circulation in communities across the state, is opposed east to west. Ranchers and numerous Native American tribes have expressed long-standing opposition to this proposal, which holds out little benefit for the public and would have destructive impacts to nearby communities, and on all communities down the line from the railroad on a scale that is unsupportable.

We believe that permitting construction of the Tongue River Railroad to facilitate development of a coal mine by the Arch Coal company is an action that any reasonable person would question. The STB must weigh carefully whether a project for which there is no supportable need and would cause great hardship to the public is justified. It certainly fails when reviewed under the STB’s guidelines of inconsistency with public convenience and necessity.

MPA Comments
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Sincerely,

A handwritten signature in black ink, appearing to read "Chere Justo". The signature is fluid and cursive, with the first name "Chere" written in a larger, more prominent script than the last name "Justo".

Chere Justo
Executive Director

Cc: Stan Wilmoth, MT State Historic Preservation Office (via email)
Amy Cole, Elizabeth Merritt, National Trust for Historic Preservation (via email)
Conrad Fisher, Northern Cheyenne Tribal Council (via email)
James Walks Along, Northern Cheyenne Tribal Preservation Officer (via email)
Charlene Dwin Vaughn, Advisory Council on Historic Preservation (via email)