

ATTORNEY GENERAL

STATE OF MONTANA

Tim Fox
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Department of Justice
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September 23, 2015

Mr. Ken Blodgett
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423
Att'n: Office of Environmental Analysis
Docket No. 30186

Re: Comments on Draft Environmental Impact Analysis for Tongue River Railroad

Ladies and Gentlemen:

Thank you for the opportunity to comment on the Draft Environmental Impact Analysis which was made available April 17, 2015.

As the State's chief legal officer and a member of the Montana Board of Land Commissioners, I have a strong interest in the Tongue River Railroad (TRR) proposal and am pleased to see your office moving toward a decision in this matter. The TRR is key to the development of the Otter Creek mineral tracts which were conveyed to the State of Montana in 2001 as compensation for economic opportunities lost to the State by the United States' acquisition of the Crown Butte holdings in 1997. These mineral tracts are a large and valuable asset of the State of Montana. The State has already received an \$85 million bonus for leasing the tracts, and even that would be dwarfed by royalties paid to the State as the result of mining of the tracts. These monies all go to the State's common schools fund, benefiting K-12 education in our State. Your agencies' decision is an important part of the process which will enable the mining of the Otter Creek tracts and the consequent benefits to the schools of our State.

In terms of specific comments on your Draft EIS:

- With its consideration of ten different alternatives, the document has provided a comprehensive look at the Tongue River Railroad's proposal, its likely effects, how those effects can be mitigated, and the important fact they can be mitigated.
- Once the project receives approval from your agency, it, as well as mining operations which would be served by the railroad, must still obtain necessary regulatory permits from other state and federal agencies. Montana requires permits under its mine

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MONTANA DEPARTMENT OF JUSTICE

Legal Services Division ★ Division of Criminal Investigation ★ Highway Patrol Division ★ Forensic Science Division
Gambling Control Division ★ Motor Vehicle Division ★ Information Technology Services Division ★ Central Services Division

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reclamation laws and its water quality laws, and compliance with those permits will assure that the proposal and any activity which is related to it, will as a matter of law have only negligible or minor environmental effects. This fact should be included as part of your cumulative impact analysis.

- Your cumulative impact analysis should also recognize Montana's Sage Grouse Conservation Plan and its beneficial effect as to any cumulative impacts.

Thank you for your agency's work on this important proposal, and I hope you will continue to move this process ahead in a timely fashion in view of its importance to our State.

Sincerely,

A handwritten signature in blue ink, appearing to read 'T. Fox', with a long horizontal line extending to the left.

TIM FOX
Attorney General