

E1-21330

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January 22, 2016

Via Certified Mail, Return Receipt Requested

Mr. Daniel R. Elliott II
Chairman
U.S. Surface Transportation Board
U.S. Department of Transportation
395 E Street, S.W.
Washington, D.C. 20423-0001

Ms. Deb Miller
Vice Chairman
U.S. Surface Transportation Board
U.S. Department of Transportation
395 E Street, S.W.
Washington, D.C. 20423-0001

✓ Ms. Ann D. Begeman
Member
U.S. Surface Transportation Board
U.S. Department of Transportation
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: The Surface Transportation Board/Department of Transportation
Environmental Filing Docket No. FD 30186
Tongue River Railroad Company, Inc. – Rail Construction and Operation
In Custer, Powder River and Rosebud Counties, Montana

Dear Mr. Elliott and Mmes. Miller and Begeman:

As a follow-up to my September 19, 2015 letter to the Office of Environmental Analysis of the U.S. Surface Transportation Board regarding the above-referenced matter, I am enclosing a copy of a letter-to-the-editor which was printed in the *Miles City Star* on Friday, January 15, 2016, written by Mark Fix, a local rancher.

As you will read, Mr. Fix's letter gives several more pertinent reasons why the Tongue River Railroad Company ("TRRC") should be denied a permit to construct a new rail line in southeastern Montana. I am assuming that you all know that Arch Coal is one of the principal owners of the Tongue River Railroad Company, and is now in bankruptcy proceedings. As Mr. Fix explains in his letter-to-the-editor, now that Arch Coal has declared bankruptcy, it is

Mr. Daniel R. Elliott III
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ethically disgusting that Arch Coal has had the audacity to ask to pay only \$75 million of the \$467 million that this coal company owes for reclaiming their coal mines, leaving the taxpayers of Wyoming a burden of \$392 million to clean up the environmental damage/mess caused by Arch Coal in their state. This is mind-bogglingly unfair to the citizens of Wyoming. (I also assume environmental lawyers will be checking to see if environmental crimes have been committed by Arch Coal Company in the State of Wyoming.)

The global warming issue is not listed as one of the various relevant reasons stated in Mr. Fix's letter-to-the-editor as to why the TRRC's permit to construct the Tongue River Railroad should be denied. To my mind the dangers of unmitigated global warming are the paramount reasons the Tongue River Railroad should not be constructed. However, there are many more relevant reasons in addition to the global warming concerns.

As I explained to Mr. Ken Blodgett, (STB Office of Environmental Analysis) in my letter of September 19, 2015, the Otter Creek coal – all 1.4 billion tons of it (and the billions of tons of carbon dioxide it will emit when burned) -- needs to stay in the ground in Montana. Arch Coal, as one of the bankrupt owners of the TRRC, should not be permitted to build a new railroad to haul coal anywhere given the dire warnings from the Inter-Governmental Panel on Climate Change, NASA, the United Nations, etc. about the harmful impacts of carbon dioxide from burning coal anywhere as it contributes to climate change. And, Arch Coal, as one of the bankrupt owners of the Tongue River Railroad Company, should not be permitted to profit from hauling coal anywhere given the perils to humanity posed by unmitigated climate change and how burning coal dangerously impacts the effects of global warming.

I urge you as responsible members of the Surface Transportation Board to deny the Tongue River Railroad Company a permit to construct its new coal hauling railroad in order to meet the goals of (1) the "President's Climate Action Plan of June 2013;" and (2) the Paris Agreement negotiated at the United Nations Climate Change Conference in December, 2015.

For all of the reasons stated by Mr. Fix in his letter-to-the editor (attached), and the global warming reasons I have expressed in this letter, the Surface Transportation Board needs to deny the Tongue River Railroad Company's application. The Tongue River Railroad should not be built.

Respectfully submitted and very truly yours,

Mary Catherine Dunphy

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Enclosure (1)

Letters

Arch overstepping

Dear editor,

The Arch bankruptcy has been in the news recently. Arch owns the lease for the coal in Otter Creek. The bankruptcy includes the Otter Creek mine as well as Arch's mines in Wyoming and Appalachia. If Arch has so much debt that they are bankrupt, they should not be trying to build an entire new mine at Otter Creek, which needs almost a billion dollars of investment upfront before ever selling a lump of coal.

Arch owns 35 percent of the Tongue River Railroad and 38 percent of Millennium Bulk Terminals, a proposed coal export facility at Longview, Wash. These are all projects that will require lots of money for startup. Arch should walk away from these projects if they want to be a going concern.

Arch has over 70 square miles of unreclaimed mined land in Wyoming. The State of Wyoming allowed Arch to "self-bond." They didn't have to put up any cash or collateral to ensure reclamation. In bankruptcy court, Arch has already asked to pay only \$75 million of the \$467 million that they owe for reclaiming their mines. That's just 16 percent. To reclaim the land and water, the other \$392 million will be paid by the taxpayers of Wyoming.

Alpha, another bankrupt coal company, asked Wyoming to do the same thing: they are promising \$61 million out of \$411 million, leaving \$350 million for taxpayers to cover.

The landowners along the Tongue River have faced federal eminent domain for the last 35 years from the Tongue River Railroad. We have always called it speculation. The only thing the TRR would do is haul coal from Otter Creek, and now Otter Creek is in bankruptcy. Why should a bankrupt company be allowed to use eminent domain to seize our land? It is high time that the Tongue River Railroad be abandoned.

Arch is trying to get a permit to mine the Otter Creek mine, but they're behind in their payments. Are they going to ask DEQ if they can pay just 16 percent of the payments required to work on the application? If Arch has the money to build a new mine, a railroad and a port, why should a bankruptcy court forgive any of the debt they owe to their creditors? Why should Wyoming allow them not to pay for reclamation? If Arch doesn't have the money to build the mine and railroad, why is my ranch still threatened by federal eminent domain?

Mark Fix
Miles City