

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

Attention: Environmental Filing, Docket No. FD 30186

September 19, 2015

Dear Mr. Blodgett:

I am submitting the following comments to the Surface Transportation Board (STB) in response to its Office of Environmental Analysis (OEA) April 24, 2015, release of the draft environmental impact statement (DEIS) for the 2012 application to build the Tongue River Railroad (TRR) in Montana. I have been a “party-of-record” to the Tongue River Railroad docket for more than 20 years. Please ensure that my comments are entered into the public record.

Under the National Environmental Policy Act (NEPA) and the Council of Environmental Quality (CEQ) regulations implementing NEPA, agencies must fully consider the “no-action” alternative. Project approval is not – and should not be – automatic. I believe there are many significant and irrevocable environmental, social, and economic consequences that would result from this proposed action, and I believe that the DEIS prepared by OEA is inadequate and deficient in many regards.

This is the fourth application submitted to the STB by various promoters in an attempt to build the TRR. Through the long (30+ years) and speculative history of the TRR, the project’s promoters have never been able to raise the money needed to build the railroad – nor, more importantly, have they been able to find any coal to transport. This time around they hope to haul Otter Creek coal, but that mine has not yet been (and may never be) permitted. This railroad has always been a speculator's dream. The TRR is not now and has never been a “common carrier.” It is a private, single-purpose railroad that will have significant and devastating consequences for the Otter Creek and Tongue River valleys and their residents as well as all Montanans.

This time, the applicant and principal promoter of the TRR is Arch Coal. Arch Coal owns 34.68% of the TRR and 100% of the lease for the Otter Creek coal tracts through its wholly owned subsidiary, Ark Land Company. Additionally, Arch Coal owns 38% of the proposed Longview, Washington, export terminal facility (Millennium Bulk Terminals), which Arch Coal stated in a January 2011 press release would “give us a direct stake in participating in the growth of U.S. coal exports off the West Coast.” But neither the Otter Creek coal tracts nor the Longview export terminal have been permitted, and both have significant hurdles to pass before any permits are issued. And, Arch Coal is in serious financial trouble. The decline in coal sales nationwide has resulted in Arch Coal’s share price dropping from more than \$67 in 2008 to less than \$1 in 2015. Arch Coal has been losing money since 2012. It is \$5.1 billion in debt, with

\$18.1 million in interest due at the end of this month. Because it cannot reach an agreement with its creditors, Arch Coal may not make that interest payment and go into bankruptcy.

Even more importantly, there is NO market for the coal that the TRR hopes to haul from the proposed (and not yet permitted) Otter Creek Mine. The TRR is inextricably intertwined with the proposed Otter Creek coal mine – without the coal mine, there is no public need for the TRR. Throughout the DEIS, the premise put forth for the TRR project is that there is a market for coal, not only domestically but also internationally. Additionally, it is claimed that the coal that the TRR hopes to haul would cost less to produce than other Powder River Basin (PRB) coal. However, the computer model relied on by OEA for the conclusions reached in this DEIS appears to have used erroneous assumptions and significantly old and inaccurate data for its inputs. Because there is no explanation of the model or the assumptions used or how parameter inputs were determined, defined, and put into the model, there is absolutely no transparency or believability for the conclusions reached. Anyone who reads the newspaper knows that the rosy picture presented by the DEIS for coal and coal markets is patently false. There is NO market for the coal that the TRR hopes to haul. The DEIS is inadequate because it fails to take a hard look at coal markets, both domestic and international.

According to the U.S. Energy Information Agency (EIA), 264 coal mines in the nation closed down between 2011 and 2013, and many of those remaining are in serious trouble – even the coal mines in Wyoming, the state that produces the most coal in our nation. Since 2009 (again, according to the EIA), total coal production in Wyoming has declined about 10%. And, in the past couple of years, coal companies in the state of Wyoming are withdrawing their bids from coal leases and coal lease expansions in the PRB. Of importance to the discussion of this DEIS that is examining the environmental consequences for the construction of new transportation infrastructure – the TRR – for a yet-to-be-permitted coal mine, each one of these Wyoming coal leases is adjacent to an operating coal mine that is each served by existing rail infrastructure.

Powder River Basin coal mining company profits (or lack thereof) are continually in the news. The major coal companies in Wyoming (as well as other smaller mining companies) are struggling despite the low production costs for mining coal in the PRB. For example:

- Peabody Energy, the largest coal producer in Wyoming, reported losses of \$787 million last year and a \$1 billion loss for the second quarter of 2015 due to low natural gas prices and weak Chinese demands. Peabody's share price has dropped 90% since 2011. In July 2015, Peabody suspended quarterly dividends to shareholders and cut 550 jobs across its operations.
- Arch Coal, Wyoming's second largest coal producer, reported \$558 million in losses for 2014 and suspended dividends to shareholders (see above for more details). Second quarter 2015 losses were reported at \$168 million.
- Cloud Peak Energy, has been losing money on export sales to Asia since the middle of 2013. In July 2015, it reported second quarter losses largely due to low natural gas prices.

Additionally, Ambre Energy, Arch Coal's partner in the Millennium Bulk Terminals coal export facility in Longview, Washington, sold all of its U.S. coal investments to Resource Capital Funds, a Colorado-based hedge fund in 2014. In the notice and explanatory statements

for the directors and general shareholders meeting concerning this sale, Ambre Energy cited a substantial oversupply of thermal coal in the seaborne market and the fact that Ambre Energy had struggled to raise the capital required to fund its operations and develop U.S. port projects.

If the coal companies operating in the nation's most productive coal-mining state are having significant financial and market problems, it is unbelievable that OEA could predict in the DEIS that there is a market for yet-to-be-permitted Otter Creek coal. Even more unbelievable is that the DEIS states that Otter Creek coal could compete with these existing mines, many producing coal that has a lower sodium content than Otter Creek coal. High-sodium coal, when burned, causes "slagging" in power plant boilers. Only a small number of domestic power plants in the upper Midwest are equipped with the specially designed boilers that can burn high-sodium coal and many of them are being retired or retrofitted.

While coal companies want to believe that coal markets will improve, that appears highly unlikely for both domestic and export markets. This negative outlook for the coal industry is shared by the world's leading investment banks and coal consultants. Since 2013 major U.S. financial institutions from Goldman Sachs to Bank of America as well as the World Bank have been pulling back from and divesting from coal. Other financial institutions and analysts are predicting that the coal market bubble has burst and production numbers and prices will continue to be low for many years to come.

While coal may not disappear as an energy source in the near future, market forces do indicate that coal is increasingly going to have a smaller and smaller share of the energy market. Many domestic coal-generation power plants are switching to natural gas because it is cheaper. Many other domestic coal-generation power plants are closing. Either those power plants are at the end of their predicted life expectancy or it is too costly for them to comply with new EPA regulations that would reduce carbon emissions (the Clean Power Plan) and control mercury and other toxic by-products released when coal is burned. Additionally, renewable energy sources (especially wind) have become more competitive and are displacing fossil fuels.

When Arch Coal secured a lease for the Otter Creek coal tracts and then submitted an application to begin the process for obtaining a permit to develop a mine, the international coal export market in Asian nations such as India, Japan, South Korea, and, especially, China was beginning to boom. International coal sales from the PRB had grown from 3.8 million tons in 2009 to 20 million tons in 2011. Arch Coal was so confident in the potential for a booming international market for coal that it purchased a 38% share of the proposed Longview, Washington, export terminal facility that remains in complicated and contentious permit-approval and environmental analyses processes. However, by 2012, the international coal export markets in Asia, especially China, were showing signs of decline.

Today, benchmark prices for thermal coal are the lowest they have been since 2007. At its peak in January 2011, the price was \$141.94/ton; by mid-March 2015, the price was \$59.50/ton. Prices are predicted to stay at or below \$60/ton through 2021. This is below the profitability level that existing coal mines in the PRB have stated they need to participate in the export market (*e.g.*, in 2010/2011, both Peabody Energy and Arch Coal said they needed the price of coal to be in the \$90/ton range to make it worthwhile to export coal, and, in 2014, Cloud

Peak Energy said it needed the price to be between \$80 and \$90/ton for it to export coal at a profit).

Chinese coal imports drive the U.S. export market. Chinese thermal coal imports are declining dramatically (Chinese imports peaked in 2013), and its coal consumption fell 3% in 2014 despite an increase in energy demand. More than 6,000 coal mines have already been closed in China. The Chinese government has announced plans to limit its annual coal consumption to 4.2 billion tons by the end of this decade – and its current production capacity is beyond 4 billion tons so it is unlikely that coal imports will increase. While Asian countries are still importing some coal, it is closer and cheaper to import coal from Australia and Indonesia as well as either Russia or South Africa rather than from the PRB of the United States. Frankly, the global coal market is oversupplied. The decline in the international market for coal affects PRB coal company plans for a vibrant export market to make up for the lack of a domestic market for coal.

There is NO domestic or international market for coal. So opening any new coal mine that requires major additional investments in transportation infrastructure – like the TRR – does not make fiscal sense, especially when the proponent of that coal mine (Arch Coal) – and the railroad – is in precarious financial straits.

The Otter Creek Mine is a true connected action to the TRR, but the TRR DEIS does not fully examine or analyze it as such. The proposed TRR is solely designed to haul coal from the proposed Otter Creek coal mine – without the coal mine, there is no need for the TRR. Without the TRR, there would be no way to move the proposed Otter Creek coal to market (if there was a market to which to sell that coal). The main assumption made by OEA in the DEIS that is used for justifying the permitting and building of the TRR is that the Otter Creek coal mine will be permitted. However, there are numerous significant issues that must be resolved before the state of Montana can issue a permit for the proposed Otter Creek Mine. The outstanding problems – alluvial valley floors, potential hydrologic consequences, water quality impacts to area streams and rivers, and the ability to reclaim the area if mined to name just a few – are so significant that the permitting process has been stalled for more than two years.

The DEIS suggests that there could be additional “potentially induced mines” in the area, and this is used as leverage for approving the TRR. However, there is no mining company seriously talking about coal leases at Poker Jim Creek–O’Dell Creek or at Canyon Creek. Mining companies in Wyoming are not even bidding on coal leases that are adjacent to existing, operating mines that are already served by transportation networks, so why would non-mine areas in Montana even be considered as being “potentially induced” should the TRR be built? These coal deposits also have a high sodium content, so the market, or the lack of a market, is the same for these “potentially induced mines” as for the proposed Otter Creek mine.

The entire discussion of “potentially induced mines” is ridiculous. Coal markets are declining nationally and internationally. There is no reasonable expectation that any other coal mine might someday be permitted in the area that the TRR would service. Because there are no reasonably foreseeable projects that would be developed in the area, it is again an obvious conclusion that the TRR is not a “common carrier.” The proposed TRR remains a private, single-purpose railroad that would serve one proposed coal mine that has yet to be permitted.

Beyond the lack of any coal market, domestic or international, I believe that OEA has failed to properly consider the environmental and social consequences of many issues in this DEIS. The DEIS is inadequate, deficient, and fails to take a hard look at issues that should – and must – be addressed in such a document.

The decision by OEA to not choose a preferred alternative has made the DEIS extremely complicated to review and adds significant burden to landowners along each and every route. Even though the TRR Company in its December 17, 2012, supplemental application stated that the Colstrip alternative was its preferred alternative, OEA has chosen to “equally” examine five separate routes – each with five variations – as well as the no-action alternative. Not only has OEA chosen not to indicate which of these ten build alternatives is the agency’s preferred route, it has also included in the routes being considered the Decker alternative (and its variant). Forrest Mars, one of the three owners of the TRR Company, has stated that he opposes this route because it would cross his ranch and that he purchased his  $\frac{1}{3}$  interest in the TRR Company to prevent this alternative from being built. OEA has dismissed as “not economical” the preferred alternative of the applicant. This is preposterous. The model used by OEA – with no public explanation of the assumptions or the data used to reach its conclusions – has determined that the market for the coal Arch Coal hopes to dig really should go to the already oversupplied and shrinking domestic market instead of where the coal company wants it to go (even though there is no market internationally).

The entire presentation of route alternatives is confusing, convoluted, and filled with inaccuracies. But, unfortunately, landowners along any and all of the ten proposed routes continue to cope with uncertainty (including financial harm) because they could still face condemnation if the STB decides to permit this railroad along a route through their land.

The DEIS states that width of the right-of-way varies depending on the alternative route chosen. These widths would be from 367 feet to 455 feet *on average*, with maximum right-of-way widths varying and up to 1,450 feet. Depending on the alternative selected, the TRR Company would construct one or two 8,500-foot passing sidings *at locations to be determined*.” The TRR Company would also construct set-out tracks to provide temporary storage for repair and maintenance . . . rang[ing] in length from 500 to 4,000 feet . . . *depending on the build alternative*.” That is a hell of a lot of detail missing for where these tracks and their associated disturbances would be placed, which makes this DEIS less than useless for understanding these major proposed aspects of the project.

The DEIS states, “OEA assumed that the entire right-of-way would be acquired by TRR Company.” **What is not said here is that if the TRR Company is given a permit, they also will be granted the right of federal eminent domain.** Montana’s farmers and ranchers would face condemnation if the TRR is permitted.

Eminent domain is a formidable governmental power that should be used rarely and only as a last resort. Eminent domain gives the government the right to take an individual’s private property – but it is only supposed to be used for public projects that advance the public good.

The TRR Company is a private corporation that would be given the right to take Montana farmers' and ranchers' private property for the corporation's own profit. This is WRONG.

Often when land is taken through eminent domain only a strip or chunk of a larger piece of land is taken (as will be the case with any of the proposed TRR route alignments). The DEIS generally only considers impacts and consequences within the proposed right-of-way. But, for ranchers, many long-established operations that were set up to ensure that the ranch operation functioned efficiently and most effectively would forever be changed by a rail line, and these consequences are not considered in the DEIS. If the proposed TRR crosses a ranch then portions of the property, including agricultural fields, irrigated pastures, winter pastures, summer pastures, calving pastures, irrigation lines and circle pivots, water pipelines, water tanks, water wells, natural water sources, and other important ranch areas, among many other aspects of the ranch could be severed. Severance is real, and its impacts can be enormous. The DEIS completely fails to accurately examine the costs to agriculture of the proposed TRR; these costs are either significantly disregarded and/or miscalculated.

Arch Coal has stated that there would be 7.4 trains each day using the proposed TRR to haul coal from the proposed Otter Creek Mine. Conveniently, this is just below the STB's threshold of 8 trains per day, which would require analysis of the environmental impacts that would occur due to increased train traffic. In the DEIS, OEA used the argument that the "potentially induced" Poker Jim Creek–O'Dell Creek mine and Canyon Creek mine would mean that the proposed TRR was not being built to simply haul coal from one mine (the proposed Otter Creek mine). However, in the DEIS OEA downplays the development of these mines by not fully discussing the DEIS's projection of 18.6 trains per day (northern routes) or 26.7 trains per day (southern routes) that could result if they were built. I believe that OEA has failed to consider the relevant data and information when it analyzed the potential increase in the number of trains and the downrail impacts.

The impacts to Montanans and Montana communities from increased rail traffic are real and significant – and these impacts will go far beyond "inconveniences." There would be health, safety, quality of life, as well as actual financial costs to Montana citizens and communities from an increase in coal train traffic. The increased number of trains would mean more noise, a greater potential that emergency responders would be delayed in reaching residents when there is a medical emergency (or a fire or the need for police), and a greater potential for vehicle collisions with trains and for pedestrian accidents. More trains would mean an increase in the amount of airborne pollutants (particulate matter) from diesel engines as well as from coal dust (see discussion of these issues earlier in our comments). The DEIS does not fully examine any of these issues especially if the trains are headed west.

Many other issues are addressed minimally and inadequately, including air quality issues, water quality issues, cultural resources, biological resources, cumulative impacts, impacts to communities in the path of these developments. With regard to coal markets, the assumptions used in preparing this DEIS are not transparent and are likely inaccurate, the data input in the model used to reach the OEA's conclusions do not reflect information available within the past two years. Many other critical issues of importance were not properly considered and analyzed.

Consequently, this document, the TRR DEIS, fails to take a hard look at the proposed project. This DEIS fails to provide the public and the agency decision makers with sufficient information to make an informed decision. The DEIS prepared by OEA is totally deficient and should be rejected by the STB. More to the point, this 30-year farce should be ended. This pie-in-the-sky idea of building a railroad to access coal mines that have not been (and may never be) permitted has used up too much taxpayer money and has negatively impacted actual people and their economic livelihoods for way too long. The no-action alternative should be chosen, and this TRR project should never be allowed to come back before the public again.

Sincerely,  
Beth Kaeding