

SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS

Re: Proposed Tongue
River Railroad Project }

TRANSCRIPT OF PROCEEDINGS

St. Labre Indian School
Ashland, MT
November 14, 2012
2:00 p.m.

APPEARANCES

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P R O C E E D I N G S

1
2 MR. BLODGETT: Good afternoon. My
3 name is Ken Blodgett, and I would like to thank
4 everybody for attending today's public scoping
15:00:49 5 meeting on the Environmental Impact Statement
6 for the proposed Tongue River Railroad. I work
7 for the Surface Transportation Board, and to my
8 right is Danielle Gosselin, and we represent
9 the Surface Transportation Board's Office of
15:01:08 10 Environmental Analysis. With us is Alan
11 Summerville of ICF International, the project
12 manager for our third-party contractor team,
13 and Scott Graves of ICF International, who will
14 serve as our facilitator at today's meeting.

15 The Surface Transportation Board is
16 the federal agency responsible for granting
17 authority for the construction and operation of
18 new rail lines and associated facilities. On
19 October 16, 2012, the Tongue River Railroad
15:01:45 20 Corporation filed a revised application with
21 the Surface Transportation Board to construct
22 and operate a rail line from Miles City,
23 Montana, to two end points near Ashland,
24 Montana. The Surface Transportation Board is
15:02:02 25 the lead agency responsible for preparing the

1 Environmental Impact Statement which will
2 identify and evaluate the potential environmental
3 impacts associated with the proposed action and
4 alternatives. There are four cooperating
5 agencies working with the Surface
6 Transportation Board in preparation of the EIS,
7 the Environmental Impact Statement. Those four
8 agencies are the Bureau of Land Management, the
9 Corps of Engineers, the U.S. Department of
10 Agriculture, and the Montana Department of
11 Natural Resources and Conservation, which is
12 acting as the lead agency for other Montana
13 State agencies. These cooperating agencies
14 have decision-making authority independent of
15 the Surface Transportation Board, and are
16 agencies from which the Tongue River Railroad
17 will obtain separate approval or permits.

18 This scoping meeting represents one
19 of the first opportunities in the environmental
20 review process for members of the public to
21 provide input to the Surface Transportation
22 Board about its environmental concerns related
23 to the construction and operation of the
24 proposed rail line, including potential
25 alternatives and their impacts. Our hope is

1 that the information that you provide to us
2 today will help us to frame our analysis and
3 help us understand your concerns about the
4 proposed action.

15:03:39 5 The scoping notice public comment
6 period will last until December 6, 2012. The
7 Office of Environmental Analysis will then
8 revise the Draft Scope of Study and issue a
9 Final Scope of Study, incorporating public
15:03:56 10 comments and concerns received during the
11 comment period. The Office of Environmental
12 Analysis will consider all comments received
13 when preparing the Final Scope of Study. There
14 is additional information on the Surface
15:04:15 15 Transportation Board's environmental review
16 process located at the back of the room for
17 anybody who hasn't had a chance to look at it
18 yet this afternoon.

19 After the Scope of Study is
15:04:28 20 finalized, the Office of Environmental Analysis
21 will begin preparing the Draft Environmental
22 Impact Statement. The Draft Environmental
23 Impact Statement will reflect the Office of
24 Environmental Analysis's independent analysis
15:04:44 25 of the potential environmental impacts that

1 could result from the construction and operation
2 of the proposed rail line. The Office of
3 Environmental Analysis will then issue the
4 Draft Environmental Impact Statement, and the
15:05:00 5 public will have the opportunity to read and
6 comment on the Draft Environmental Impact
7 Statement during a formal public comment review
8 period, which will include a series of public
9 meetings similar to this one.

15:05:14 10 After the Draft Environmental Impact
11 Statement comment period has come to a close,
12 the Office of Environmental Analysis will
13 consider all comments received and address each
14 comment in a Final Environmental Impact
15:05:30 15 Statement. The Final Environmental Impact
16 Statement will present the Office of
17 Environmental Analysis's final conclusions and
18 recommendations are for mitigating possible
19 environmental effects. Issuance of the final
15:05:47 20 Environmental Impact Statement will complete
21 the Surface Transportation Board's environmental
22 review process. At that time the Board will
23 then make a final decision on the proposed rail
24 line construction. In making its final
15:06:01 25 decision, the Board will consider the entire

1 environmental record, including all comments
2 received, the Draft Environmental Impact
3 Statement, the Final Environmental Impact
4 Statement, and the Office of Environmental
5 Analysis's final recommended environmental
6 mitigation. No project-related construction
7 may begin until the Board's final decision has
8 been issued and has become effective.

9 If you have not already done so
10 tonight, I would encourage you to sign in at
11 the entrance to the room. Those who have
12 indicated that they would like to make a public
13 comment on the Draft Scope of Study, which will
14 be reported by the court reporter, will be
15 called upon to speak in the order in which they
16 signed in this afternoon.

17 I would like to thank you in advance
18 for your cooperation and courteousness towards
19 those who are speaking. Comments will be
20 limited in time so that everyone is given the
21 opportunity to speak. If you would like to
22 provide a handwritten comment, there's a
23 station at the back of the room that you can
24 fill in your comment this afternoon and drop it
25 in the box. You could also submit written

1 comments to the Surface Transportation Board by
2 mail, or submit comments electronically using
3 the Surface Transportation Board's website.
4 All comments, oral and written, will be given
15:07:35 5 equal weight and consideration, and are due
6 December 6, 2012.

7 At this time I would like to turn the
8 information over to Alan Summerville of ICF,
9 who will briefly discuss more details of the
15:07:54 10 project. Thank you.

11 MR. SUMMERVILLE: Good afternoon.
12 During the first half of the meeting we
13 provided information on the project and now I
14 would like to summarize the information for
15:08:03 15 those of you who weren't at the first half of
16 the meeting and to provide a recap for those of
17 you who were.

18 The Tongue River Railroad Company's
19 principle purpose for the new rail line is to
15:08:14 20 transport low sulfur, sub-bituminous coal from
21 the proposed mine sites in Rosebud and Powder
22 River Counties, including the proposed mines in
23 the Otter Creek area.

24 The Tongue River Railroad Company is
15:08:29 25 proposing to construct and operate an

1 approximately 83-mile rail line between Miles
2 City and two ending points, one near the site
3 of the previously planned Montco Mine near
4 Ashland, and another at the proposed Otter
15:08:45 5 Creek Mine in the Otter Creek area east of
6 Ashland. Accordingly, the rail line would
7 cross portions of Custer, Powder River, and
8 Rosebud Counties.

9 The proposed route would follow the
15:09:00 10 Tongue River Valley and would consist of a
11 single track constructed of continuous-welded
12 rail and include a 200-foot-wide right-of-way;
13 crossing local roads, streams, trails, and
14 utility corridors; it would include two passing
15:09:15 15 sidings, one near Milepost 27 and the other
16 near Milepost 46; as well as ancillary
17 facilities, including six set-out tracks
18 between 500 and 4,000 feet in length to provide
19 for temporary storage of cars requiring repair
15:09:32 20 and for storage of maintenance equipment.

21 At a minimum, the Office of
22 Environmental Analysis is considering those
23 alternatives analyzed in the Tongue River I
24 EIS. The Tongue River Road Alternative, the
15:09:50 25 Moon Creek Alternative, the Colstrip

Alternative, and the No Action Alternative.

As part of its alternatives development process, the Office of Environmental Analysis is determining the feasibility of these and other potential routes. The Office of Environmental Analysis welcomes public comments on these and other potential alternatives. Alternatives will be evaluated based on public and agency comments and input as well as environmental, technical, and engineering considerations, including curvature and grade of the rail line and topographic features such as steep slopes, hills, as well as geology, floodplains, wetlands, rivers and streams.

EISs can cover a wide range of topics. This EIS in particular -- in this EIS in particular the Office of Environmental Analysis plans to cover transportation systems, safety, land use, recreation, biological resources, water resources, navigation, geology and soils, air quality, noise and vibration, energy resources, socioeconomics, cultural and historic resources, aesthetics, and environmental

1 justice.

2 Additional resource subjects can be
3 added as a result of comments and information
4 received during the scoping process.

15:11:18 5 The purpose of the public scoping
6 meetings is to provide a forum in which the
7 Office of Environmental Analysis can gain the
8 public's input on potential alternatives, as
9 well as impacts that may or may not be
15:11:33 10 currently in the Draft Scope of Study.

11 At this time I would like to turn the
12 meeting over to our facilitator, Scott Graves,
13 who will go over some grounds rules, and then
14 we'll begin to hear public comments. Thank
15:11:46 15 you.

16 MR. GRAVES: Thank you, Alan.

17 Welcome everyone. Before we get
18 started, just a couple of notes about the
19 logistics for how we are going to try to handle
15:11:57 20 the comment period this afternoon. There's a
21 five-minute limit on comment period for the
22 first set of folks who are going to come up.
23 Then we are going to have anyone who hasn't yet
24 spoken who would like to speak, I'll ask you to
15:12:12 25 come up if you raise your hand. If you could

1 just come down here, right over here, that
2 would be great. And then once we are finished
3 with that, if there's anyone who spoke
4 previously that would like to speak for an
5 additional period of time, we can do that.

6 As Ken said, in addition to the oral
7 comment period this afternoon, there's
8 opportunities for written comments, and there's
9 a written comment station up there. You can
10 certainly come down and talk to the court
11 reporter here as we conclude. You can also
12 submit your comments in written form via mail
13 and also via the website for the Surface
14 Transportation Board.

15 So the first name that I have is Del
16 Dinstel.

17 MR. DEL DINSTEL: My name is Del
18 Dinstel. I'm from Colstrip. And I'm kind of
19 conflicted on this railroad thing. I grew up
20 west of Alzada on a ranch, and I've also worked
21 26 years as a coal miner in Colstrip. But I'm
22 going to come down on the side of the ranching,
23 that's where I started from.

24 Personal property rights, I see them
25 getting -- I don't like seeing them getting

1 trampled on. That's part of what this country
2 is about.

3 Also, there's the impact on Colstrip
4 itself. There's close to 300 coal miner jobs
15:14:06 5 over there, a little more actually if you
6 figure in management, and if we have the cheap
7 coal over here that they are buying in a
8 15-foot, 30-foot overburden, and we've got
9 150-foot, doesn't take a genius to figure out
15:14:23 10 that coal coming past Colstrip is going to be a
11 lot cheaper than the coal that's mined right at
12 Colstrip. So those 300 jobs will disappear.
13 Maybe they will come over here, maybe they
14 won't. They might already have this mine
15:14:36 15 established and have everybody they need hired,
16 already hired. So I don't think Montana is
17 going to gain a whole hell of a lot with this
18 mine.

19 Agriculture has been here for a long
15:14:52 20 time, and I hate to see a railroad go down
21 through somebody's calving pasture or hay
22 bottoms. I personally seen railroads start
23 quite a few fires. I have never seen one of
24 them ever put out a fire. And they don't -- I
15:15:10 25 haven't seen them ever fixing fence.

1 The financial gain from this will be
2 going to mostly out-of-state corporations. I
3 would just about bet if they start hiring down
4 here, most of the employees are going to come
15:15:27 5 out of Wyoming and not too many out of Montana.

6 Burlington Northern and Mars and a
7 few others will benefit and China will benefit.
8 I would just as soon they just leave the coal
9 in the ground here until Montana can use it,
15:15:47 10 because when I was shipping coal out running a
11 coal shovel, that coal went to the upper
12 midwest, factory jobs, heated people's homes,
13 lighted hospitals in America here. Wasn't
14 doing it in China. I would prefer that you
15:16:06 15 study this real good and factor in all of the
16 human parts of it also. Thank you.

17 MR. GRAVES: Next is Bill Huckins.

18 MR. BILL HUCKINS: I just have some
19 questions for you, folks. My name is Bill
15:16:38 20 Huckins, H-u-c-k-i-n-s.

21 I guess what I want to know is the
22 way the President is shutting down coal mines
23 and everything everywhere, is he ever going to
24 let this coal mine open? And if it doesn't
15:16:49 25 open, then what do we need the railroad for?

1 Are you going to allow the railroad
2 to be built before the coal mine is open?
3 Because if the coal mine doesn't ever open, we
4 don't need the railroad. And I guess that's
5 all I got to say. If you have an answer.

6 MR. GRAVES: I think at this point in
7 time we are taking comments, and certainly
8 after the comment period is over, we can
9 entertain larger discussion. We'll also be
10 here this evening, if you want to come back as
11 well.

12 Is there anyone who hasn't signed up
13 to speak that would that would like to speak
14 this afternoon?

15 Yes.

16 MR. BRAD SCHMITZ: My name is Brad
17 Schmitz. S-c-h-m-i-t-z. I'm the supervisor for
18 Montana Fish, Wildlife and Parks out of Miles
19 City. I can't attend your Miles City meetings
20 tomorrow so I came here today. I appreciate
21 the opportunity to provide basic comments as
22 you begin your scoping process.

23 You'll hear lots of comments on
24 property rights and impacts to ranchers and all
25 those. I'll let those folks deliver those

1 comments. In the responsibilities that I have
2 as an agent for the state, we will provide
3 written comments, but I want to be on record at
4 this meeting saying we want you to make sure
15:18:28 5 you address the things, I can't remember your
6 name, this gentleman mentioned, on the
7 different aspects of your EIS. Specifically,
8 those related to biology, biological impacts,
9 stream impacts, and water quality resources.
15:18:45 10 We have concerns over the potential habitat
11 loss that will occur for wildlife species along
12 the footprint of this railway. We have
13 concerns, and related that, our agency is
14 involved in conservation easements on three
15:19:02 15 different ranches on the lower end of Tongue,
16 the Bice, the Hirsch, and the Shaw ranches. So
17 we have an interest in that as far as habitat.
18 We have a financial interest as well.

19 And I understand, and I can't say
15:19:15 20 this for a fact, but there is some rumor one of
21 your sidings is on one of those places. So we
22 have some concern over the increased size of
23 that footprint and what will that do that to
24 conservation easement for the ability for this
15:19:29 25 set of ranchers to implement their ranching

1 program with our interests to maintain the
2 wildlife habitat intact.

3 Stream crossings and water quality,
4 we have some concerns over bank morphology
15:19:42 5 changes with your different crossing areas.
6 The types of crossings that you create,
7 navigation. This lower part of the Tongue
8 River, I think, is a navigable water, and
9 there's a lot of recreational use on that. We
10 want to make sure we do not impact the ability
11 for people to recreate and float on that.
12 Their opportunity to access the river as well.

13 And, of course, stream and water
14 quality related more to fishes and water
15:20:12 15 quality itself. There's also erosion and we
16 have some concerns about sediment inputs on
17 this system. People have a misconception
18 because it's a muddy little prairie river that
19 a little sediment doesn't hurt. The chronology
15:20:27 20 of that sediment input is extremely important
21 to fish life histories. If it comes at the
22 wrong time, it has detriment impacts just as it
23 does in a clear little trout stream.

24 I think I will leave it at that.
15:20:43 25 Thanks for the opportunity to speak.

1 MR. PAT SILER: My name is Pat
2 Siler. S-i-l-e-r.

3 I look at the map where the train
4 crosses on the edge of town. I'm wondering if
15:21:02 5 there will be an overpass for train or
6 underpass for the road 212 so whether they drop
7 a guard across there. That would affect the
8 safety and travel the cars just on the edge of
9 town. A lot of truck traffic there.

15:21:35 10 MR. GRAVES: Is there anyone else who
11 hasn't spoken yet this afternoon that would
12 like to speak?

13 We'll be here until 4 p.m. this
14 afternoon. So feel free to ask questions of
15:22:08 15 the staff. Talk among yourselves. We are
16 available for discussion then and also for
17 comment. Don't forget you can leave written
18 comments up here. The written comment station
19 at the back. You can come down here and talk
15:22:19 20 to Rich, our court reporter, if you'd just like
21 to give an oral presentation of your comments,
22 he'll record them. Obviously, you can mail or
23 submit your comments electronically.

24 With that, we'll be adjourned with
15:22:34 25 the formal part of the comment process here,

1 but as I said we'll be around until 4 o'clock.
2 Thank you.

3 COURT REPORTER COMMENT AREA
4

15:25:20 5 MS. JEAN LIND: My name is Jean,
6 J-e-a-n, Lind, L-i-n-d.

7 And my concern is that it seems to me
8 that this is a study of the railroad
9 development, but my concern is that it would be
10 also intermingled with whatever is being
11 studied of the impact of the coal development,
12 because, you know, the railroad is because of
13 the coal development. So to have them
14 independent would not seem realistic to me,
15 looking at them independently. So I hope that
16 they would be intertwined.

17 *****

18 MS. SHARON DINSTEL: My name is
19 Sharon Dinstel. I'm from Colstrip, Montana.

15:57:43 20 While I do support jobs in eastern
21 Montana, I do have concerns about the railroad
22 route, particularly Cow Creek. I feel that it
23 needs an environmental study. I want to know
24 how will this route affect the Westmoreland
15:58:06 25 Mine. We see the potential for Arch Coal to

1 bring their coal into Colstrip, which would
2 eliminate jobs in Colstrip. At this time
3 Westmoreland provides 300 jobs in Colstrip, and
4 also provides the coal to the power plants.

15:58:34 5 I do understand that the shortest
6 route is the southern route, and I'm not sure
7 that that is an option at this time.

8 I do have a concern about Otter Creek
9 coal, and I would like to know where that coal
15:58:50 10 is going to be transported to. I do support
11 jobs and I do support coal mining, but I am
12 concerned about the coal going overseas to
13 China.

14 I support the ranchers. Any of the
15:59:12 15 routes that you choose will have an affect on
16 the ranchers, on the livestock, on the family
17 life of these ranchers in eastern Montana, and
18 I'm concerned, also, about the some of the
19 issues that will come up after the railroad is
15:59:37 20 built, such as eminent domain. That occurs
21 before, but I am concerned about ranchers
22 having -- once the railroad is built, people
23 will be able to come to fix the rail, and to be
24 coming and going on these ranches, which
16:00:08 25 becomes a nuisance basically.

1 I side on the side of the ranchers
2 because there is no amount of money that will
3 compensate them for the problems, the disruption
4 to their livestock and to their life. I thank
5 you for this time to testify.

6 I am also concerned with
7 corporations, that they have given their word
8 in the past that they would comply with a
9 certain issue, but when it comes down to it,
10 they don't usually follow through.

11 (Meeting closed.)
12

13 CERTIFICATE OF REPORTER
14

15 I, Richard L. Mattson, Certified Court
16 Reporter, hereby certify the foregoing
17 transcript of proceedings to be a true and
18 correct transcript of the proceedings contained
19 therein.
20
21
22

23 _____
24 Certified Court Reporter
25