

Tongue River Railroad Draft Environmental Impact Statement

Surface Transportation Board

Washington, D. C.

Comments on Document

September 22, 2015

This document is closer to a programmatic environmental impact statement for the railroading of Southeastern Montana, than it is for the route of a given railroad haul. It has successfully increased the uncertainty in the lives of all the people who own land or live along one of the potential routes. No one knows where the axe is going to drop. The maps of the rail routes are without a tie in to discernible legal descriptions or locations. The people on Moon Creek who own one ranch can identify their place, but not on the Colstrip Route.

Two things are clear from this EIS. One is that the promoters of this railroad are going to do their damndest to get those potentially induced coal mines to operating, in spite of history and law. The second is this EIS does not have an up to date portrait of the state of the coal industry at this time. The parent company of Otter Creek LLC is trembling on the verge of bankruptcy, having reduced its share on a basis of 10 into 1 in order to retain its listing on the New York Stock Exchange. Consolidation Coal, which 10 years ago was the largest mining company in the coal industry, has now sold its mines to some one less "reputable", and told 4400 hundred of its pensioned employees that it is not going to honor its pension obligations. Alpha Coal is in bankruptcy and has offered the State of Wyoming \$61,000,000 on its self-bonded obligation to reclaim its mined land in Wyoming, bonded in a whole amount of over \$400,000,000. Alpha and Arch are mining the low sodium coals of the Powder River Basin and are struggling. Otter Creek is a wholly owned subsidiary of Arch Coal, which makes it very speculative venture.

Ten years ago, I was on a mine tour of Spring Creek and Decker. At that time, they were bidding each other down trying to capture the limited market for high sodium coal. Spring Creek had hit upon the practice of mixing their coal with a particular kind of soil, which lowered the sodium content of the coal along with the BTU's. Judging from the amount they have been able to sell, it is working for them. Decker is not doing so well.

Throughout this document, the authors talk about low-sulfur coal, but only in an appendix to an appendix do they go into discussion of high sodium coal, which they tend to down play in importance. Everything they discuss in relation to high sodium burning increases the costs of the buyers equipment. Larger, taller boilers, bigger pipes, etc. equal higher costs, and considering how expensive such things are, not inconsiderable costs.

An analysis of Spring Creek's domestic sales show them located in a relatively small area which would have the shortest haulage by rail and then by barge on the Great Lakes. This is after 30 years trying to develop markets when the costs of Spring Creek's equipment would have depreciated in relation to newer equipment. Spring Creek is also mining a mine plan that does

not admit to very contemporaneous reclamation, which is antithetical to provisions in the Surface Mine Reclamation and Control Act (SMCRE) of 1977.

I believe that the sodium problem in Montana coal is the chief reason why there has been so little development in the last 40 years. Until the boilers that operate on low sodium coal begin to be replaced, the market for that low sodium coal will remain limited. Even Signal Peak, which does mine low sodium coal, contrary to your appendix to the appendix, is having trouble peddling their better quality coal in the current coal market. [I checked the sodium content of their coal with a company vice-president on September 21, 2015.] The reason why Colstrip has so many pits is to blend their coal to control the quality.

China is not so desperate for coal as it was due to their economic slowdown plus they would like to be able to breathe in Beijing. The Australians are desperate to sell the coal they are already mining. They have several more mines they would like to bring on line in the Galilee Basin with coal similar to the Signal Peak coal. India plans to mine more deeply into their sub-continent with fewer imports.

If the Tongue River Railroad were to select the Decker Alternative, it knows there would be precious little market for high sodium coal in the markets to the south and east. Plus they would face competition from Young's Creek, Big Metal Mine, and the Brook Mine. It is hoping for markets to the north and west, primarily overseas. There may be some small coal users such as cement plants along that route, but the one coal plant in Washington State along the route to the coast is supplied by Spring Creek, and they would fight like tigers to keep that market.

The market that Otter Creek wishes to supply is a world market, and it is a difficult and well-supplied market with more suppliers seeking to supply coal than there are buyers for the coal. Bringing a coal to market with a significant handicap in the form of a high sodium problem which would require specialized blending with other coals to make it usable in the large majority of boilers is not a profitable venture in the current coal market. In addition hoping to add the induced mines high sodium supply on top of that just boggles my mind. What was ICP thinking?

I am inclined to think they were being paid to set out a certain scenario and not check it against the facts. Their mysterious economic model was out of date with current events in the coal world. It sounds good if one does not pay attention to current happenings.

The STB should not grant the Tongue River Railroad the rights it would like to have under this petition for the public convenience and necessity.

1. The granting of the permit to mine to Otter Creek, LLC is not a done deal. The permit application that Otter Creek filed in 2014 was met with a 41 page letter of deficiency from the State of Montana which has yet to be answered to the state's sufficiency.
2. Unless and until at least one of the potentially induced mines shows up, this proposed railroad remains a private road intended for only one customer with one commodity. This EIS leans heavily on the Potentially Induced mines----sort of like the Field of Dreams.

3. Quoting from a permit application that has yet to be approved is not persuasive evidence of that will happen under that mine permit. Mine permits undergo many permutations over the course of time. The permit applicant is willing to make many promises, whether those promises are kept only time can tell.
4. The potentially induced Poker Jim etc. mine has many problems including the fact that it was in a previously permitted mine (Montco) that failed to fly, and after fifteen years of sitting on the permit, the State of Montana finally revoked the permit. In 2011, the coal owners traded out of the coal in the Poker Jim for coal over near Colstrip, which will soon be in Pit C. Title was taken to the Poker Jim coal by Department of Interior in trust for the Northern Cheyenne Tribe. The main problem for the Montco mine was Alluvial Valley Floors (AVF). So far no one has successfully reclaimed an AVF or has even attempted it. The fact that this mine lies directly along the Tongue River ups its public value to all those who use water from the Tongue from that point to the point where the Tongue joins the Yellowstone at Miles City. Irrigation is possible downriver only if the Tongue degrades no further. Additions of sodium from Otter Creek or this mine could ruin hay meadows down river. The Tongue is in questionable enough state now, that one down river irrigator, who was close enough to the Yellowstone has switched his irrigation water from the Tongue to the Yellowstone, costing him a million dollars. Those slim little hay meadows along the river sustain an industry to use the surrounding hills, and most of the irrigators cannot switch sources.
5. The maps throughout this EIS are very poor when it comes to delineating landmarks other than the Tongue and the Rosebud. The only map that I saw that related to Section, Township and Range in anyway was the one that laid out the various coal deposits in the region. The EIS did mention the former town of Lee, but it was not indicated on a map. While Lee is now a ghost town, its cemetery is not. The cemetery is currently used, and is indicated on a USGS quadrangle map, while the ghost town is not. Will the railroad impact the Lee Cemetery?
6. No maps in the EIS indicate where the potential rail sidings would be. I would assume the sidings would consume even more land than the railroad right of way, which would be 400 feet wide with an additional 400 feet on either side of that to allow for maneuvering. Does the railroad retain control of the 800 foot buffer zone after the railroad is built, or can it be accessed and used at any time thereafter by the railroad? Railroad construction might not leave much of the riverside meadows on the Tongue. Heavy equipment operators roll with a broad track.
7. I noticed that the EIS was big on calculating how many accidents might occur over years and miles on the Tongue River Railroad. The current BNSF rail track that they used for comparison was a length of track in the Sydney area. To get a more accurate comparison, they should have used the accident rate between Custer Battlefield and Hardin. The population in that area is more comparable to the socio-economic groups that would surround Tongue River Railroad. This track could even be an attractive nuisance to certain people in the area.
8. At one point, the EIS mentioned that the area on the south end of the proposed trackage had a low fire danger. That is not attributable to the good fire service in Rosebud

County, but to the dedication and efficiency of the ranchers in the area who go out at night and watch for lightning strikes in order to get a jump on fires. This EIS failed to mention the 2012 fire that was huge for the area and very dangerous. The railroad would impose itself into a situation for which it could cause lots of problems for other people. Ranchers use their private resources to fight fires in that area. It is a long ways from the Yellowstone where there is a higher population base. In 2012, I am sure the mines provided equipment as well as the county and private resources and the BIA. BNSF should be on the hook for providing fire suppression equipment as well.

9. The EIS made no mention of mercury emission from this coal. Is it elemental mercury in the Otter Creek coal, as it is in most Western coals? It should be noted that elemental mercury is more difficult to remove than when it is compound with another material.
10. The lack of understanding evidenced by this EIS of settlement patterns, particularly in the southern end of the proposed rail line is breath taking. The construction period may well be Rock Springs over again. When Colstrip was built in the early 1970's, Montana Power finally had to provide housing and planning for the construction process. At the very least BNSF should bring in some man camps. The Spring Creek and Decker mines work forces live in Sheridan and points between there and the mines, but mostly closer to Sheridan for a 60 mile commute. It is a good 70 miles plus to Miles City. The assumption in the EIS that each worker would drive his own car is a set up for texting and talking on the cell phone to help the empty miles pass by----empty miles except for the traffic coming off work in the other direction, doing the same thing. A better model would be the one the Stillwater Mine implemented by running busses out from the area of settlement to the mine. The peak employment level is estimated to be over 1400. Ashland is barely there with one Motel, a store, a couple of bars, post office and an electric coop and a few residences. Birney is a post office and a small school. Decker is a post office.
11. As far as filling the construction jobs with local residents, I think it would be useful to ask the company that built the 35 mile railroad for Signal Peak Energy in 2008 where most of the construction crew for that hailed from. The contracting company was from Utah, and I would just about bet that most of the crew was not from Montana. Unless this proposed mine results in the closing of the Rosebud Mine, I suspect that mine jobs will not be filled by locals. It is also possible that Otter Creek could compete with the Rosebud mine for a market to the Colstrip units, especially if the overseas markets are difficult to develop. Lest you think that is not possible, the Corette Plant in Billings for a time was importing coal from Wyoming because they could get it cheaper than from the Rosebud mine owned by the same company.
12. One of the drawbacks of the Colstrip route is the weakness of the soils going over the Greenleaf Divide. There are portions of the EIS that talk about how big the cuts and fills will be for all the routes. It is unclear if those reflect the amounts of soils not strong enough for this construction and their removal. It does not delineate what would be done with those weak soils and where stronger soils would be found and how much would be needed. It does talk about where the various ballasts would come from. This could be a huge impact.

13. Would the railroad be responsible for flooding damages to adjacent landowners as a result of constructing this railroad in a flood plain?
14. Cattle passes look so tidy in their diagrams with the gravel in the bottom. Given the fact that they are a pass for moving water as well as livestock, how well does that gravel stay in place? Similar passes under state roads get icy and dangerous in the winter and require re-graveling on a fairly regular basis.
15. Revegetation is discussed in U.4.6.1---so wonderful, it does not occur all at once, because mining slowly progresses and vegetation reclamation is required. I estimate that Spring Creek will finally have revegetated everything in their original permit footprint by 2080 if their reclamation proceeds at the present pace of slow. Revegetation depends also on the kind of mine plan submitted and approved by the State in order to hasten the process. Spring Creek's mine plan was approved in 1984 and 15 years later they had only regraded and reseeded about 2%. That is hardly anyone's idea of contemporaneous reclamation. Speedy and convenient coal removal is not the only standard for a permit under SMCRA. The convenience of the miner is to be married with the state's interest in getting the mine site reclaimed in a timely manner for other taxable uses, as well as wildlife, etc. The state also has an interest in achieving reclamation while the company is still making enough money to do so, because forfeited bonds are rarely enough to get the job done well. So far, none of the mines in Montana with the exception of Savage have reclaimed to bond release. It will be 40 years in 2017 that they have operated under SMCRA standards. Rosebud Mine operated for 4 years under State of Montana standards prior to that in the days of planting introduced species, fertilizing and irrigating them up. It was an abject failure, and the legislature had to pass a special bill so Western Energy could get its bond back, even though the reclamation was a mess. The EIS can spout the good language that Montana has on the books, but getting it done on the ground is often a different thing.
16. Page U-97 gives as a rationale for mining adjacent to the Tongue River that a mine footprint would never be developed at any given time. Impacts would be spread out over a long period of time, while reclamation is occurring after mining. The problem is that all the materials are mixed and replicating an alluvial valley floor from mixed materials is certainly problematic. The soils then exposed to water and dissolution are at maximum intensity, which would increase the TDS and possibly the sodium in the soils and in the water passing through. If the STB wants to kill agriculture in the Tongue River Valley, all it has to do is help the inducers of the Poker Jim make this mine a reality. Had not Montanans taken on the coal bed methane industry a little over ten years ago and kept most of that development south of the border in Wyoming, agriculture might have died then. The CBM development was short term gain and long term loss. The developers made a getaway to Houston leaving the wells behind them baking on the prairie and Wyoming with an unfunded reclamation bill. Miles City BLM with their CBM recommendations could also kill agriculture on the Tongue. They should have thought things out in a better manner. Agriculture on the Tongue has been a stable sustainable operation. If the Tongue becomes non-irrigable, then agriculture on the Tongue becomes

much more a speculative venture with concomitant effects on people, wildlife and vegetation---none of them good.

17. On Page U-125 the STB takes the following optimistic stance “As with the existing mines, regulatory compliance would protect hydrology, water quality, and water quantity of surface and ground water from mining.” It didn’t protect Lee Coulee at Rosebud---ringed with monitoring wells. When cut into, it drained the springs above the opening, while Westmoreland pumped the water on down the draw turning Don Bailey’s alfalfa field into a swamp that nearly swallowed his tractor. DEQ had no answer as to why they didn’t know there was that much water there. Regulatory compliance did not protect anything there. And please give me a break that Otter Creek knows how these impacts would be avoided and minimized, thanks to the brilliance of their permit application, which received a 41 page deficiency letter. Then the reassurance on page U-126 that “The proposed and potentially induced mines would comply with all regulatory standards for the protection of surface waters. . . .” reduces me to laughter or tears. I don’t know which. We are to take reassurance that any operator will want to be good without knowing who the operator is and no indication of its record. Perhaps the would-be operator is one or all the partners in the Tongue River Railroad or another nearly bankrupt coal company.
18. One of the things that has come to my mind is that BNSF and Tongue River Railroad may be engaging in trying to broker coal sales as part of their coal hauling business. The pamphlet that BNSF supplies on coal quality and sodium amounts for different mines leads me to wonder if the relationship between the railroads and the mines doesn’t go deeper.
19. Once upon a time, Montana had a severance tax that was designed among other things to provide impact money for things like new mines and rails that service them, but since then that money has been limited only to Coal Board grants for impacts, those grants controlled by the whole legislature. Much of that impact tax money is going to things like libraries in Kalispell or to Musselshell County to take care of the impacts of the longwall mine that causes lots of impacts, but pays very little in to take care of them. It may well be that the state will shortchange Rosebud County on impacts resulting from this scheme of induced coal mines, and put the burden on the Rosebud County taxpayers.
20. Since Obama released his clean power plan, which would have Montana reduce its CO2 emissions by nearly 50%, most of which come from Colstrip, Colstrip has been terrified for its future, and increased taxes in that area to support impacts from Otter Creek et al would not be welcome. In addition PPL has sold its interests in the coal plants there to Talon Energy, in which PPL has some ownership, but not too much, which may indicate that the Colstrip power plants are not on too steady a base. Units One and Two are 40 years old and nearing the end of their life span. If they do, Rosebud mine may well have coal to sell on the open market.
21. By relying on information that is thirty years old, the authors of this report assume that no one gets any smarter in the cow business and that no new information becomes available on anything cow. Quite a lot of information has been developed in the last 30 years on what water quantity and quality a cow needs to survive and thrive. The upper TDS levels

given in this report are not in line with current thinking. The University of Wyoming has quite a bibliography on recent research into this subject. Miners like to think that cow can survive on just any old drink, but that is not true. This EIS does not take into account the capital losses that railroad construction would impose on adjacent ranches. It would devalue ranches in this current market. One of the partners in this railroad knows that well.

One final point. Upon abandonment of this railroad where ever it is routed, will the Federal Rails to Trails act take it over, or will the right of way revert to adjacent landowners? At best this is a private railroad with no public convenience or necessity, benefiting and profiting only one private entity.

The Surface Transportation Board should not grant a certificate of public necessity and convenience for any route on this proposed railroad.

Submitted by:

Ellen Pfister

P. O. Box 330, Shepherd, Montana 59079

406-947-5931

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