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Ms. Victoria Rutson
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423

November 4, 2014

Re: Additional comments from Colstrip Alternative Landowners Group on
proposed TRR project Programmatic Agreement v. 10-17-14

Dear Ms. Rutson:

This letter provides additional comments on the proposed Programmatic Agreement ("PA") on behalf of my clients who own property along the proposed Tongue River Railroad ("TRR") Colstrip Alternative: Kurt Baumgartner, Hank and Kitte Coffin, Jim and Helen Curran, Joseph Hanna Trust, Highland Rim, Rocker Six Cattle Company, Trusler Inc., Dick and Kay Wells, and Hugh and Ann Wells (collectively, "the Landowners").

On October 20, 2014, the agency distributed revisions to the Whereas clauses and Stipulations to Section 106 call participants so soon before the call as to make review impossible. Agency representatives then insisted on the call that a discussion of the Landowners' 9-30-14 letter, commenting on the previous version of the PA Whereas clauses and Stipulations, was inappropriate because the newly revised versions of these documents now addressed the Landowners' concerns. The Landowners' attempts to address their concerns were met with agency requests to put them "in writing" – which the Landowners had already done in a detailed September 30, 2014 letter, organized according to sections of the draft PA Stipulations. Agency staff further requested that the Landowners put their comments in the text of the revised Whereas clause and Stipulation documents.

As the Landowners discovered upon reviewing the new PA revisions after the call, the agency had incorporated almost none of the Landowners' comments and suggestions into the revisions. In at least one case, annotated in comments to the attached Stipulations document, the agency appears to have *decreased* a review timeline for interested parties that the Landowners had criticized as already too short. The Stipulation revisions, dated 10-17-14 but distributed on 10-20-14, did not include many sections on which the Landowners had commented. It is difficult to understand how agency staff could have believed that the revisions "addressed" the Landowners' comments.

The Landowners are left with the strong impression that the agency gave little or no attention to their 9-30-14 comments, which they and their legal counsel took seriously and spent significant time drafting in good faith. In light of what was in the 10-17-14

revisions, agency staff's statements on the 10-20-14 call appear to have been a successful attempt to dodge discussion of the Landowners' concerns about the PA by lying about the content of the PA revisions. If the agency intends to carry out so-called "consultations" with interested parties in this sort of bad faith, the Landowners see little advantage in continuing to participate.

Commented versions of the agency's 10-17-14 PA revisions are attached, with comments embedded in the text of the documents, as requested. The Landowners would greatly appreciate written responses to each of their comments, delivered at least one full working day before the next Section 106 call.

In a related matter, the Landowners remind the agency that the terms of the access agreements for cultural surveys included *timely* access to data gathered. They are each entitled to immediate access to site reports relating to their land. The Landowners also request that cultural resource analysis of their properties be performed according to the standards and practices required for federally owned land.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Carrie La Seur', with a stylized flourish at the end.

Carrie La Seur

Attorney for Colstrip Alternative
Landowners' Group