



WALLACE D. McRAE

ROCKER SIX CATTLE CO.
3607 ROSEBUD CREEK ROAD
FORSYTH, MONTANA 59327-9411

EI - 19117

Ken Blodgett
Surface Transportation Board
Attn: Environmental Filing,
Docket no. FD30186
395 E. Street
Washington, D. C. 20423-0001

25 November, 2012

Dear Mr. Blodgett:

During the verbal introduction comments at the scoping meetings, the proposed TRR was described as a rail line extending from Miles City to two terminal points in the Ashland area that would haul "low sulfur" coal. Although it is a minor point, I would suggest that the line would run the opposite direction *down* the river (*rather than up*) with the coal-- See my poem "UP NORTH IS DOWN THE CRICK" in the book "COWBOY CURMUDGEON" (supplied to the personnel from the STB at the second Lame Deer hearing.)-- Considering the reference to "low sulfur" coal, "low sulfur" is a hyped bit of advertising used by the coal companies as a selling point for their product and is a debatable description unless it is compared to some other coal. If "low sulfur" is used in the future, I would suggest adding the descriptive term "high sodium" as a characteristic of the coal being considered from the Tongue River area.

There is always a tendency for the permitting agency to, perhaps, inadvertently infer that approval is merely a matter of jumping through all of the hoops posed by NEPA. Evidence of this expected approval can be observed by the people and their comments at the hearings that I attended. The opposition by both the number of comments against the approval of the railroad and the vast numbers of persons testifying in opposition, was revealing. Supporters of the granting of a certificate for the construction and operation of the TRR obviously felt that their comments were unneeded, while the opponents hoped by their comments would, at least, give pause to the tendency for an almost universal preconceived, automatic approval. I feel that the second paragraph in the introduction for the draft scoping document is quite revealing of the inherent bias we frequently see in documents of this type. Who knows what the "anticipated train traffic" will be. What is the supporting documentation that led to the number of "3.7 loaded unit coal trains per day, or "26 round trips per week?" The inference that this is a "done deal" is quite obvious.

By listing the alternatives that will be considered during the development of an EIS, we are always given the order of probability of a particular option being the one approved. For instance: (1. "The construction and operation of the proposed rail line, (2) all reasonable and feasible alternative routes, and (3) the no action alternative." Has, in the history of NEPA, there *ever* been a variation from this format that does not indicate a preconceived proclivity favoring the applicant? Would it be possible to, just once, place the "no action" alternative as the first option?

Why was TRR 2 combined with TRR 3 not listed as a possible alternative? The engineering has already been done to the satisfaction of the STB and the BNSF who insisted that that route been

approved. It's shorter than "going around the horn" to either Miles City or Colstrip but it appears that if you are a billionaire like our "neighbor" Mr. Mars, the rattling of enough coins can be heard all the way to Helena and even as far away as Washington D. C. The manipulation of the system by Mr. Mars is completely obscene and makes a mockery of any semblance of justice to the rest of us landowners faced with federal condemnation for HIS railroad. Shame on him and shame on the STB for allowing Mr. Mars to blatantly purchase favor from a supposedly neutral federal agency by his buying his way out of having to put up with something he is eager to foist off on others.

Why was a route UP Otter Creek from the Otter Creek tract connecting with the existing mainline railroad between Gillette and Sheridan, Wyo. not considered as another alternate route? Is it because the TRR and the STB are more comfortable with condemning PRIVATE land than depending, to a degree, on federal, Forest Service land, for a project that is supposed to represent public convenience and necessity? In other words, why not use PUBLIC land as much as possible for a PUBLIC use? Will additional alternate routes be added to the EIS? If not why not?

Years ago, there was an easement for the TRR delivered by a subsequently defeated Congressman across the Fort Keough Livestock Agricultural Research Station, LARS, (the only one in the United States.) Was there any subsequent consideration of changing the route to avoid some of the long-range livestock and range management experiments being conducted on the Experiment Station? Was there a sunset clause in the easement? Will the easement revert back to the LARS when the TRR ceases to be operated? Will this also be the case for the state land crossed by the TRR? What about private land? Must the various entities impacted by the railroad be required to "negotiate" this requirement, or will it be a 'MUST' instead of a "SHOULD" in the final document of mitigation measures?

Is the STB aware that the mining permit for the Montco mine was terminated by a state agency for lack of diligence in developing the mine? Is the STB aware that at one time the TRR was given three years to BUILD AND BEGIN OPERATING the TRR or lose their permit? Or that the board member pushing for this requirement was subsequently removed from his position on the board and his motion was rescinded at a later board meeting allowing the TRR to continue sitting on the permit and continuing for years the threat of condemnation over us landowners' heads?

We were told at the scoping hearings that our opinions would be heard and considered. Is there a record of those in favor of permitting the proposed route compared to those in favor of denying the permit, or favoring the No Action alternative?

Will a transcript of the scoping hearings be made available for those of us who could not attend all of the hearings?

Will a copy of all persons' names attending, and signed in, at the hearings and their affiliations be made available?

Since our ranch is under threat by both the applicants preferred route and the Colstrip alternative, why was our ranch not on the mailing list for the scoping hearings as a party of record? Why were all landowners whose property could possibly be either crossed, or affected by the suggested alternative routes not notified of the hearings and supplied with maps of the proposal?

Will it be mentioned in the EIS that the recently-built rail line connecting the Signal Peak Mine south of Roundup, Mt. to the BNSF or MRL line a certificate of need and public convenience was not required from the STB? As a result condemnation was not used, or threatened and the right of way was

acquired by honest negotiation with the landowners. Why was this the case? What exactly are the requirements for getting a certificate for a railroad from the STB? I wonder why the supporters of the TRR while espousing "free enterprise" and "letting the free market work" are not opposed to the use of Federal subsidies such as the power of condemnation.

It is well recognized and accepted fact that there are continuing costs to an adjacent landowner from having a railroad come through their property. In an acknowledgement of this fact, will the STB require some sort of annual compensation such as a "wheelage fee" or a price per ton per mile, or portion thereof, from the railroad to the bisected landowner? Will there be annual compensation to the state for school trust land bisected and affected by operation of the railroad, as well? What about the counties' road, weed and fire funds that will be drawn on as a result of the railroad?

Is there any awareness on the part of the STB of the horrible record that the TRR has demonstrated over the years in their treatment of us landowners? Any reasonable request on our part was scoffed at and rejected out of hand. Further, some legitimate requests on our part were summarily rejected by the SEA of the ICC as being unreasonable or "too expensive"...for the railroad to assume and therefore borne by the landowners. With the newly shuffled ownership of the TRR, I hoped there might be a more reasonable and accommodating spirit of cooperation developed. Such has not been the case. Our land already been trespassed upon, just 4 days after receiving a "30 Day Notice" to sign and return allowing a TRR engineering firm, HDR Engineering, to enter our lands and those of others, including the State of Montana. They didn't even wait for the thirty days to expire! When confronted on the telephone, an official of the firm admitted that they were wrong and verbally apologized, but refused to acknowledge or apologize in writing for their trespassing.

The original TRR 1 was approved for a mine, Montco, that was never economically viable. The State of Montana permit recognized not only the high sodium content of the coal, but just as important the highly sodic overburden. Because of the toxic-to-plants overburden, the state required a truck and shovel removal method rather than the much cheaper dragline operation. This decision made that mine uneconomical for two reasons: Bad coal. Toxic overburden. End of story. Except for the question why is the Montco mine site still on the maps as a terminal. In reality the Montco mine is in reality only terminal, *as in dead!* Why is it still indicated as being a viable, or even possible, mine? I assume that the proposed Otter Creek mine might face the same problems with the toxic chemical composition of both the coal and its overburden.

The heartfelt comments at the scoping meeting by members of the Northern Cheyenne tribe were moving, extensive and sincere. Will there be credence given to their unanimous opposition to the TRR? There is another cultural and sociological consideration that was not expressed at the scoping that you must recognize. That is the unspoken opposition by another group of our neighbors and friends, The Amish community. The Amish moved here a few years ago in an attempt to escape the very same industrial and cultural encroachment that they were experiencing in other places in the U.S. in a way much different, but basically the same as the Cheyenne people. The TRR would rip that wonderful community apart. Just because their mores and beliefs prevent them from speaking at events like the scoping meetings, or commenting on the documents that will be developed concerning the TRR, please do not ignore their unique culture and the effect the TRR would have on it.

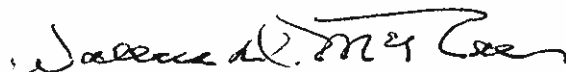
My grandchildren represent the fifth generation raising livestock in this area of Montana. My grandfather, John B. McRae left Scotland in 1882 working his way on a sailing ship to Brownsville, Texas. He came to the United States for something that was unavailable in his birthplace. LAND. He fought the elements and low prices but more important he respected and loved this land and passed that feeling

and ethic on to his descendants. I respect that heritage. However, more and more often, I find that the protections of property rights are being eroded. Corporations are not only now categorized as "persons" but more and more often, are considered persons who have the same condemnation powers, not just to serve a public need, but instead to serve private economic advantages.

As I understand the granting of a permit such as is being considered here, there must be a logical beneficial PURPOSE for the facility. What is the purpose in this case? The purpose is for a multinational coal company, Arch Coal to load coal on a railroad, BNSF—who stands to gain not only from the freight charges, but from a royalty paid to Great Northern Properties, as a residual from the original land grant given to the Northern Pacific Railroad in the 1880's. The Railroad is jointly owned by Arch, Forrest Mars and The BNSF. The coal will then be shipped to China, a country that, in the past, has been openly hostile to United States' interests and is becoming more and more an economic and industrial threat to our country. Am I correct so far? Then describe just how this unholy trinity's project represents a "public good." The promoters and proponents of the TRR rely on a main argument as a job creator. Will these jobs be permanent? or even long-lived? Consider once again the PURPOSE. Does the creation of a number of short-term jobs in reality demonstrate a "Public Need? Is condemnation of privately owned agricultural land in a pristine valley, forever, by a short-term railroad a demonstrable exercise of "Public Convenience?"

I have spent my entire adult life, except for the years I spent in college and in the military, as a rancher in Rosebud county, Montana. I have always tried to serve my neighborhood, county, region, state and country, as a volunteer Naval Officer. I realize that all of this makes not a whit of difference to the decision-makers in Washington, D. C. But it should. It is inconceivable to me that a multinational mining company, joined by a couple of billionaires will use a compliant Board and Agency to ship coal to a past, and possible future, enemy country, in a short-term venture that may very well come back to haunt us. Therefore, I beg you to not grant a permit for the construction and operation of the Tongue River Railroad.

Sincerely,

A handwritten signature in black ink, appearing to read "Wallace D. McRae". The signature is fluid and cursive, with the first name "Wallace" and last name "McRae" being clearly legible despite the cursive style.

Wallace D. McRae

President, Rocker Six Cattle Co.