



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
BILLINGS REGULATORY OFFICE
POST OFFICE BOX 2256
BILLINGS, MONTANA 59103-2256

ET-19001
CB

October 26, 2012

Regulatory Branch
Montana State Program
Corps No. NWO-2011-02465-MTB

Subject: Tongue River Railroad EIS – Response to Cooperating Agency Request

Ms. Victoria Ruston
Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
Washington, DC 20423

Dear Ms. Ruston:

Reference is made to your letter dated October 11, 2012, requesting that the U.S. Army Corps of Engineers Omaha District (Corps) be a cooperating agency during the development of the Tongue River Railroad Environmental Impact Statement (EIS). The EIS will examine a proposed 80 mile rail line from Miles City, Montana, to two terminal points: one near the site of the previously planned MontCo Mine near Ashland, Montana; and the other near the proposed Otter Creek Mine east of Ashland, Montana.

Because we have jurisdiction by law under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, the Corps agrees to participate as a cooperating agency for the preparation of the EIS in accordance with 40 CFR 1501.6 (National Environmental Policy Act – Regulations) and 33 CFR 325, Appendix B (Corps of Engineers Environmental Quality; Procedures for Implementing the National Environmental Policy Act).

Point of contact for the Corps Omaha District Regulatory Branch will be Ms. Shannon Johnson in the Billings Regulatory Office. The Omaha District Regulatory Branch will coordinate with the Surface Transportation Board to ensure the EIS can be adopted by the Corps for Section 10 and Section 404 permitting purposes. While our primary regulatory responsibilities are associated with waters of the United States and aquatic resources, our regulations require that we also assess impacts to factors relative to public interest, including, but not limited to: fish and wildlife; historic, scenic, and recreational values; floodplain management; water supply and conservation; mineral needs; navigation; economics; mitigation; and the general needs and welfare of the people. Corps Regulatory participation as a Cooperating Agency will be commensurate with the level of project impact on Waters of the United States.

Also, the Omaha District Planning Branch is engaged in efforts and studies within the Yellowstone River basin that are not directly associated with the proposed project or with the Corps Regulatory responsibilities, but may be affected by the proposed railroad. As necessary and appropriate, they should be contacted regarding features of the proposed Tongue River Railroad could affect Corps work within their area of responsibility. The point of contact for the Omaha District Planning Branch is Mr. Bradley Thompson, phone (402) 995-2678.

If you have any questions feel free to call me at (406) 441-1376, or Ms. Shannon Johnson in our Billings Regulatory Office at (406) 657-5910. Please reference Corps File Number NWO-2011-02465-MTB on all inquiries and correspondence.

Sincerely

A handwritten signature in blue ink, appearing to read "Todd N. Tillinger", with a long horizontal flourish extending to the right.

Todd N. Tillinger, P.E.
Montana State Program Manager

Copy Furnished:

Bradley Thompson
US Army Corps of Engineers
CENWO-PM-A
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