

EI-19102

SURFACE TRANSPORTATION BOARD OFFICE OF ENVIRONMENTAL ANALYSIS

Re: Proposed Tongue
River Railroad Project }

TRANSCRIPT OF PROCEEDINGS

Haugo Center
Riverview Villa
Rosebud Street
Forsyth, MT
November 13, 2012
6:00 p.m.

APPEARANCES

Mr. Ken Blodgett, STB
Ms. Danielle Gosselin, STB
ICF International, Third-
Party consultants
Mr. Scott Graves, ICF
Mr. Alan Summerville, ICF
Mr. Neil Sullivan, ICF
Mr. Chris Moelter, ICF
Ms. Sarah Mulligan, ICF
Ms. Elizabeth Diller, ICF

RICHARD L. MATTSON, LTD.,
CERTIFIED COURT REPORTER
816 Avenue F
Billings, MT 59102
(406) 698-3163

C O N T E N T S

Opening remarks

By Mr. Blodgett.....	3
By Mr. Summerville.....	8

Public remarks

By Ms. Jean Lemire Dahlman.....	13
By Ms. H. Eileen Morris.....	16
By Mr. John Hamilton.....	18
By Mr. Wallace McRae.....	23
By Ms. Kathleen Masis, M.D..	27
By Mr. Clint McRae.....	28
By Mr. Scott Parry.....	36
By Mr. Ressa Charter.....	38
By Ms. Maggie Zaback.....	41
By Ms. Deb Fischer.....	42
By Mr. Ressa Charter.....	45
By Mr. Mike Scott.....	46
By Mr. Brad Sauer.....	50
By Mr. John Hamilton.....	53
By Ms. Cathy Byron.....	55
By Ms. Alexis Bonogofsky.....	57
By Ms. Barb Rolston.....	59
By Ms. Susan Henry.....	60

Reporter's Certificate.....	61
-----------------------------	----

P R O C E E D I N G S

MR. BLODGETT: Hello everybody. I think we are going to kick off the public comment portion of the meeting now.

First of all, I would like to thank you all for coming to tonight's public scoping meeting on the Environmental Impact Statement on the proposed Tongue River Railroad. My name is Ken Blodgett, and this is Danielle Gosselin, and we represent the Surface Transportation Board, Office of Environmental Analysis. Also seated at the table with us is Alan Summerville of ICF International, the project manager for our third-party contractor team, and Scott Graves of ICF International, who will serve as our facilitator this evening.

The Surface Transportation Board is the federal agency responsible for granting authority for operation of new rail lines and associated facilities. On October 26, 2012, Tongue River Railroad Corporation filed a revised application with the Surface Transportation Board to construct and operate a rail line from Montana to two end points near Ashland, Montana. The Surface Transportation

1 Board is the lead agency responsible for
2 preparing the Environmental Impact Statement,
3 which will identify and evaluate the potential
4 environmental impact associated with the
5 proposed action and alternatives. There are
6 four cooperating agencies working with the
7 Surface Transportation Board in preparation of
8 the Environmental Impact Statement. Those four
9 agencies are the Bureau of Land Management, the
10 U.S. Army Corps of Engineers, the U.S.
11 Department of Agriculture, and the Montana
12 Department of Natural Resources and
13 Conservation, which is acting as the lead
14 agency for other Montana State agencies.

15 These cooperating agencies have
16 decision-making authority independent of the
17 Surface Transportation Board, and are agencies
18 from which Tongue River Railroad will obtain
19 several approvals for permits.

20 The scoping meeting tonight
21 represents one of the first opportunities in
22 the Environmental Review Process for members of
23 the public to provide input into the Surface
24 Transportation Board about its environmental
25 concerns related to the construction and

1 operation of the proposed rail line, including
2 potential alternatives and their impacts. Our
3 hope is that the information you provide us
4 with today will help frame our analysis and
5 help us understand your concerns about the
6 proposed actions and potential alternatives.

7 The scoping public comment period
8 will end on December 6, 2012. The Office of
9 Environmental Analysis will then revise the
10 Draft Scope of Study and issue a Final Scope of
11 Study, incorporating public comments and
12 concerns received during the comment period.
13 The Office of Environmental Analysis will
14 consider all comments received when preparing
15 the Final Scope of Study.

16 Additional information on the
17 Environmental Review process is at the station
18 located over there for anyone who hasn't picked
19 it up yet.

20 After the Scope of Study is
21 finalized, the Office of Environmental Analysis
22 will begin preparing the Draft Environmental
23 Impact Statement. The Draft Environmental
24 Impact Statement will reflect the Office of
25 Environmental Analysis's independent analysis

1 of the potential environmental impacts that
2 could result from the construction and
3 operation of the proposed line.

4 The Office of Environmental Analysis
19:02:24 5 will then issue the Draft Environmental Impact
6 Statement, and the public will have the
7 opportunity to read and comment on the Draft
8 Environmental Impact Statement during a formal
9 public comment period, which will include a
19:02:40 10 series of public meetings similar to the one we
11 are having here tonight.

12 After the Draft Environmental Impact
13 Statement public comment period has come to a
14 close, the Office of Environmental Analysis
19:02:53 15 will consider all comments received and address
16 each comment in a Final Environmental Impact
17 Statement. The Final Environmental Impact
18 Statement will present the Office of
19 Environmental Analysis's final conclusions and
19:03:07 20 recommendations for mitigating possible
21 environmental effects. Issuance of the Final
22 Environmental Impact Statement will complete
23 the Surface Transportation Board's Environmental
24 Review Process.

19:03:22 25 The Board will then make a final

1 decision on the proposed rail line
2 construction. In making its final decision,
3 the Board will consider the entire
4 environmental record, including all comments
19:03:35 5 received, the Draft Environmental Impact
6 Statement, the Final Environmental Impact
7 Statement, and the Office of Environmental
8 Analysis's final recommended environmental
9 mitigation. No project-related construction
19:03:49 10 may begin until the Board's final decision has
11 been issued and has become effective.

12 If you have not already done so this
13 evening, please be sure to sign in. Those who
14 have indicated that they would like to make a
19:04:07 15 public comment on the Scope of Study, which
16 will be recorded by the court reporter, will be
17 called upon to speak in the order in which they
18 signed in this evening.

19 I would like to thank you in advance
19:04:20 20 for your cooperation and courteousness towards
21 those who are speaking. Comments will be
22 limited in time so that everyone is given the
23 opportunity to speak. If you would like to
24 provide a handwritten comment, comment forms
19:04:35 25 are located at the rear of the room. You can

1 just complete the comment form and drop it in
2 the comment box. Written comments may also be
3 mailed to the Surface Transportation Board, or
4 they can be submitted electronically using the
5 Surface Transportation Board's website. Oral
6 and written comments will all be given equal
7 weight and consideration. And, again, comments
8 are due on December 6, 2012.

9 At this time I would like to turn the
10 floor over to Mr. Alan Summerville, who will
11 discuss briefly more details of the project.

12 MR. SUMMERVILLE: Thank you. Good
13 evening. During the first half of the meeting
14 we provided information on the project and now
15 I would like to summarize that information for
16 those of you who were not here during the first
17 half of the meeting and to provide a recap for
18 those who were.

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

25 The Tongue River Railroad Company is

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

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

22 At a minimum the Office of
23 Environmental Analysis is considering those
24 alternatives analyzed in the Tongue River I
25 EIS: The Tongue River Road Alternative, the

1 Moon Creek Alternative, the Colstrip
2 Alternative, and the No Action Alternative.

3 As part of its alternatives
4 development process, the Office of
19:07:27 5 Environmental Analysis is determining the
6 feasibility of these and other potential
7 routes. The Office of Environmental Analysis
8 welcomes public comments on these and other
9 potential alternatives. Alternatives will be
19:07:40 10 evaluated based on public and agency input as
11 well as environmental, technical, and
12 engineering considerations, including curvature
13 and grade of the rail line and topographic
14 features such as steep slopes, hills, as well
19:07:56 15 as geology, floodplains, wetlands, rivers, and
16 streams.

17 Environmental impact statements cover
18 a range of impact topics. In this particular
19 EIS the Office of Environmental Analysis plans
19:08:17 20 to cover transportation systems, safety, land
21 use, recreation, biological resources, water
22 resources, navigation, geology and soils, air
23 quality, noise and vibration, energy resources,
24 socioeconomics, cultural and historic
19:08:39 25 resources, aesthetics, and environmental justice.

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

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

10 At this time I'd like to turn the
11 meeting over to our facilitator, Scott Graves,
12 who will go over some ground rules, and we can
13 begin to hear public comments. Thank you.

14 MR. GRAVES: Thank you, Alan. Good
15 evening everyone. This is the fourth meeting
16 in two days. I've seen some familiar faces.
17 So welcome back. For those of you who are here
18 for the first time, welcome. I look forward to
19 your comments tonight.

20 Just a couple of ground rules to get
21 us started. First is we'd like to make sure
22 that if you are planning to speak, if you
23 indicated on one of the sign in cards that you
24 plan to speak, that will be helpful for
25 purposes of providing accurate information for

1 transcription for our court reporter. We will
2 make sure that we get your name entered into
3 the record correctly. That's always helpful.

4 We want to make sure, as Ken said, if
19:10:05 5 you provide comments, either in written form or
6 oral form, they are all given equal weight, so
7 however you choose to submit comments they will
8 all be considered equally. We also want to
9 make sure that when you come up that you have a
19:10:18 10 place to put your materials, if you have extra
11 materials, so we moved this table up here this
12 afternoon, this evening. So when you come up,
13 state your name, please spell it for the court
14 reporter just to make sure that we have it
19:10:31 15 correctly. I will give you the microphone and
16 then you can give your comments. We are asking
17 each person to please keep your comments to 5
18 minutes until everybody has had a chance to
19 speak and then time permitting, if you have
19:10:44 20 additional comments, you're more than welcome
21 to come back up and we'll acknowledge you and
22 you can come on up.

23 Are there any questions about the
24 process?

19:10:59 25 The first card is for Jean Dahlman.

1 Jean, are you here?

2 MS. JEAN DAHLMAN: I'm surprised I'm
3 first. I was just making some additional
4 notes.

19:11:15

5 My name is Jean Lemire Dahlman, and
6 that's J-e-a-n, L-e-m-i-r-e, D-a-h-l-m-a-n.

19:11:43

7 We ranch -- the Dahlman Ranch is six
8 miles east of town in between the frontage road
9 and the Yellowstone River. So it's sort of
10 equal distance between Forsyth and Rosebud. As
11 a matter of fact, I had hoped my husband would
12 be here tonight, because he's the one who
13 suffers the immediate impacts of having a
14 railroad cross our property. However, he came
15 home about 10 of 6 and was tired and wet and
16 cold and needed a glass of wine and a hot bath.
17 So I took notes, and I will do what I can to
18 let the flavor of his comments shine through.

19:11:57

19:12:18

19 First of all, I am a ranch wife, but
20 I don't do the heavy lifting. I work in town.
21 And so I have been a ranch wife for 35 years,
22 and I have listened to this sort of complaints
23 about the railroad for about that long.

19:12:34

24 And so here are some points, and I
25 will try to be succinct and do this in five

1 minutes. My husband, first of all, wanted to
2 know, how do you handle eminent domain and when
3 does that kick in? Of course, the Burlington
4 Northern, wasn't called that then originally,
5 came through our property probably whenever
6 they built the railroad, so about 150 years
7 ago, something like that. At any rate, the
8 right-of-way on either side of the railroad is
9 300 feet, and I heard you say that the Tongue
10 River Railroad is proposing 200 feet.

11 Nevertheless, that right-of-way is one of the
12 reasons we experience so many problems.

13 Crews have to get down there with
14 their machinery to repair tracks and roadbeds
15 and that sort of thing. And in the process of
16 doing that, they have to use a road to get down
17 to the river. They use our road. None of our
18 neighbors will let them use their roads. So my
19 husband has worked out an accommodation by
20 which they have permission to use the road.

21 First thing that happens is that
22 sometimes gates are left unlocked and open, and
23 that sort of thing, and you can imagine the
24 problems that occur when you are running cattle
25 in the section adjacent to the gate.

1 Also, the crews have to come down
2 there in their machines and they trash
3 everything. It's as if people were throwing
4 garbage around. How would you feel if people
5 through garbage around your own backyard? You
6 wouldn't like it.

7 There's a weed problem where they
8 spray the weeds, that sort of thing. It may
9 sound petty but there's wild asparagus growing
10 down there and they always get it first. So
11 there's the problem of garbage and the fact
12 they don't seem to respect the rights of the
13 property owner.

14 The crossings are very dangerous.
15 The train comes around a corner and you're not
16 aware, you don't even hear the noise of the
17 train, and suddenly it's upon you. We wonder
18 what the Tongue River Railroad has planned in
19 terms of signals and that kind of thing to
20 alert people to the crossing.

21 We used to try to move cattle across
22 the tracks, and you can imagine how hard that
23 was. We had a half section on the other side
24 that we liked to graze them on when we could.
25 But that was an impossibility. It was just too

1 much trouble to get the cattle across the
2 tracks in the right amount of time, and we
3 never did know if a train might suddenly come
4 upon us.

19:15:11 5 There are, of course, water issues
6 involved, too, but I can't be too specific
7 about that. But in summation, I would say the
8 Dahlman Ranch, speaking on behalf of my husband
9 and myself, would favor the No Action
10 Alternative. Thank you.

11 MR. GRAVES: Next is H. Eileen
12 Morris.

13 MS. H. EILEEN MORRIS: My name, I go
14 by middle name, Eileen Morris, M-o-r-r-i-s.

19:15:58 15 I am a landowner on Otter Creek. My
16 home presently is in Billings, Montana. And I
17 am speaking against the railroad, and I prefer
18 the No Action Alternative.

19 One of the reasons that I've been
19:16:22 20 prompted to come here is that unless people are
21 familiar with southeastern Montana, oftentimes
22 they have the wrong vision of what we are and
23 what it looks like. Oftentimes I have the
24 impression that people tend to think east of
19:16:40 25 the divide is some vast wasteland, but in fact

1 when you talk to a wildlife biologist, you'll
2 find out there are more species of wildlife and
3 more species of fish, even though it's not all
4 edible, in eastern Montana than there is in
5 western Montana.

6 I am particularly fond of the area
7 around Otter Creek because that's where my
8 father-in-law homesteaded, and I still have a
9 piece of that property.

10 One of the things -- one of the
11 issues that is not often spoken of, in addition
12 to agricultural interests and issues, is the
13 economic issues of travel and tourism. People
14 don't come to Montana to see strip mines, and
15 travel and tourism is actually second to
16 agricultural as the highest economy in Montana.
17 People come to eastern Montana to hunt and
18 fish. We have some of the unusual fish in the
19 Yellowstone where the Tongue River empties.
20 And the cultural issues in southeastern Montana
21 are also very important to our economy. The
22 Native American history here, the archeological
23 facts that are present in southeastern Montana,
24 all of that has value in addition to the
25 resources of mining, and, actually, have a

1 larger impact on Montana's economy than mining
2 does, and as far as jobs are concerned as well.

3 One of the reasons I am for the No
4 Action preference is that if you take a look at
19:18:43 5 Appalachia, where there is a history of mining
6 was supposed to have brought jobs and wealth,
7 you'll find that Appalachia is a pretty sad
8 place right today. So I don't want that to
9 happen to us in eastern Montana.

19:18:58 10 The cowboys brought cattle north out
11 of Texas to southeastern Montana because of the
12 great grass and potential for cattle here, and
13 that still exists today. I don't want to see
14 our southeastern Montana disappear into another
19:19:19 15 Appalachia. And so I repeat, my preference is
16 for the No Action.

17 MR. GRAVES: John Hamilton.

18 MR. JOHN HAMILTON: John Hamilton,
19 H-a-m-i-l-t-o-n.

19:19:58 20 I'm a rancher on the Tongue River.
21 If you look at your map, we own property about
22 halfway between Beaver Creek and Liscom Creek.
23 We are on that map where it comes close to the
24 road. We own between the river and the road
19:20:17 25 from there to Foster Creek. This is

1 approximately a 15-mile stretch of river
2 frontage, and will also become a 15-mile
3 stretch of railroad frontage.

4 In the back room I have a series of
5 pictures which explains what I think we are
6 addressing here today, and that is the land
7 issue, water issue, and also wildlife.

8 This railroad has been said by a
9 politician is a good place for a railroad
10 because it is in the middle of nowhere. I
11 brought these pictures for people to see what
12 it looks like when you live in the middle of
13 nowhere and some of the things that we do in
14 the middle of nowhere.

15 If you think back in history, some of
16 our most valuable treasures in this country at
17 one time were located in the middle of nowhere;
18 our national parks and a lot of our national
19 treasures.

20 The Tongue River is probably one of
21 the most undiscovered, most beautiful pristine
22 river valleys that we have anywhere in America.
23 And the reason for that is we have a poor road.
24 Not a lot of people tell, when you have your
25 secret place, fishing hole or something, you

1 don't tell everybody because the next time you
2 go fishing there, all the fish are gone and all
3 that's there are fishermen.

4 My main concern is the land values
19:21:57 5 that this railroad, what it will do to land
6 values. The highest, best use of this land at
7 this point is recreation. In that 9000 acres
8 approximately that we have, which is between
9 the river and the Tongue River Road, we
19:22:14 10 irrigate about 2000 acres. We have 12 center
11 pivots. This is one of the most rich in
12 wildlife areas that you can find anywhere. We
13 have antelope, mule deer, whitetail, elk, wild
14 turkeys, and all the birds of Montana.

19:22:32 15 We have over a hundred people from
16 all over the country that have enjoyed this
17 area over the last 15 years. And they will
18 tell you that they have hunted a lot of places,
19 and this is one of the best places that they've
19:22:46 20 ever been. And they tell me they will continue
21 to come back there as long as they are welcome.

22 What this railroad will do is sever
23 an 86-mile wildlife corridor. The wildlife
24 water in the river, they come down at night and
19:23:07 25 enjoy our fabulous alfalfa and grain fields,

1 and when daylight comes, they go up into the
2 hills to hide out. And so really the river is
3 the restaurant, the hills are the motel. And
4 this railroad will disrupt all of that. The
5 wildlife will have to find new areas, especially
6 with antelope and things that don't cross
7 fences. Elk like to jump fences and tear down
8 fences.

9 Give me a minute here. So anyway,
10 that is one of the last pristine places we
11 have.

12 Another thing we are addressing here
13 today is not only the environmental things, but
14 the transportation merit of this railroad. We
15 are told where the mine is, but we are not
16 privy to information about where this coal is
17 going, where is the market for the coal, where
18 it will be burned. But, really, it is no
19 secret that this coal is bound for foreign
20 countries. It's bound for China and the
21 Pacific Rim.

22 I understand that a lot of people are
23 very excited about all the money that will be
24 spent to build the railroad and the jobs, but I
25 would ask you to consider, too, that there's a

1 lot of jobs in the formulation and
2 manufacturing and distribution and the
3 administration of the poison pill that will
4 kill America. When we export our natural
5 resources to countries like China, we are
6 already at a disadvantage with their labor.
7 When we export our natural resources, we are
8 not going to win the economic war when we send
9 them our best ammunition for them to use
10 against us. And this is not Colstrip.
11 Colstrip is an entity that at least that power
12 goes to America. This is a foreign country
13 that's going to take advantage of our natural
14 resources.

15 And I understand that the State of
16 Montana, Arch Coal, Burlington Northern Santa
17 Fe are all excited about this because they see
18 one thing, they see dollar signs. Granted,
19 they are going to make a lot of money with the
20 tax money and so on, but it's going to be at
21 the expense of the ruination of one of the best
22 areas that we have left in Montana. Unless it
23 can be demonstrated that this coal is going to
24 be used to make America more independent of our
25 energy, unless this is for America, for the

1 benefit of American jobs, I recommend a No
2 Action on this. Thank you very much.

3 MR. GRAVES: Next is Wallace McRae.

4 MR. WALLACE McRAE: My name is
5 Wallace McRae.

6 My family has been ranching in this
7 area since 1886. And it seems unfortunate that
8 we have less than a month to comment on this as
9 far as our written comments go in less than six
10 minutes in order to address this issue that is
11 going to change our lives, and, selfishly
12 speaking, our ranch.

13 There's a building in Washington,
14 D.C., beautiful white building made out of
15 marble, columns in front. I'm sure you people
16 that have been to Washington, D.C., have seen
17 it. It's the United States Supreme Court
18 building. Above the entrance there's some
19 words. The words say, Equal Justice Under Law.
20 The condemnation of private property for
21 private for-profit corporations is not equal
22 justice under law. That's exploitation. And
23 more and more and more it's happening where
24 corporations are given the opportunity to
25 declare themselves persons, and yet these

1 persons can condemn and take away our properties.

2 The application for the permit has
3 three different endorsements. This is from the
4 attorneys that the Tongue River Railroad has
19:29:05 5 hired. They are expounding on the value to
6 Montana that the Tongue River Railroad will
7 bring. No reservations whatsoever in this
8 document. The Montana Coal Council is talking
9 about it, Western Environmental Trade
19:29:25 10 Association, and the Montana Chamber of
11 Commerce. Those are the three entities in
12 Montana that are advocating the taking of
13 private property for corporate profit.

14 I've been involved with this railroad
19:29:47 15 for over 30 years. I can guarantee you that
16 the Tongue River Railroad in the past is the
17 most insidious organization I have ever seen in
18 my life. They have never agreed to any
19 reasonable things that we requested. I
19:30:11 20 explained to them that we have a bridge that
21 comes in of a side creek coming into Tongue
22 River Road and Cooper, a Rosebud County road
23 going up there, there was a bridge. The road
24 had to be moved away from the river because it
19:30:29 25 was about to wash out. I went to the county

1 commissioners and said, our cattle go under
2 that bridge to get to water in Tongue River.
3 And when you change that road, would you please
4 put a bridge in instead of a tin culvert. A
19:30:44 5 cow is not the smartest animal in the world and
6 she looks at a tin culvert and thinks, I might
7 fit in this side, but that far side is only
8 about this big and I won't fit. If she decides
9 she can make it through there, her calf is
10 smarter than she is, and he/she won't go.

11 The bridge was replaced in the county
12 road with another bridge because the county
13 commissioners in Rosebud County understood what
14 it took for us to get cattle to water.

19:31:19 15 I pleaded with an organization called
16 the SEA at the time, and now it is changed to
17 OEA, that's the office of what? What's the E
18 stand for?

19 MR. BLODGETT: Environmental.

19:31:44 20 MR. WALLACE McRAE: Environmental
21 Analysis, that we needed, if the Tongue River
22 Railroad was built, a bridge there. This
23 subsidiary of the Surface Transportation Board,
24 at that time it was the Interstate Commerce
19:31:58 25 Commission, told me that a bridge was too

1 expensive. Does this sound like a mediator or
2 a proponent of industrial development? It was
3 a logical expression on my part on something
4 that would make it easier for our ranch to
5 continue. They came back and they said, cattle
6 will learn to go through a cattle pass. I
7 wrote them back and I said, apparently, you
8 aren't acquainted with our cattle. But the
9 first time we try to mash a bunch of six cows
10 through a tin tube that they don't think is big
11 enough, I want you all to show up on your best
12 horse and help us because we are going to need
13 all the help we can get. They didn't answer
14 that letter.

15 I don't understand why the maps we
16 see don't include Tongue River II and III,
17 which went out at Decker, Montana. They were
18 approved, and that Forrest Mars, the candy man,
19 he bought into the railroad, and he decided he
20 didn't wanted a ranch that had a railroad
21 across his place. He didn't want a railroad
22 across his place when it was permitted. So he
23 bought into the railroad, and now the railroad
24 is no longer interested in crossing the Mars
25 Ranch. It's the shortest route from Otter

1 Creek to China that there is. And if the
2 Tongue River Railroad gets the right to
3 condemn, I don't think I would recommend a No
4 Action Alternative, I think I would recommend
5 the Forrest Mars alternative, let him condemn
6 himself if he's so hot to get coal from Otter
7 Creek to China.

8 I have a neighbor that lives just up
9 the creek. He traded with Western Energy
10 company and got a quarter section of land. It
11 lies between Colstrip and the Yellowstone.
12 It's a quarter of a mile wide.

13 I'm out of time? Great story.

14 UNIDENTIFIED SPEAKER: Let him have
15 my time. I've didn't use all my time.

16 MR. GRAVES: Kathleen Masis.

17 DR. KATHLEEN MASIS: I'm Dr. Kathleen
18 Masis, M.D.

19 And I am in favor of No Action, and
20 I'm from Billings for the last 19 years, but I
21 consider myself a member of the greater Tongue
22 River community. And I have a lot of comments,
23 but I'm also going to make written comments.
24 I'm concerned that the impact on Billings is
25 not on this map. Besides many other things

1 that I'm concerned about locally, but about
2 Billings itself, the purpose and the need for
3 this project I don't think have been
4 demonstrated to be in the benefit of those of
5 us who are on the route. Increasing the number
6 of trains that will be carrying coal and that
7 will be returning will be going through, if
8 this is approved, the coal from the Otter Creek
9 Mine, that coal will be going to the west
10 coast, on to China, through Billings. And we
11 have safety air quality concerns because of the
12 increase of the coal traffic. So I would like
13 that to be included in the scope of your
14 investigation.

15 Thank you.

16 MR. GRAVES: Clint McRae.

17 MR. CLINT McRAE: Thank you. My name
18 is Clint McRae, M-c-R-a-e.

19 My family and I -- dad got up and
20 testified a little bit earlier, but my family
21 and I ranch on Rosebud Creek south of Colstrip
22 and the Tongue River is the boundary of our
23 place on the east side.

24 Just not long ago, maybe a week, I
25 learned that we've been facing historically

1 about four or five miles on the original
2 89-mile route on Tongue River, but just a week
3 or so ago realized that the Colstrip
4 Alternative also would run on our place. So we
5 are looking at a grand total of about nine
6 miles of this railroad.

7 For the record, I am strongly opposed
8 for a private for-profit corporation that has
9 the power of federal eminent domain to take my
10 private land. In itself is an insult, but when
11 this coal is going to China, that tips it over
12 the edge to me. That is wrong.

13 I want to cover some of the impacts
14 we were seeing on our own operation. Under
15 land use I want to talk about the Colstrip
16 Alternative. I mentioned this last night and I
17 would like to dive into this a little bit more.

18 As near as I can tell, because the
19 Surface Transportation Board -- I should say
20 the Tongue River Railroad did not give us maps
21 at all, and interestingly enough, there was an
22 article online in the *Billings Gazette*
23 yesterday that had all kinds of maps. There is
24 not one landowner on the Colstrip Alternative
25 that has seen or maybe even knows that they are

1 being crossed by this railroad. And that is
2 wrong. And as a Surface Transportation Board,
3 I ask you, as an irritated landowner, to have
4 them notified. If those people would know
5 about it they would be in the room tonight to
6 testify. That isn't right. It's not fair.

7 The Colstrip Alternative, as long as
8 ten miles or so that it is, it would cross the
9 floodplains of the Rosebud Creek. The berm, if
10 it was built there, would have impacts with the
11 flooding of the Rosebud. That has to be dealt
12 with.

13 Also, a bridge would have to cross
14 the Rosebud Creek and this includes a 310
15 permit that would have to go through the
16 Rosebud County Conservation District. And I
17 also think this is an agency that you need to
18 add to your list because they are a player as
19 far as these 310 permits.

20 Why were we not contacted by the
21 Tongue River Railroad about this route or
22 allowed to even see the maps? As near as I can
23 tell, we have a set of corrals that will be
24 bisected by the Colstrip Alternative that have
25 been there longer than I've been alive. That

1 is an integral part of our operation. The
2 Green Leaf Road splits our place in part. We
3 have the summer pasture on one side, winter
4 pasture on the other. We use that set of
5 corrals in the spring to brand. When we get
6 done, we turn them out in the summer pasture.
7 We don't have to trail our cattle. Very
8 efficient to run. In the fall, we bring the
9 cattle across, work our calves. We ship out of
10 that corral. And we use it pretty much year
11 round. When we don't use it, there are times
12 when our neighbors use it. I don't see that I
13 need to sacrifice moving or eliminating that
14 corral because a railroad wants to go through
15 the middle of it. But the bottom line is I'm
16 not sure where it runs because I haven't seen a
17 decent enough map.

18 How will Tongue River Railroad
19 mitigate the removal of infrastructure as these
20 corrals. Is the Tongue River Railroad prepared
21 to pay for the material and labor to remove and
22 reconstruct these corral facilities?

23 Under transportation system, the
24 Montana Department of Transportation is now
25 looking at possibly widening and paving the

1 Tongue River Road, which we own land on either
2 side. The right-of-way would be 200 feet.
3 This is in addition of the 200-foot
4 right-of-way for the railroad. So we are
5 looking at a 400-foot swath bisecting our
6 place. There is but one fence on one side of
7 the right-of-way now. If we want cattle to go
8 from the summer pasture to the river or summer
9 pasture to grass next to the river all we need
10 to do is open the gate, to gather themselves.
11 There is no labor involved. To kick cattle out
12 of there in the fall, open the gate, close the
13 gate behind them.

14 If we have 400-feet of right-of-way
15 that we have to get cattle across, that's going
16 to be added labor. Are we going to be
17 compensated for that?

18 The reason I bring this up is this
19 road improvement is one of the cumulative
20 impacts of the Otter Creek Mine of Otter Creek.
21 They should be together, not separate. The
22 cumulative impacts need to be looked at for
23 both.

24 Another question I have. Will there
25 be dead zones or isolated land between the

1 right-of-way, the Tongue River Railroad
2 right-of-way and highway right-of-way? In
3 other words, will there be a gap between the
4 right-of-way fences. That completely takes
5 that land out of production, and that is
6 unacceptable. The cumulative impacts of the
7 Tongue River Railroad and the Tongue River Road
8 need to be considered together as a unit.

9 Under land use, the county road
10 bridge that Dad talked about, the county road
11 used to set against a bank on Tongue River. It
12 was caving off. The county moved it over and
13 we negotiated a bridge for our cattle to go
14 underneath.

15 The maps that we have gotten from the
16 route in the past, and I don't think that route
17 has changed any, call for the county road to be
18 moved closer to the river and the railroad
19 moved where the county road is. The question I
20 have is will that bridge stay with the county
21 road if it is moved? Who will pay for the
22 removal and construction of that bridge under
23 the county road? Will we get a new bridge
24 under the county road? Will the Tongue River
25 Railroad pay for that construction? Will they

1 be required to construct a bridge under their
2 right-of-way if one requests? So now we are
3 looking at two bridges.

4 And we did sit down with the railroad
19:43:13 5 company in 1998 and tried to negotiate and
6 explain to them what our problem was. They
7 told us we can negotiate and we tried. We
8 found very soon there was no negotiations. It
9 was an ultimatum, and this is the answer, this
19:43:26 10 is the culvert. It's kind of hard to see.
11 There's a little black hole in the end. That's
12 what we get. That's unacceptable.

13 I mentioned this last night. Who
14 makes the decision on whether we get this or a
19:43:38 15 road? That decision needs to be made by
16 somebody that knows something about moving
17 cattle.

18 I think it is imperative from the
19 landowners' impacts that have spoke here
19:43:49 20 tonight that you that are doing the EA or the
21 Environmental Impact Statement come out and
22 meet with us on site so we can explain what we
23 mean. It is hard to explain it in here in
24 front of a microphone to explain what those
19:44:03 25 impacts are. We know you've been out here

1 before talking to the agencies, and I ask in an
2 open invitation for you to come to our place
3 and anybody else up and down that river to see
4 these sites. It's that important. I think
5 it's your responsibility, with all due respect.
6 The culvert, like I said, is unsatisfactory.

7 Who makes the final decision on what
8 types of cattle pass is constructed? Will
9 decision-makers be familiar with general ranch
10 work and moving cattle? Will the
11 decision-maker be a rep for the railroad? If
12 the Tongue River Railroad is unwilling to
13 construct a bridge, will the Tongue River
14 Railroad consider the cost and labor and time
15 to gather cattle and physically move them
16 across the right-of-way? If the Tongue River
17 Railroad is built, will the railroad consider
18 the additional labor and time cost to move
19 cattle across another 200-feet right-of-way?
20 My time is up.

21 I am planning on probably going to
22 attend the hearing tomorrow and carry on my
23 testimony and I'll probably hand in the written
24 comments at the end. Thank you.

25 MR. GRAVES: Next is Scott Parry.

1 MR. SCOTT PARRY: My name is Scott
2 Parry, P-a-r-r-y.

3 I've listened to a lot of people in
4 here tonight. I had another impact meeting
5 with the EPA over in Billings here not that
6 long ago. I hear the McRaes, and they have
7 some stuff here that needs to be addressed, I
8 agree with them, with how to get the cattle
9 from here, the bridges, there are 400 feet of
10 road with the railroad, yes, that needs to be
11 addressed.

12 I have been in this community now for
13 seven years. Well, a little more than seven
14 years. Helped some of the ranchers out here
15 brand cattle, gather cattle, move cattle, and I
16 do understand the problems here. But I'm also
17 a coal miner. And I came right from work right
18 to here. So I'm a little dirty and nasty.

19 I see a lot of potential here with
20 the railroad. I see -- I used to be a
21 contractor and I was all over the United
22 States. I've been to the Appalachians, and I
23 seen a lot of good there. I did seen some bad.
24 But there was a lot of good.

25 I've been down through Texas. I've

1 seen where they brought the cattle up here
2 through Kansas and to Montana and they put them
3 on a railroad and took them east. The railroad
4 built this country. The railroad will sustain
5 this country. Are there things that need to be
6 addressed? Are there things that need to be
7 worked out between the landowners, the
8 railroads, the coal mines?

9 The lady that was talking about the
10 impact of coal going through Billings, the
11 emissions from the coal. They spray them cars
12 with a molasses type stuff so the coal don't go
13 away, don't blow off.

14 There are just as many coal cars
15 going east, and there will be just as many
16 going west. One thing we are having a problem
17 with this United States is the lack of economic
18 boom for putting people to work. I don't think
19 everything is perfect, but I also know that if
20 we start choking us down, like we are stopping
21 the coal-fired power plants in America, we have
22 no place for our coal except for China. Stop
23 the coal-fired power plants. I heard an EPA
24 meeting where this guy said, I'll pay a higher
25 electricity bill if I can save one life. But

1 then he walked outside and was smoking a
2 cigarette and was complaining about cigarette
3 taxes and how high the gas was.

4 The boom is coming. The Bakken oil
5 is coming this way. I'm just hoping we all
6 work together and put America back as number
7 one. And if we got to sell coal, because we're
8 shutting all our coal activity down to China,
9 well, that's the only out we have, then that's
10 where we are going to have to be.

11 But let's start doing and thinking
12 and working together as Americans. Thank you.

13 MR. GRAVES: Next is Ressa Charter.

14 MR. RESSA CHARTER: My name is Ressa
15 Charter. I raise cattle with my family in the
16 Billings area. My family are old friends of a
17 lot of the families, family ranches, down here
18 in the Tongue River Valley area. We got our
19 own coal developed a little earlier than them,
20 and kind of living through the experience of
21 rural industrialization for ourselves over the
22 last few years. We are relatively amenable to
23 the job creation aspects of that, but it's like
24 Roundup is an old mining town that have been
25 dreaming of this coal mine for going on two

1 generations by now. Everybody there will
2 basically admit it's made no difference to the
3 town. Virtually everybody lives in the
4 Billings Heights or in different communities,
5 and that's what we basically expected to
6 happen. And just the reality is these
7 transformational dreams of coal jobs for
8 communities really, virtually, never pan out in
9 any sort of sustainable way compared to these
10 multi-generational agricultural jobs that make
11 a foundation of our economy here in Montana and
12 leave the foundation for the fastest growing
13 sector of Montana that was creating as many
14 jobs every three months as Colstrip's entire
15 facility in the basically tourism and quality
16 of life job sector before the great recession
17 hit. So, you know, that basically, it's simply
18 the reality, coal is a thing of the past. And
19 this sub-bituminous coal simply shouldn't be
20 mined or burned, and in the age of climate
21 change tipping points, it simply would be a
22 disastrously irresponsible thing to do.

23 Listening to Clint and Wally talk
24 about their situation, is that the Tongue River
25 Railroad is not negotiating with them in good

1 faith because they have the full faith and
2 power of the federal government behind them.
3 Essentially negotiating with the McRaes over a
4 barrel of a gun. Honestly, that's not an
5 overstatement. In real condemnation law, for
6 the public good, that can be justified. But in
7 terms of the narrow interests Arch Coal, it
8 makes a mockery of basically our rule of law.
9 And, you know, as we look at the financial
10 crisis we face basically stems from the
11 degradation of the rule of law and for
12 agriculture, the quality of life jobs to
13 continue to grow in Montana, we need to
14 institute that to defend the part of the
15 economy that really is going to take us through
16 the 21st century here.

17 You know, the idea that coal keeps
18 the lights on no longer applies in any
19 meaningful way in the context of export coal.
20 And there's a reason we don't burn this coal in
21 our power plants in the United States, and if
22 they burn it in Asia, it's not going to stay
23 there. It comes. There's a great big conveyor
24 belt that's guaranteed to bring it all around
25 the world and back to us.

1 So I would encourage the No Action
2 Alternative, and I suppose short of that, as
3 Wally said before, the Mars alternative, just
4 to go along with the growing mockery of the
5 rule of law in the condemnation law of the
6 United States.

7 MR. GRAVES: Maggie Zaback.

8 MS. MAGGIE ZABACK: Maggie,
9 M-a-g-g-i-e, Zaback, Z-a-b-a-c-k.

10 I'm here speaking as a new member to
11 Billings community of Montana. I'm originally
12 from Wyoming, and have seen the value of
13 economic impacts as well as a lot of the
14 environmental impacts caused by this kind of
15 new opportunity, I guess.

16 And in Wyoming all of the coal dust
17 and all those problems tend to blow away,
18 because we have a lot more wind there than up
19 here, believe it or not. So I think just as a
20 member of the Billings community, I'm very
21 concerned with the increase in coal traffic
22 considering all of the additional trains that
23 will be coming from Wyoming. Daily 30
24 additional trains on top of these 10 to 20
25 trains a day there and back.

1 Also, the concerns of the health of
2 the people in all the communities along the
3 way. If you look at the health impacts all the
4 way to Washington, the doctors have shown time
5 and time again the increased lung problems and
6 all that kind of stuff. I know we have great
7 cancer centers, but I think that's not
8 necessarily something to brag about it either.

9 So I would just like to see all that
10 stuff considered.

11 MR. GRAVES: Thank you. Is there
12 anyone else that would like to speak tonight?

13 MS. DEB FISCHER: My name is Deb
14 Fischer.

15 And I was happy to have someone talk
16 about health impacts because that's a big thing
17 for me. I had cancer about four years ago and
18 I started looking into whatever would cause it,
19 because I haven't had any big exposures. And
20 the weird thing is there's a lot of things that
21 do. As a result to try to eat the more healthy
22 way, and I'm trying to eat Montana beef, and I
23 don't think we should make it any harder to
24 ranch and supply us with Montana beef, I'll
25 tell you that much.

1 But, you know, as somebody who lives
2 in Billings, I am concerned about the
3 additional traffic, and I know theoretically we
4 are told they spray something on the coal
5 trains, and maybe they do sometimes. But those
6 coal trains also, they run on diesel fuel, and
7 diesel fuel is incredibly toxic compared to
8 regular gasoline, which is, when it's burned,
9 that's toxic, too, and it does have health
10 impacts, especially with the vast number that
11 are supposed to be coming through Billings if
12 all of this development occurs. You know, just
13 to mention public health in fact, emphysema,
14 asthma, cancer.

15 And I understand that the coal from
16 Otter Creek is kind of high sulfur coal, so
17 it's not even ideal for burning in the United
18 States.

19 And, again, not many people have
20 mentioned global climate change, but it's real.
21 I mean, the more storms we see, the more fires
22 we see, the more likely it is. I'm a hundred
23 percent convinced, but I know some people
24 aren't. And my understanding is that ours is
25 the only country in the world where there's any

1 debate left. And that's because people aren't
2 really very informed here.

3 I'm also concerned about recreation
4 impacts. I mean, I wouldn't have thought of it
19:57:50 5 as tourism, but that was a good point. I know
6 a lot of people that come down to the Tongue
7 River Valley, hunt, fish, going to the
8 reservoir, and that's not something you can
9 underestimate. It adds value to the citizens
19:58:07 10 of Montana, the people who live here, the
11 people who aren't just necessarily investing
12 from the east coast or wherever and making a
13 buck off of coal.

14 But the Montana taxpayers, the ones
19:58:21 15 who use this for hunting and fishing and
16 recreation, they also have to pay for some of
17 the infrastructure. For example, bridges, a
18 way to get around the tracks to go through
19 Billings and to the hospitals. Essentially,
19:58:43 20 you kind of get a double whammy. You've got
21 damage to your recreation, and I guess it's
22 harder for people who live here, which is very
23 persuasive, and you also get additional payment
24 for the infrastructure. So what I see is I see
19:59:02 25 a lot of negative impacts to the general

1 average citizen kind of being sacrificed for
2 Arch Coal to make a buck? I do know it
3 provides some jobs. But they don't really have
4 to build this Tongue River Railroad anyway.
5 They can ship that coal a different way. They
6 can stick it on trucks and get it to the
7 nearest railroad that's already been built
8 without ruining another pristine valley.

9 Okay. Thank you.

10 MR. GRAVES: Anyone else that would
11 like to speak tonight?

12 MR. RESSA CHARTER: Ressa Charter.

13 Her comment made me remember another
14 pretty big thing that I think will brief the
15 Surface Transportation Board. The Western
16 Rural Organization of Resource Council
17 commissioned a white paper called Heavy Traffic
18 Ahead, The Impacts Of Powder River Coal --
19 Powder River Basin Coal To Asia, that had quite
20 a few conclusions, but I think as an
21 agricultural producer and citizen who feels
22 like that that is the most important part of
23 Montana's economy is that the combination of --
24 Powder River Basin coal by itself the number of
25 train traffic increased on the train networks

1 in Montana, certainly with the addition of this
2 railroad, stand to basically clog the networks
3 at various bottleneck points that will start to
4 make choices basically between whether unit
5 trains of grain move or unit trains of coal
6 move. And this sub-bituminous coal is a
7 negative value commodity, a destructive
8 commodity everywhere along the railroad, and
9 that is in comparison to grain, which is the
10 staff of life, and the blood of life for our
11 rural economy. So, really, to even countenance
12 a project that stands to interrupt that is, I
13 think, something that the Surface
14 Transportation Board simply can't countenance.
15 Thank you.

16 MR. GRAVES: If there is no one else
17 who has spoken or who wants to speak who hasn't
18 spoken yet? Yes.

19 MR. MIKE SCOTT: My name is Mike
20 Scott. I'm here tonight on behalf of the
21 Sierra Club.

22 Again, there's just a couple things
23 tonight that weren't said that I think are
24 worth considering. So I'm just going to run
25 through these questions I have for you.

1 I'm very interested in how this
2 railroad is going to impact migration patterns
3 of pronghorn and elk, mule deer, and how that
4 actually is going to impact hunting success
5 rates. I say that on behalf of the Sierra Club
6 and on behalf of myself as a big game hunter.
7 And I'm also interested how those impacts of
8 success rates will impact the economic benefit
9 generated by hunting in this region.

10 I'm also interested that you analyze
11 how poaching may increase along with this.

12 We've seen that, I'm originally from
13 Williston, North Dakota, and with the Bakken
14 Formation, the development of that formation,
15 came the explosion in poaching. We don't have
16 the deer we used to.

17 Another thing that's come up, and I'm
18 sure you'll hear this again in Miles City, the
19 federal government and the state have invested
20 millions of dollars in trying to restore a
21 species call the Pallid sturgeon. The eventual
22 goal of this is to make it so the sturgeon can
23 actually get back up and spawn in the original
24 spawning ground, which was the Tongue River.
25 What I'm curious is, how much is a species

1 worth in dollars? I'd like that analyzed. And
2 figure out what we are looking at potentially
3 losing. And I'm also very interested when you
4 figure out how much a species is worth, you
5 also explain your methodology with that.

6 I think an interesting point was
7 brought up when there was a discussion in the
8 closure of coal-fired power plants in this
9 country. The reality is natural gas is beating
10 coal. Natural gas has made coal too expensive
11 to continue to use. My question is, how long
12 will it be before the Chinese develop fracking
13 technology that gets them the natural gas that
14 we are getting out of the east coast and what
15 will that be to the potential life of the Otter
16 Creek Mine and the necessity of this railroad
17 track?

18 I'm also interested that this EIS
19 does cover access to Billings as well as other
20 cities. Specifically, in Billings we have a
21 pretty divided community. That's where I live
22 right now. The south side of Billings is
23 generally the lower socioeconomic strata the
24 way the data comes out. And the railroad
25 tracks cut the town in half. All the hospitals

1 are north. So I'm very concerned that you
2 analyze how that's going to access or how
3 that's going to impact the south side's access
4 to health care, and, specifically, emergency
5 health care.

6 Finally, I would ask -- well, not
7 finally, I guess. Are there going to be man
8 camps with this railroad, and if so, are the
9 companies going to have the authority to
10 condemn ranch land to build man camps? If that
11 happens, who is going to do the law enforcement
12 there? Where is the money for the law
13 enforcement going to come from? How is the
14 health care situation going to work there?

15 That's another problem we see in
16 North Dakota, and I am speaking as somebody
17 that they tried to build a man camp right next
18 to our farm. That was not a pleasant experience.

19 Finally, will the -- well, I think
20 you should study cumulative impact, especially
21 with Forsyth and Miles City, for both the
22 impact of the railroad development and the
23 Bakken oil formation. Somebody mentioned
24 earlier, that's coming. And there's nothing
25 that's going to stop that oil from being

1 developed. It has changed where I am from.
2 Went from a small farming community maybe
3 12,000 people, to, I think, the last number I
4 saw was 44,000 people, but you can't count them
5 because they are living in trucks, they are
6 living in campers, no permanent addresses. We
7 can't figure out where that money is going
8 because it's all going back to where they came
9 from. We are going to be left with a mess
10 there. I fear the same thing will happen in
11 eastern Montana, but these two things could be
12 hitting right about the same time. So I think
13 that needs to be considered, because these
14 communities here on the edge of that are going
15 to have to deal with a huge influx of people,
16 of crime, of drugs that really, traditionally,
17 that they haven't had to handle. So thank you.

18 MR. GRAVES: Yes.

19 MR. BRAD SAUER: Good evening. My
20 name is Brad Sauer, S-a-u-e-r.

21 The Tongue River Railroad brings up a
22 thousand questions when I think about it. I'm
23 interested in agriculture. I'm currently
24 involved in the production of agriculture. I
25 have been involved in production agriculture in

1 the Tongue River Valley. I am a member of the
2 one percent of the population of the United
3 States that feeds the rest of you. I am
4 beginning to wonder if the environmental
5 justice category may become more applicable if
6 there are still people around to feed.

7 Anyhow, on those views, the Tongue
8 River Valley is essentially an unknown treasure
9 as far as growing food. The number of frost
10 free days, which is real important if you grow
11 plants, is about 110 at Miles City. And we can
12 grow tomatoes, corn, chili peppers, and right
13 now it's uneconomical to grow large varieties
14 of those, or large amounts of those, because
15 trucking isn't cheap, and so our lettuce and
16 cabbage travels thousands of miles to get to us.

17 However, if the price of food goes
18 up, or price of fuel goes up, then all of a
19 sudden the Tongue River Valley becomes
20 extremely more important in providing food for
21 all of you sitting in this room.

22 So I would like to see the EIS
23 address that, because we are not just talking
24 about the next seven years worth of jobs. We
25 are talking about the fact that this area has

1 fed this region for the past one hundred years,
2 and could conceivably do so if left alone.

3 So to be even more to the point, how
4 many acres of irrigated agriculture would be
20:09:20 5 disrupted or removed from production in the
6 Tongue River Valley under all the alternatives?
7 How many of those irrigation systems would need
8 to be replaced or rebuilt? And how many of
9 those irrigation systems have been co-funded by
20:09:43 10 taxpayer dollars through the NRCS equip
11 program? And who will pay for the future
12 efforts that are required to bring them back up
13 to functionality?

14 I'll stop there. I could go on, and
20:10:03 15 I will in my written comments. Thank you very
16 much.

17 MR. GRAVES: Is there anyone else who
18 hasn't yet given a comment that would like to
19 give a comment?

20:10:20 20 Mr. McRae, either or both of you,
21 would you like to come up and extend your
22 comments?

23 MR. WALLACE McRAE: I think I'll pass
24 until tomorrow night. I got this great story.

20:10:38 25 MR. JOHN HAMILTON: Can I add

1 something?

2 MR. GRAVES: Sure.

3 MR. JOHN HAMILTON: My name is John
4 Hamilton.

20:10:52 5 I get a little nervous up here and I
6 forgot about half of what I meant to say, and I
7 appreciate having some extra time.

8 In those pictures back there are also
9 crops that we also grow on the Tongue River.
20:11:06 10 The things I grow personally, water melons,
11 cantaloupe, squash, pumpkins, and I also have
12 an apple orchard.

13 The Tongue River Valley is what I
14 call the San Joaquin of Montana because we can
20:11:22 15 grow most of the crops there, and we do have
16 130 days growing season there. We can grow a
17 lot of crops that you can't grow anywhere else
18 in Montana.

19 And the reason I bring in the crops
20:11:35 20 is the water quality of the Tongue River is why
21 we can grow all of these things there. And the
22 wonderful alfalfa hay and all that we grow.

23 The Otter Creek coal seam is a very
24 watered coal seam. Otter Creek itself is
20:11:53 25 inherently very poor water quality, high in

1 sodium. The coal is also high in sodium, and,
2 hence, so is the water high in sodium.

3 There should be addressed how we can
4 prevent the pollution of the Tongue River with
20:12:14 5 high sodium water. High sodium is a thing that
6 reacts with some of the clay soils that we have
7 in the area and will render them unproductive.

8 So that is a very important thing.
9 We have also spent many years dealing with
20:12:36 10 coal-bed methane water in the Tongue River.
11 The addition of any more of that low quality
12 water to our irrigation water would be
13 disastrous to many soils and also limit crop
14 production.

20:12:52 15 One other thing. As far as the
16 wildlife goes, I just happen to do a little
17 figuring back there. We have been outfitting
18 for the last 14 years. In rough figures our
19 outfitting operation has produced \$1.9 million
20:13:14 20 dollars in the local economy. I don't want
21 everybody to know that. But in this situation
22 I guess I have to bring it out.

23 That's all. Thank you very much.

24 MR. GRAVES: Any additional comments?

20:13:38 25 MS. CATHY BYRON: My name is Cathy

1 Byron, C-a-t-h-y, B-y-r-o-n.

2 We are just completing a county
3 growth plan and I will submit extensive
4 comments, including data, from input sessions
5 around the county as to how the residents feel
6 on a number of your talking points up there.

7 I would just like to talk a little
8 bit about eminent domain and give everyone
9 something to think about here. My ancestors
10 came from Ireland to Rosebud County in 1883.
11 And this county has been very good to all of us
12 who descended from that bunch.

13 It happens that my grandparents
14 sought out a new frontier and they went north
15 to Garfield County, and chose ground to
16 homestead that was very similar to what their
17 parents had lived on down on Lame Deer Creek.

18 However, in 1936 FDR signed an
19 executive order using eminent domain and turned
20 their holdings, and that of hundreds if not
21 thousands of others, into what is now known as
22 the CMR. After 26, 27 years of hard work
23 building up a cattle and horse operation, with
24 one swoop of the pen they left there with \$320
25 in their pocket, not because of poor

1 management. That was what the government paid
2 them. They were only paid for the land the
3 water touched. It was devastating to them.
4 They left in their late 50s and started over
5 again.

6 However, the real residual was this:
7 Garfield County doesn't have the beautiful
8 Tongue River water that you have in this
9 county. We do not have the Yellowstone River.
10 We cry for a hole in the ground that will
11 produce water. Today we are fighting to hold
12 our water rights because the government is
13 trying to claim water that is in drainages 17
14 miles from their property line. But the grief
15 of it all is that Garfield County lost its
16 prime taxable value property when that eminent
17 domain was signed, and that has forever thrust
18 that county into poverty.

19 So before you start looking at an
20 eminent domain declaration, take a look at the
21 permanent effects on mill levy values, bond
22 issues, carrying capacity, all of that, what
23 are you doing to the economy of our county.

24 Thanks.

25 MR. GRAVES: Anyone else that would

1 like to make a comment who hasn't commented
2 yet?

3 MS. ALEXIS BONOGOFISKY: My name is
4 Alexis Bonogofsky. I commented in Lane Deer
20:17:11 5 yesterday. I do have one question. I
6 represent the National Wildlife Federation.

7 One of the main questions I have as
8 I'm thinking about the things we are bringing
9 up to night, is at what point do the impacts
20:17:37 10 become enough for you to choose the No Action
11 Alternative? Is there a threshold that you
12 have where you say, these impacts are too much,
13 we are not giving a permit to the Tongue River
14 Railroad. Or will this be a document that
20:17:57 15 lists out all the problems associated with it
16 and the permit will be given no matter what?

17 Most of the time EIS processes are
18 just ways to bring out issues and possibly some
19 mitigation. But usually the decision is
20:18:16 20 already made. Is this decision already made,
21 or are you willing at some point to say the
22 impacts are too much, we can't give the permit
23 to the Tongue River Railroad? Is that a real
24 possibility?

20:18:36 25 And I think everyone here who is

1 commenting deserves to know that what we are
2 telling you will actually be listened to and
3 that there could be a point where you say, you
4 know what, it's too much, we are not going to
5 do this.

6 Because this has been going on for 30
7 years, my whole life, and it's continued to go
8 on. There are continuing problems. And I
9 think all of these issues that we brought up,
10 before I was talking about wildlife yesterday,
11 a lot of times EIS statements will bring in the
12 benefits, they will say this will create this
13 many jobs, this much money will come in taxes,
14 but it never looks at the cost. It never tries
15 to quantify to say this is what it will cost a
16 community, this is what it will take away from
17 block management, this is how much taxes will
18 have to go to road development, and this is how
19 many wildlife we'll lose, and what does that
20 cost us, what is a strong elk population worth
21 in southeastern Montana?

22 So we see one side of the balance
23 sheet, and we never see the other side of the
24 balance sheet. Everyone keeps saying we need
25 to run this like a business. Well, I think if

1 you probably added up all the costs, it would
2 give us a better idea what we are actually
3 doing for tradeoffs, because all you actually
4 ever see is the one side of the balance sheet.

20:20:08 5 So are you going to, with all these
6 impacts that you're looking at, are you going
7 to put an economic cost associated with them,
8 or are you just going to say, we expect to lose
9 this much in this many deer, this many elk, and
20:20:24 10 not put a monetary value to that, it doesn't
11 work, because it's not comparable?

12 So those are a couple of questions I
13 have right now.

14 MR. GRAVES: Does anyone else who
20:20:39 15 hasn't commented?

16 MS. BARB ROLSTON: My name is Barb
17 Rolston, R-o-l-s-t-o-n.

18 I think it's safe to say that
19 everything listed on here somebody can speak to
20:20:58 20 the impacts, the negative impacts of putting
21 this railroad in. I do think that you should
22 talk to Rosebud County officials about the
23 effect that Colstrip had with law enforcement,
24 with crime, infrastructure issues. This would
20:21:13 25 be not just virtually but literally a place

1 with no infrastructure. Where are people going
2 to live? What damage are they going to do to
3 the area around while they are trying to
4 survive out there? I just think the economic
5 impact will affect all of us more than you
6 realize.

7 But my main concern is the abuse of
8 the eminent domain. I have property north of
9 the Yellowstone River. I'm not going to be
10 directly affected by this. I don't care, if I
11 lived in Missoula and had just a big enough
12 yard for my dog to run in. I think the
13 precedent set for this abuse of eminent domain
14 when it is not going to benefit Americans is
15 just inexcusable. Totally inexcusable. I
16 don't think you should even consider that. And
17 I will submit a written comment to address some
18 of the other issues. Thank you.

19 MR. GRAVES: Is there anyone else who
20 hasn't yet commented that would like to make a
21 comment?

22 MS. SUSAN HENRY: My name is Susan
23 Henry.

24 I believe one lady mentioned the
25 impact on the Billings community, but I want to

1 know, since all the coal is going to go west
2 and will go through Billings, there will be a
3 great bit of infrastructure that's going to
4 have to be added to Billings to get these
5 additional trains through, and I want to know
6 if you would be willing to work with Billings
7 in the planning stage of this as well as
8 financially, being willing to help us build
9 some underpasses or overpasses, or whatever
10 they deem necessary. Thank you.

11 MR. GRAVES: Is there anyone else who
12 would like to make a comment who hasn't yet
13 commented?

14 Are there any other comments, then,
15 from folks who have already commented?

16 I'm going to turn the microphone over
17 to Ken. He'll say a few last words and then
18 we'll be adjourned.

19 MR. BLODGETT: I would just like to
20 thank everybody for coming this evening, for
21 all of your input in the environmental impact
22 process for the Tongue River Railroad. We
23 appreciate the fact that you came out at night,
24 and your input is important to us. And we will
25 treat all the comments and address them in

1 preparing our Final Scope of Study. There is
2 more scoping meetings this week. If you want
3 to attend, or tell other people to attend,
4 there's meetings on Wednesday and Thursday and
5 additional meetings on Friday night in Lame
6 Deer.

7 So with that I, again, thank you for
8 coming.

9 MR. GRAVES: Thank you.

10 (Meeting closed.)

11
12 CERTIFICATE OF REPORTER

13
14 I, Richard L. Mattson, Certified Court
15 Reporter, hereby certify the foregoing
16 transcript of proceedings to be a true and
17 correct transcript of the proceedings contained
18 therein.

19
20
21 Certified Court Reporter
22
23
24
25