

Ken Blodgett
Surface Transportation Board
395 E Street SW
Washington , DC 20403-0001
Environmental filing, Docket No. FD 30186

Dear Mr. Blodgett:

My family and I ranch between Rosebud Creek and Tongue River in southeastern Montana, and have had the possible construction of the Tongue River Railroad hanging over our heads for 30 years. It has been difficult to plan any ranch improvements with this project. I appreciate once again the opportunity to comment on the impacts this project would impose on our operation.

Transportation Systems/Land use

One of the rail alternatives in this issue is the Colstrip Alternative. Until very recently, we had only heard of this option, and had never seen a map of the route. We have been Parties of Record on the original 89 miles, or Tongue River I. The current map with this alternative was never published in Tongue River I, and therefore we have never had the opportunity to comment on it. We did discover the map in the Supplemental EIS for Tongue River III. It seems that this process has been placed on a fast track, and we feel that we cannot comment on this route not knowing where the line may be. It seems that someone has looked closely at contour maps to place the line with a minimum of elevation. Why, in 30 years of the Tongue River Railroad were we never contacted about this route? Have other landowners along this proposed route been notified? Why was a more current map of this route distributed in Helena with a meeting of the Montana Department of Transportation, and not distributed to affected landowners along the route? Why did the MDOT send me a map that was somewhat more detailed than the map from the Surface Transportation Board? As the purpose of scoping is to raise and mitigate negative impact issues, will we have an opportunity to see a detailed map with elevations and section numbers and comment on the impacts the Colstrip Alternate will bring? How would the railroad access the Colstrip Alternative Route since there is no public access along the route? Will the railroad avoid existing structures such as corrals and livestock handling facilities, or would they be required to be moved? Would the railroad pay for the material and labor to move and rebuild these facilities? As near as I can tell, there are 9 landowners that would be impacted along this alternative, none are aware that they may be crossed. I ask you that the Colstrip Alternative be removed from consideration until the landowners have been properly notified.

In September of this year, we received a notice from HDR, a surveying company who has contracted with the TRR. The letter asked for access to our private land for surveying and geo-tech work. The letter gave us 30 days to respond, and explicitly mentioned that no work would begin until the 30 days had expired. Within 4 days of our receipt of the letter, HDR had entered several landowners' property, including our own, without permission. This is in violation of Montana law. This is not the first time this has happened. In the 80's, we caught several representatives of the TRR on our land without permission. Trespass charges were filed, and when they were asked if they had been warned to stay off our land,

they perjured themselves and denied we had warned them. When agents of the railroad engage in this sort of illegal activity, it violates landowner trust, and is detrimental to future relationships down the road.

The Montana Department of Transportation has begun the process to widen and possibly pave the Tongue River Road. The right of way width would be 200 feet. This road project is a result of possible coal development in the Otter Creek area, and is a cumulative impact of this development. We would be facing a 200 foot right of way for the railroad, and a 200 foot right of way for the road project, for a total of 400 feet. This is severance. Would there be "dead zones", or isolated land between the right of way of the road and the right of way of the railroad? Would the right of way fences be shared between the TRR and the MDOT? The dead zones would be out of production for grazing, how would the landowner be compensated for this loss of acreage? How would these dead zones be grazed if there is no water source? Will cumulative impacts of Otter Creek and the railroad be addressed in the EIS process? The road project is a cumulative impact of the Otter Creek mine and the railroad, will the road be included in the cumulative impacts of the project?

Socioeconomics

The Colstrip Alternative will also impact the Western Energy coal mine at Colstrip. This mine supplies coal to the four coal fired power plants in Colstrip. The mine does not export any coal. If the Otter Creek tracts are opened, and the Colstrip Alternative is constructed, Otter Creek coal would be used to power the plants. This would result in an immediate closing of the Western Energy mine. What are the socio-economic impacts of unemployed miners? What are the cumulative impacts if the mine should close? If these miners were hired at the Otter Creek mine, would the workers move to Ashland? Would they stay in Colstrip? If they stay in Colstrip and commute to the Otter Creek mine, what impacts would this have on county roads? On Highway 212? On the Northern Cheyenne Reservation? If workers move to Ashland, what impacts will this have on the school infrastructure in Ashland? What impacts would this have on law enforcement, sewer, water, and housing? Would Ashland (which is in Rosebud County) be compensated with impact money when the Otter Creek mine is in Powder River County?

Land Use

We request that a bridge be installed on T 1S, 44E, Section 16 to allow the uninterrupted flow of cattle beneath the railroad right of way. Will landowners have the opportunity to negotiate a bridge, (not a culvert), for the ease of moving cattle from one side to another? Who makes the final decision what type of cattle pass or bridge is used? Will the final decision maker be someone familiar with moving cattle, or will they be a representative of the railroad? Will the decision maker have any experience with general ranch work and moving cattle? Will the expense of time and labor needed to move cattle across the railroad grade be weighed with the current situation, which is no labor, other than simply opening a gate?

According to maps on Tongue River I, the railroad calls for the county road to be moved closer to the river to make room for the railroad grade (T1S, 44E, Section 16). The county moved the road away from the river because the bank was caving away. We negotiated a bridge when the county road was

realigned so our cattle could cross underneath should the road right of way ever be fenced. If the county road is required to be moved, will the railroad pay for the replacement of the bridge under the county road? In the last EIS, we were denied bridges for cattle crossings. Because they claimed they were too expensive to build. The expense of infrastructure needs to be weighed against the labor and time costs that will be incurred by landowners moving cattle across the ROW seasonally and annually for life of the railroad. As landowners, we cannot afford to added labor the railroad would create.

Will vehicle crossings be negotiated with local landowners? Will the landowner be liable for accidents or fatalities on these crossings? Will the landowner be required to have proof of liability insurance for the crossings? If so, how much? Will the landowner be responsible for the maintenance of the crossing? Will these crossings remain in perpetuity, or could they be removed at any time by the railroad?

Recreation/Safety

We participate in the Block Management Program, a program that supports landowners who allow free public access to their private land for hunting. If we negotiate a crossing to access our land, and a hunter is injured or killed on a crossing, who is liable?

Water Resources

Since the railroad as proposed would cross several livestock water pipelines, will the railroad allow us to replace and maintain the line as it lays beneath the railroad grade? Will the railroad allow us to dig through the grade and replace the pipe if it should fail? If not, how would the railroad mitigate water loss? Would the railroad drill a replacement well on the side of the railroad to replace lost water? If a sleeve is allowed under the grade and the sleeve silts in, what are the options for the landowner for replacement?

Where will the work camps and staging areas be located? Where exactly will the set out tracks be located?

What measures will the TRR incorporate to reduce and extinguish fires caused by the railroad? Will the TRR be liable and held accountable for fires caused by the railroad? If right of way fences would burn in a fire, who is responsible for the rebuilding of these fences, and covering the cost of material and labor?

Will the TRR be required to implement a weed plan for the right of way? Will this plan include the full right of way? Many rail lines in Montana use a track mounted spray rig. There is a significant distance between the end of the spray boom and the right of way boundry. How will the TRR eradicate weeds within the ENTIRE boundry? If noxious weeds spread from the right of way into adjacent private land, will the TRR be required to spray these weeds at their labor and expense?

Since the Otter Creek tracts are in an alluvial valley, which, according to the Surface Mine Control and Reclamation Act (SMCRA) is illegal to mine, and the export terminals in Washington are not yet permitted, this smacks of speculation. Will the Surface Transportation Board impose the No Action Alternative if the coal can't be mined, and the export terminals aren't permitted?

The purpose of this process is to gather comments on negative impacts of this unneeded railroad and mitigate the impacts. OEA has a public trust responsibility to represent citizens and landowners along the proposed route, not to act as an agent for the railroad, as has been commonplace in the past. Your decisions need to focus on what this proposed project would cost the public and landowners along the proposed route regardless of what it may cost the railroad. We did not ask for this project, we strongly oppose it as you know from the amount of overwhelming public verbal comments in opposition to the Tongue River Railroad. Because of this, I urge you to deny the permit, and choose the No Action Alternative.

Thank you,

Clint McRae



Rocker Six Cattle Co.

3633 Rosebud Creek Rd

Forsyth, MT 59327