

TO THE SURFACE TRANSPORTATION BOARD
c/o CHAIRMAN DANIEL R. ELLIOTT, III
395 E Street SW, Washington, DC 20423
Re: Tongue River Railroad, Docket # FD 30186
(FOLLOWED BY ORAL COMMENTS on Feb 13th, 2014)
BY PRESIDENT LLEVANDO “COWBOY” FISHER
NORTHERN CHEYENNE TRIBE, MONTANA

Dear Chairman Elliot: On behalf of the Northern Cheyenne Tribe, I thank you for conducting a Section 106 meeting in Billings, Montana during February 13-14, 2014 to consider the potential Otter Creek coal mine, the proposed Tongue River Railroad and the impacts that could have on the environment and culturally significant areas for the Northern Cheyenne.

We know that Section 106 provides a mechanism for avoidance and mitigation of impacts to the environment. And, we understand that the National Historic Preservation Act sets out rules requiring federal agencies to evaluate impacts to historic and cultural heritage where a project might have an impact. Section 106 requirements are a federal level compliance issue for industry – compliance is not optional and penalties can be significant.

We appreciate the opportunity to participate in this process because development of the Otter Creek Coal Mine to be served by the Tongue River Railroad could also bring many employment and financial benefits to the Northern Cheyenne people. We join with you in seeking a reasonable balance.

Federal agencies must make a reasonable and good faith effort to identify cultural resources and concerns. We have worked hard to identify Cheyenne cultural and historic sites in the impacted area including identification work, background research, consultation, oral history interviews, sample field investigations and field surveys. The Northern Cheyenne Cultural Commission, an advisory board, has been entrusted with this duty by the Northern Cheyenne Tribe. They have made a number of recommendations and listed several important concerns. In my view, we can work together in good faith to find and implement solutions that will protect our valuable cultural and environmental resources while allowing for jobs and income to our very poor people.

I clarify that the final decisions on this matter rest with the Tribal Council, the duly elected representatives of the Northern Cheyenne People. At this point, the Northern Cheyenne Tribal Council has not adopted a position on the proposed Tongue River Railroad. The Tribe, is however, on record to support the development of the Otter Creek Coal Mine, supported by a binding agreement with the Montana Land Board, a tribal referendum in overwhelming support of Otter Creek and numerous advocates of such development, hoping for employment.

Under my Administration, tribal members will soon have the opportunity to decide upon reservation coal development. Our people must decide this matter. While some are strongly opposed, many others think we should go this route. Spokespersons for both sides

have talked to me about this matter. Both sides urge a referendum vote: "Let the people decide" they say. As the duly elected Tribal President, I believe this is the prudent course. We may not all agree, but will let the majority decide.

At one time, I was opposed to on-reservation coal development, but have reconsidered, considering the bleak financial future facing our Nation. We, as Northern Cheyenne must now explore all options for self-sufficiency. My own grandson, for example now makes a very good living, a railroad contractor. The Tribe cannot offer him the same opportunity So, I think about my grandchildren.

Thus, I have asked the Tribal Council to schedule a referendum, reservation wide vote about developing our own coal. This will occur in the near future. As a leader, it is not my place to sole-handedly decide this matter or declare a policy about the Tongue River Railroad. We wait to hear from our people.

If the Northern Cheyenne vote yes by a majority for coal development on our reservation we will go strongly in that direction. That would require a railroad to move our coal and other commodities. If they vote no, we will look for other options. Though at this time, I don't know what that would be.

Thank you for the opportunity to make this statement. I do, however, only speak as President of the Northern Cheyenne Tribe. Not for all of the Northern Cheyenne. We await their verdict.