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Organization:

State: Montana

Agency: Surface Transportation Board

Initiative: Tongue River Railroad

Submission Text

RE: REQUEST FOR SPECIAL CONSIDERATION OF THE NEEDS AND CIRCUMSTANCES OF THE TONGUE RIVER AMISH COMMUNITY and REQUEST FOR EXTENSION OF TIME Dear Ms. Rutson: THE AMISH COMMUNITY I trust that you are aware that an "Old Order" Amish Community of about 50 people lives in the Tongue River Valley about 12 miles north of the proposed Otter Creek Coal mine. The route for the railroad that the Tongue River Railroad currently prefers runs right through that community. Indeed, it runs 100 feet from the back door of one of the homes in the community. All of the proposed alternate routes for the railroad essentially destroy the community. That community is greatly impacted, destroyed, by the proposed railroad and should be allowed to fully participate in these proceedings before that destruction. Since this is an "Old Order" Amish Community the members do not have electricity or the internet, drive cars or have any type of modern means of communication, to insure their full participation I need to ask a few questions: 1) Have you sent a full copy of the Draft Environmental Impact Statement to the community by mail? I believe their postal address is 1550 Tongue River Road Forsyth, MT 59327 2) Is at least one of the scheduled hearings within 4 hours of the community by horse drawn buggy? 3) What other special considerations are you giving this unique community? I do not think that giving the Amish Community special consideration is a matter of discretion for the Surface Transportation Board. It is required by the federal Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141, 107 Stat. 1488 (November 16, 1993), codified at 42 U.S.C. § 2000bb through 42 U.S.C. § 2000bb-4 (also known as RFRA), a federal law that "ensures that interests in religious freedom are protected." It provides: a) In General: Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b). b) Exception: Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person 1. is in furtherance of a compelling governmental interest; and 2. is the least restrictive means of furthering that compelling governmental interest. The Act applies to federal agencies such as the Surface Transportation Board. Therefore, the Board must give this religious community special consideration. This federal law also applies to the religious concerns of the Northern Cheyenne Tribe. REQUEST FOR EXTENSION OF TIME I request a 120 day extension of time to address this very, very long Draft Environmental Impact Statement. It has many deficiencies and errors. Further it fails to address many obvious issues. For example, it does discuss the impacts of the Tongue River Railroad on "15 downline segments of the existing rail network between the proposed rail line and the Central and Upper Midwestern United States" but does not discuss the impacts of the Tongue River Railroad on downline segments of the existing rail network between the proposed rail line and the West Coast of the United States where the coal actually will be shipped for further shipment to Asia the market for coal from the Otter Creek Coal mine. The Big Sky Business Journal reported "Construction of the Otter Creek coal mine would significantly boost Montana jobs, household income and tax revenues as the Asian demand for the resource expands, according to an economic impact study conducted by economists Patrick Barkey and Paul Polzin of The University of Montana Bureau of Business and Economic Research. BBER director and study co-author Barkey notes that though domestic markets are unlikely to provide significant growth for Montana coal, demand in China is projected to swell rapidly and drive Otter Creek's fate." "The anticipated increase in coal demand in China between 2010 and 2035 is more than twice the current U.S. production of coal, and Southeast Asia does not have sufficient capacity to satisfy this growth," Barkey said. "Because Montana coal fields are closer to Northwest ports than those in Wyoming, Montana has a geographic advantage in serving fast-growing Asian markets." The market for the Otter Creek Coal Mine is in Asia. The Wyoming legislature just authorized the issuance of one billion dollars worth of Wyoming state bonds to build coal ports on the West Coast. The Attorney Generals of both Montana and Wyoming have announced that they would sue if the States of Oregon and Washington did not authorize coal ports to ship Powder River Basin Coal, including coal from the Otter Creek Coal Mine, to Asia. Coal from the Otter Creek Mine will go to the West not to the East. The impacted

communities from the coal trains that go down the main BNSF line from the Tongue River Railroad are Billings, Livingston, Helena, and Missoula and not Miles City, Forsyth, or Fargo. The Draft Environmental Impact Statement took 30 pages, the result of two years of work, to discuss the downline impacts of the proposed railroad on segments of the existing rail network between the proposed rail line and the Central and Upper Midwestern United States. It will take me at least 60 pages, the result of several months of work, to discuss downline segments of the existing rail network between the proposed rail line and the West Coast. It would be a violation of due process not to allow me this 120 day extension to adequately respond on just this one error in Draft Environmental Impact Statement Thank you.
Paul J. Van Tricht