

ORIGINAL

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Before the
SURFACE TRANSPORTATION BOARD



Finance Docket No. 30186 (Sub-No. 3)

TONGUE RIVER RAILROAD COMPANY, INC.-CONSTRUCTION
AND OPERATION-WESTERN ALIGNMENT

PETITION TO CORRECT AND REVISE SERVICE LIST

ENTERED
Office of Proceedings

OCT 20 2003

Part of
Public Record

GORDON P. MacDOUGALL
1025 Connecticut Ave., N.W.
Washington DC 20036

Attorney for United Transportation
Union, General Committee of Adjust-
ment on The Burlington Northern and
Santa Fe Railway Company, and
Montana State Legislative Board.

Dated: October 17, 2003

Before the
SURFACE TRANSPORTATION BOARD



Finance Docket No. 30186 (Sub-No. 3)
TONGUE RIVER RAILROAD COMPANY, INC.-CONSTRUCTION
AND OPERATION-WESTERN ALIGNMENT

PETITION TO CORRECT AND REVISE SERVICE LIST

Protestants, United Transportation Union-General Committee of Adjustment (UTU/GO-386)^{1/} and United Transportation Union-Montana State Legislative Board (UTU-MT), jointly submit this petition to correct and revise the service list, issued October 3, 2003, and for good cause therefor state as follows:

1. The Board's list served October 3, 2003 contains numerous errors, which threaten to deprive public parties and persons of an effective opportunity to participate in the proceedings.

2. Heretofore, in earlier phases of the Tongue River Railroad proceedings, the Board's Office of Public Counsel, or various redesignation thereof, along with the Board's environmental staff, assisted the public in the Board procedures for the presentation of public views. However, in early 2003, it was understood that such assistance would not be forthcoming, among

^{1/} By John D. Fitzgerald, General Chairman, with offices at 400 E. Evergreen Blvd., Vancouver, WA 98660.

the reasons purportedly given were "conflict of interest."^{2/}

3. Counsel for these protestants has offered to file facsimile material from Montana with the Board concerning the service list, as an accommodation to the public, and has done so where requested. However, it is unclear whether such filing has been fully effective to accomplish the objectives of the public respondents, absent service upon all parties.

4. Attached hereto are communications from: Stephen Valentine (2 pages), (requesting to be a party of record); Mark Fix (1 page) (requesting change in representation); Marilyn Fortune (3 pages) (requesting restoration of status as party of record); Patrick R. Landers (1 page) (requesting to be a party of record); Terry Punt-Bones Bros. Ranch (1 page) (requesting party of record status for himself and two others); Art Hayes Jr.-The Brown Cattle Co. (1 page) (requesting restoration as party of record, with address change); William P. Carrel-FL Ranch (1 page) (requesting restoration as party of record); Lonnie J. Wright-Diamond Cross Ranch LLC (1 page) (requesting party of record status) Richard J. and Jane Anderson (1 page) (requesting party of record status); and Nellie Israel (1 page) (requesting party of record status).

5. The Board should consider whether a modest extension of the November 12, 2003 date for submissions, particularly in light of the fact that much of the uncertainty in party status is

^{2/} The earlier phases are pending judicial review. The Board's Office of General Counsel, defending the agency's orders, participates in the environmental process. See: UTU Reply, 2/6/03, 6 n.10; UTU Petition, 3/31/03, 2 n.3.

owing to Board errors, such as deleting existing bona fide parties from the service list.

WHEREFORE, The Board should correct and revise the service list as set forth in (4), above.

Respectfully submitted,


GORDON P. MacDOUGALL
1025 Connecticut Ave., N.W.
Washington DC 20036

Attorney for United Transportation
Union, General Committee of Adjust-
ment on The Burlington Northern and
Montana Legislative Board.

October 17, 2003

Certificate of Service

I hereby certify I have served a copy of the foregoing upon all parties of record shown on the service list served October 3, 2003, by first class mail postage-prepaid.

Washington DC


Gordon P. MacDougall

SURFACE TRANSPORTATION BOARD

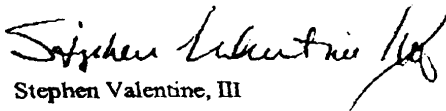
STB Finance Docket No. 30186 (Sub-No. 3)

TONGUE RIVER RAILROAD COMPANY, INC. -CONSTRUCTION AND
OPERATION - WESTERN ALIGNMENT



I am writing to you to request that you add me as a party of record in the above listed proceeding. I understand that Tongue River Railroad has added additional comments to TRR 3 and I would like a copy of them.

Sincerely,


Stephen Valentine, III

ENTERED
Office of Proceedings

OCT 15 2003

Part of
Public Record

10/14/03 16:52

TX/RX NO.4702

P.002

FAX: Page 1 of 2

TO: Gordon MacDougall

RE: Tongue River Railroad

Per advice from Mark Fix, would you kindly forward
this document to the interested parties. Thank you.

FROM: Stephen Valentine, III
Hill House Box 547
Birney, MT 59012-0547
406- 984-6222

October 14, 2003

10/14/03 16:52

TX/RX NO.4702

P.001

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 30186 (Sub-No. 3)

TONGUE RIVER RAILROAD COMPANY, INC. -CONSTRUCTION AND
OPERATION - WESTERN ALIGNMENT

I received your notice to the Parties of record dated October 3 and I am writing to ask you to **make a change** to my listing. The notice indicates that I represent the Lower Tongue River Protection Association. The group no longer exists and I should be listed as representing only myself. I noticed that several of the people that used to be Parties of Record were shown as non-parties now. I am concerned about this practice. Will the Surface Transportation Board take us off of the list as Parties of Record without our approval? I noticed that several of the agency people listed are no longer in those positions and other members listed are outdated. I hope that the Surface Transportation Board **grants** additional time to allow the list to be updated. I have talked with some of the people that are now listed as non- parties and they have not received the new information that Tongue River Railroad supplied the Surface Transportation Board that included comments from Governor Martz and Denny Rehberg. *I sincerely hope that once the list is updated that all of the information regarding the new comments and the plan for additional studies for an updated EIS will be shared with the new parties of record.*

Sincerely,

Mark Fix

ENTERED
Office of Proceedings

OCT 10 2003

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FROM : Mark Fix

FAX NO. : 406 421 5460

Oct. 09 2003 09:46AM FZ

TRANSPORTATION BOARD

STB Finance Docket No. 30186 (Sub-No. 3)

TONGUE RIVER RAILROAD COMPANY, INC. -CONSTRUCTION AND
OPERATION - WESTERN ALIGNMENT



I am contacting you to request that you return my name as a party of record in the above listed proceeding. It has come to my attention that Tongue River Railroad has added additional comments to Tongue River Railroad 3 dated May 1st. I would like a copy.

I have attached a copy of the 1998 service list that listed me as a party of record. Why was I removed as a party of record?

I have been dealing with this proposed railroad since 1979.

Sincerely,

Marilyn Fortune 10/9/03

Marilyn Fortune
T Triangle Ranch
HC 32
Miles City, MT 59301

ENTERED
Office of Proceedings
OCT 10 2003
Part of
Public Record

29484
SEC

SERVICE DATE - LATE RELEASE JULY 29, 1998

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 30186 (Sub-No. 3)

TONGUE RIVER RAILROAD COMPANY
--CONSTRUCTION AND OPERATION--
IN ROSEBUD AND BIG HORN COUNTIES, MT



July 29, 1998

NOTICE TO THE PARTIES:

The attached service list has been compiled from the notices of intent to participate in this proceeding submitted in response to the notice and decision published in the Federal Register on June 23, 1998, at 63 FR 34212. Opening comments (original plus 10 copies) must be filed with the Board by September 16, 1998, and reply comments (original plus 10 copies) must be filed by November 2, 1998. Before a document filed in this proceeding may become part of our official record, it must be served on other persons designated as parties of record on the service list, and the document should so indicate. Any person who may have already filed written comments in this proceeding must serve them on all parties of record within 10 days after service of this service list. A person who is not designated a Party of Record on the service list need not be served with copies of filings but will be advised of all Board decisions in this proceeding.

Persons listed on the attached service list should review it and determine whether information about their address and status as a party (as a Party of Record or not a Party of Record) is correct. The list reflects our policy of allowing only one official representative per party to be placed on the service list.

Any requests for change of status, correction of address information, or deletion from the service list must be filed in writing with the Board by August 10, 1998. An original and 10 copies of such requests should be directed to:

Office of the Secretary
Case Control Branch
Attn: STB Finance Docket No. 30186 (Sub-No. 3)
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Vernon A. Williams
Secretary

STB Finance Docket No. 30186 (Sub-No. 3)

PARTY OF RECORD
SARAH WHITLEY BAILIFF
BURLINGTON NORTHERN AND SANTA FE
RAILWAY COMPANY
3017 LOU MENK DRIVE
FORT WORTH TX 76131 US

Represents: BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY

PARTY OF RECORD
DONALD BICE
HC 32 BOX 4495
MILES CITY MT 59301 US

Represents:

PARTY OF RECORD
D K BIRCHER
LOCAL CHAIRMAN DIVISION 624
1161 E HWY 14
SHERIDAN WY 82832 US

Represents:

PARTY OF RECORD
BILL BOULWARE
RT BOX 3015
MILES CITY MT 59301 US

Represents:

PARTY OF RECORD
STEVEN A BRIGANCE
LEBOEUF LAMB GREENE & MACRAE LLP
1875 CONNECTICUT AV NW
WASH DC 20009-5728 US

Represents: COMMONWEALTH EDISON
COMPANY

PARTY OF RECORD
NANCY W CARREL
FL RANCH
HC 71 BOX 4
BIRNEY MT 59012 US

Represents: NANCY W CARREL

PARTY OF RECORD
BETTY JO CHRISTIAN
STEPTOE & JOHNSON
1330 CONNECTICUT AVE NW
WASHINGTON DC 20036-1795 US

Represents: TONGUE RIVER RAILROAD
COMPANY

PARTY OF RECORD
JAKE CUMMINS
MT FARM BUREAU FEDERATION
502 SOUTH 19TH
BOZEMAN MT 59718 US

Represents: MONTANA FARM BUREAU
FEDERATION

PARTY OF RECORD
MARK FIX
HC BOX 4196
MILES CITY MT 59301 US

Represents:

PARTY OF RECORD
MARILYN FORTUNE
T TRIANGLE RANCH
HC 32
MILES CITY MT 59301 US

Represents:

NON-PARTY
PAUL H FRIESEMA
2040 SHERIDAN ROAD
EVANSTON IL 60208 US

Represents:

PARTY OF RECORD
JAMES H GOETZ
35 NORTH GRAND
BOZEMAN MT 59715-3549 US

Represents:



SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 30186 (Sub-No. 3)

TONGUE RIVER RAILROAD COMPANY, INC. - CONSTRUCTION AND OPERATION - WESTERN
ALIGNMENT

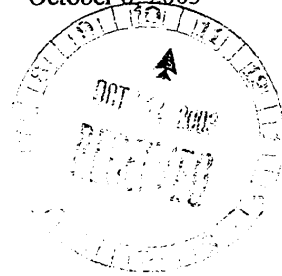
I received your notice to the Parties of record dated October 3 and I am writing to ask you to make a change to my listing. The notice indicates that I am a non-party now. I am concerned about the practice of the Surface Transportation Board taking people off of the list as Parties of Record without their approval? I noticed that several of the agency people listed are no longer in those positions and other members listed are outdated. I hope that the Surface Transportation Board grants additional time to allow the list to be updated. I, as a non-party, have not received the new information that Tongue River Railroad supplied the Surface Transportation Board that included comments from Governor Martz and Denny Rehberg. I sincerely hope that once the list is updated that all of the information regarding the new comments and the plan for additional studies for an updated FIS will be shared with the new parties of record.

Sincerely,

A handwritten signature in cursive script that reads 'Patrick R. Landers'.

Patrick R. Landers

Bones Bros. Ranch
Box 505
Birney, MT. 59012
October 6, 2003



STB Finance Docket No. 30186 (sub-No. 3)
Vernon Williams
Surface Transportation Board
Washington D.C. 20423-0001

Dear Mr. Williams,

This correspondence is in regards to the proposed Tongue River Railroad 's updated parties of record decision made recently by your board . I was looking at your website today and see that Jeanie Alderson, Irv Alderson, and myself have been removed from your parties of record for STB Finance Docket No. 30186 (sub-No.3). I am very disturbed by this omission . On July 17,2003, I also reviewed your website to determine if we were listed. We were not listed even though we have been participating in this case for almost 20 years. I had to rush around most of the day trying to get a fax to you before the end of the day to be included as a party of record. I did this and was one of the "several parties from Montana", which you reference in your correspondence of Sept. 26, 2003, that did find time in the day or two I had after getting my notice dated July 7th. What is going on ? Why aren't we listed as parties of record after all of this?

I would ask now that Jeanie Alderson, Irv Alderson, and myself, Terry Punt be placed on the parties of record for this Docket. Please have the decency to acknowledge this correspondence by contacting me and verifying that you indeed have included us as parties of record. I expect a prompt reply as that is the way you seem to like to do business. Your cooperation is expected as you are a public agency with duties that include providing interested parties with timely information.

Sincerely,

Terry Punt

Terry Punt
Bones Bros. Ranch

Art Hayes Jr.
The Brown Cattle Co.
PO Box 517
Birney, MT 59012

October 13, 2003

Surface Transportation Board
Re: STB Finance Docket No. 30186 (Sub-No. 3)
1925 K Street, NW
Washington, DC 20423-0001



Dear Sir;

I would like my name to be reinstated on the service list as a Party of Record for STB Finance Docket No. 30186 (Sub-No. 3). My new correct address is:

Art Hayes Jr.
The Brown Cattle Co.
PO Box 517
Birney, MT 59012

I represent The Brown Cattle Co.

The old address on the service list was:
Arthur F. Hayes, Sr.
Birney, MT 59012

Sincerely,

A handwritten signature in cursive script, appearing to read "Art Hayes Jr.".

Art Hayes Jr.

William P. Carrel
FL Ranch
7 Red Bluff Loop
Birney, MT 59012

October 13, 2003

Surface Transportation Board
Re: STB Finance Docket No. 30186 (Sub-No. 3)
1925 K Street, NW
Washington, DC 20423-0001



Dear Sir,

I would like my name to be reinstated on your service list as a party of record for STB Finance Docket No. 30186 (Sub-No. 3). My corrected address is:

William P. Carrel
FL Ranch
7 Red Bluff Loop
Birney, MT 59012

My previous address on your service list was:
William P. Carrel
FL Ranch
HC 71 Box 5
Birney, MT 59012

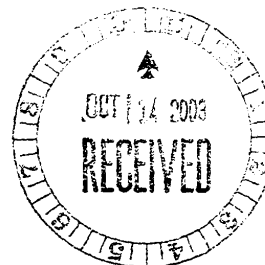
Thank you.

Sincerely,

William P. Carrel

William P. Carrel

Lonnie J. Wright
Diamond Cross Ranch LLC
P.O. Box 70
Big Horn, WY 82833-000
(307) 672-5440



October 13, 2003

Surface Transportation Board
Re: STB Finance Docket No. 30186 (Sub-No.3)
1925 K Street, NW
Washington, DC 20423-0001

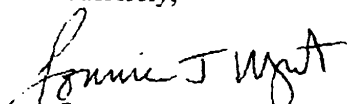
Dear Sir:

I would like my name to be instated on the service list as a Party of Record
for STB Finance Docket No. 30186 (Sub-No. 3). My address is:

Lonnie J. Wright
Diamond Cross Ranch LLC
P.O. Box 70
Big Horn, WY 82833-0070

I represent The Diamond Cross Ranch LLC.

Sincerely,


Lonnie J. Wright

POM : Mark Fix

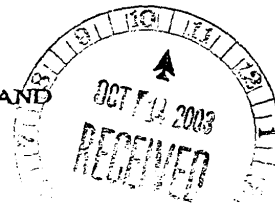
FAX NO. : 406 421 5460

Oct. 07 2003 09:33PM P3

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 30186 (Sub-No. 3)

TONGUE RIVER RAILROAD COMPANY, INC. -CONSTRUCTION AND
OPERATION - WESTERN ALIGNMENT



I am writing to you to request that you add me as a party of record in the above listed proceeding. I understand that Tongue River Railroad has added additional comments to TRR 3 and I would like a copy of them.

Sincerely,

Richard J Anderson
Jane Anderson

FAX
TRANSMISSION
PhoneTools
BVRP
P.O. Box 76 Joliet, Montana 59041

FROM	Nellie Israel
TO	Gordon MacDougall
Page(s)	1
12 / 15	10/13/2003 9:49 PM

Message

SURFACE TRANSPORTATION BOARD

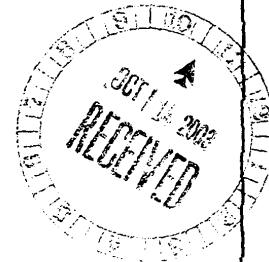
STB FINANCE DOCKET NO. 301-86 (Sub-No. 3)

TONGUE RIVER RAILROAD COMPANY, INC-CONSTRUCTION AND OPERATION-WESTERN ALIGNMENT

I am writig to you to request that you add me as a party of record in the above listed proceeding. I understand that Tongue River Railroad has added additional comments to TRR3 and I would like a copy of them.

Sincerely,

Nellie Israel
PO Box 76
Joliet, Mt 59041

**406-962-3530****Phone : 406-962-3530**