

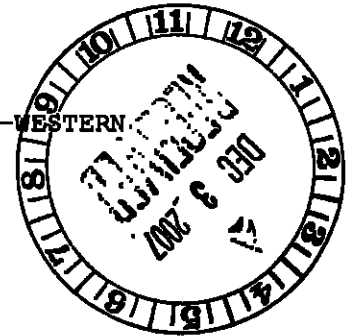
DEC 3 - 2007

Part of
Public Record

Before the SURFACE TRANSPORTATION BOARD
Finance Docket No. 30186 (Sub-No. 3)

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

PETITION FOR WAIVER OF CERTAIN
FILING RULE AND TO ACCEPT PLEADING
AS OF OCTOBER 29, OR NOVEMBER 17, 2007



Come now protestants, The Brown Cattle Company (1), and David E. Wanzenried (2), and petition the Board, pursuant to 49 U.S.C. 721(a), 722(c), 49 CFR 1100.3, and 1117.7, that their respective petitions for reconsideration of the Board's decision in the entitled proceeding be deemed filed under 49 CFR 1115.3 as of October 29, 2007, or November 19, 2007, and that certain antecedent fee regulations (49 CFR 1002.2(a)(1)) be waived for good cause shown as follows:

1. The Board issued its final decision October 9, 2007 (dated October 5) in the entitled proceeding. This decision is subject to petitions for reconsideration, if filed within a 20-day period, or 20 days thereafter if authorized by the Board. 49 CFR 1115.3(e).

2. Petitioners served their respective petitions for reconsideration on October 22, and October 26, both of which were received at the Board on October 29, 2007; however, these petitioners (not represented by attorneys or experienced practitioners) were unaware of any filing fee requirement. They were subsequently advised by Board staff that a \$200 fee was required.

3. Petitioners each promptly forwarded the \$200 filing fee, and upon receipt of the \$200 sums, the petitions for reconsideration were then marked by STB staff "FILED Nov. 19, 2007."

4. These petitioners were unaware that the filing fee for petitions for reconsideration must accompany tender of the pleading, 49 CFR 1002.2(a)(1), unlike other agencies and federal courts which sometime permit delayed fee payments.

5. No party will be harmed if the petitions for reconsideration are deemed properly filed under 49 CFR 1115.3 as of October 29, or with Board authorization for a 20-day extension, as of November 19, under 49 CFR 1115.3(e), inasmuch as service of the petitions for reconsideration was made upon all parties prior to October 29, 2007.

6. The petitions for reconsideration are not frivolous, and will aid in the development of the record, and will assist the Board in resolving material issues of error in the October 9, 2007 Board decision.

7. Counsel for Tongue River Railroad Company has been advised on this petition by personal service.

WHEREFORE, the Board should waive the provisions of 49 CFR 1002.2(a)(1) so as to deem the petitions for reconsideration timely filed, as received, under 49 CFR 1115.3, on October 29, 2007; or the Board should

extend the period for filing petitions for reconsideration an additional 20 days, to November 19, 2007, pursuant to 49 CFR 1115.3(e), and the petitions deemed filed that day.

the Brown Cattle Co by
Art Hayes Jr president
THE BROWN CATTLE COMPANY
P.O. Box 517
Birney MT 59012

November 21, 2007

Certificate of Service

I hereby certify I have served a copy of the foregoing upon all parties of record by first class mail postage-prepaid.

November 21, 2007

Art Hayes Jr

By Art Hayes, Jr., Marilyn Hayes, Arthur Hayes III, Susan Hayes, and Patrick Hayes, P.O. Box 517, Birney MT 50012