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December 20, 2012

233567

**Via E-FILING**

Cynthia T. Brown  
Chief, Section of Administration  
Surface Transportation Board  
395 E Street, S.W  
Washington DC 20423

**ENTERED**  
**Office of Proceedings**  
**December 20, 2012**  
**Part of**  
**Public Record**

**Re: Finance Docket No. 30186, Tongue River Railroad Company--Rail Construction and Operation--In Custer, Powder River and Rosebud Counties, MT**

Dear Ms. Brown:

Enclosed for filing in the above-captioned matter, in accordance with 49 C.F.R. § 1150.10(f) is an affidavit of publication certifying that the revised public notice consistent with the Board's November 1, 2012 decision regarding Tongue River Railroad Company, Inc.'s ("TRRC") Revised Application for Construction and Operation Authority was published in the Powder River Examiner, a weekly newspaper of general circulation in Powder River County, Montana on November 22, 2012. We made good faith efforts to have the revised public notice published in the Powder River Examiner by November 16, 2012, and had been informed previously by the newspaper that it was published by that date. However, we recently learned that the revised public notice was in fact published in the Powder River Examiner on November 22, 2012.

Sincerely,



Linda S. Stein

Counsel for Tongue River Railroad Company, Inc.

Encl.

cc: all parties of record

# AFFIDAVIT OF PUBLICATION

STATE OF MONTANA

County of Powder River,

} ss.

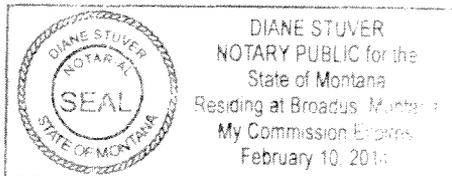
I, Joe Stuver, being duly sworn on oath says that ...he is and during the time hereinafter mentioned, has been the Publisher of the POWDER RIVER EXAMINER, a weekly newspaper of general circulation, printed and published at Broadus, in said County and State. That the attached notice, a printed and true copy of which, cut from the columns of said newspaper, is hereto attached, and made a part hereof, was printed and published in said newspaper for a period of ~~0 months~~ successive weeks, in the regular and entire issue of every number of the paper during the period and time of publication on the following dates, to-wit:

Nov. 22, 2012

(Signature) [Signature]

Subscribed and sworn to before me this 29 day of Nov, 192012

Diane Stuver Diane Stuver



Notary Public for the State of Montana,  
residing at Broadus. My Commission  
expires February 10, 2014

## NOTICE

FINANCE DOCKET NO. 30186

RAIL CARRIER: Tongue River Railroad Company, Inc.

AGENCY: Surface Transportation Board

ACTION: Notice of Revised Deadline for Filing Comments on a Revised Application to Construct and Operate the Previously Approved Line of Railroad in Custer, Rosebud, and Powder River Counties, Montana

### SUMMARY:

On October 16, 2012, Tongue River Railroad Company, Inc. ("TRRC") filed an updated application with the Surface Transportation Board seeking authority to construct a common carrier rail line between a BNSF Railway Company ("BNSF") line in Montana and Ashland/Otter Creek, Montana. A line designed to serve the Ashland/Otter Creek area was previously approved in 1986 by the Surface Transportation Board's ("Board") predecessor -- the Interstate Commerce Commission ("ICC") -- in Tongue River R.R. - Rail Construction and Operation - In Custer, Power River and Rosebud Counties, MT, Finance Docket No. 30186 (ICC served May 9, 1986) (hereafter "1986 Decision"). As the expected operator of the rail line, BNSF joined in the updated application. On November 1, 2012, the Board served a decision directing TRRC to file supplemental information by December 17, 2012 relating to the transportation merits of the rail line that TRRC proposes to build and also extending the due date for comments in support of or opposition to the revised application as

supplemented by TRRC to March 1, 2013.

The rail line approved in 1986 connects with a BNSF line at its northern end near Miles City, MT. Near its south end, the line splits into two branches just south of Ashland, MT and has two Terminus Points -- (1) Terminus Point #1 continues southwest and terminates at the previously proposed Montco Mine location ("Montco Mine Spur"), and (2) Terminus Point #2 continues south from the Ashland area along the Otter Creek ("Otter Creek Spur"). TRRC does not intend to construct the rail lines south of Terminus Points #1 and #2 that were the subjects of its applications in TRRC II and TRRC III. Other alternative routings for the line to serve Ashland/Otter Creek are currently under review and will be addressed during the environmental review in the STB proceeding.

The purpose of the rail line is the same as the purpose of the rail line approved in 1986; namely, to transport low sulfur, sub-bituminous coal from proposed mine sites in Rosebud and Powder River Counties, Montana, including proposed mines in the Otter Creek area. The rail line will also operate as a common carrier line and will thus be available to transport other commodities on reasonable request.

TRRC will supplement its updated application by December 17, 2012 to include relevant information from the 1986 proceeding and to elaborate on certain points raised in its updated application. In addition, TRRC has retained a third party contractor pursuant to 49 C.F.R. § 1105.10(d) to work with the Board's Office of Environmental Analysis ("OEA") in preparing necessary environmental documentation as required by NEPA in connection with the TRRC project. OEA has identified several alternative routings which it intends to study. The Board's environmental documentation will be made available for public review and comment at a later date.

Any interested party may advise the Board of its interest in this proceeding and/or file written comments on the revised application with the Board. The deadline for filing with the Board any notice of interest and/or written comments (with 10 copies) has been extended from November 20, 2012 to March 1, 2013. Written comments must contain the basis for the party's position either in support of or in opposition to the proposal. Written comments should indicate the proceeding, STB Finance Docket No. 30186, and should be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 395 E Street, SW, Washington, DC 20423-0001. A copy of each comment shall also be served upon TRRC's representative: David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Ave. NW, Washington, DC 20036. (202) 429-8063, FAX: (202) 429-3902. TRRC's reply to comments in support or opposition to the revised application will be due on April 15, 2013. On the basis of the comments and reply, the Board will decide if a hearing is necessary.

A copy of the updated application is currently available for public inspection at the offices of the Surface Transportation Board and on the Board's website, and a copy of TRRC's supplement thereto will be available for public inspection subsequent to December 17, 2012.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Affidavit of Publication of the revised newspaper notice from the Powder River Examiner was served this 20th day of December, 2012 via first-class U.S. mail, postage prepaid, upon all parties of record to this proceeding.

  
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Keith Decker