

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 30186 (Sub-No. 3)¹

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

Decided: August 5, 2010

In a decision served on October 9, 2007 (Tongue River III), the Board granted the application of Tongue River Railroad Company, Inc. (TRRC) to construct and operate a 17.3-mile rail line known as the Western Alignment. TRRC wishes to use this line in lieu of the southernmost section of a 41-mile line between Ashland and Decker, Mont., known as the Four Mile Creek Alternative, that was authorized in Tongue River II,² which is an extension of an 89-mile line from Miles City to Ashland, Mont., authorized in Tongue River I.³ The decision also revised and supplemented the conditions previously imposed on the prior approval of the construction and operation of the Tongue River I and Tongue River II lines.⁴

On July 26, 2010, the Northern Plains Resource Council and Mr. Mark Fix (collectively, NPRC) jointly filed a petition requesting that the Board reopen Tongue River I, Tongue River II, and Tongue River III, prepare a Supplemental Environmental Impact Statement, and reconsider the grant of authority to construct and operate the Tongue River lines.

¹ This decision also embraces FD 30186, Tongue River Railroad—Rail Construction and Operation—In Custer, Powder River and Rosebud Counties, Mont., (Tongue River I) and FD 30186 (Sub-No. 2), Tongue River Railroad—Rail Construction and Operation—Ashland to Decker, Mont. (Tongue River II).

² Tongue River R.R. Co.—Rail Construction and Operation.—Ashland to Decker, Mont., 1 S.T.B. 809 (1996).

³ Tongue River R.R.—Construction and Operation—In Custer, Powder River and Rosebud Counties, Mont., FD No. 30186 (ICC served Sept. 4, 1985), modified (ICC served May 9, 1986).

⁴ The Board's decisions in Tongue River II and Tongue River III are currently under judicial review in the United States Court of Appeals for the Ninth Circuit. To date, none of the Tongue River lines have been built.

On August 3, 2010, TRRC filed a petition requesting that the Board extend the due date for its reply to NPRC's submission. In support of its request, TRRC explains that its counsel have pre-planned vacations for much of the 20-day response period, and that they must devote most of their time to other matters currently in litigation upon returning.

TRRC's request is reasonable and will be granted. Accordingly, TRRC's reply is due on September 9, 2010.

It is ordered:

1. TRRC's extension request is granted, and its reply is due on September 9, 2010.
2. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.