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SERVICE DATE – JULY 18, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 30186

TONGUE RIVER RAILROAD COMPANY—RAIL CONSTRUCTION AND OPERATION—
IN CUSTER, POWDER RIVER AND ROSEBUD COUNTIES, MONT.

Decided: July 18, 2012

This proceeding involves a rail construction project in southeast Montana known as Tongue River I. Although the agency initially authorized the project in 1986,¹ the line has not been built. Now, the Tongue River Railroad Company, Inc. (TRRC) proposes to go forward with the project. In a decision served on June 18, 2012, the Board, among other things, required TRRC to file a revised application that presents the railroad's current plans for the line it intends to build and the information required by 49 C.F.R. pt. 1150. In addition, the Board stated that it will conduct a new environmental review of the Tongue River I line.

To facilitate these steps, the Board ordered that a new service list should be prepared. Thus, the Board required that any persons or entities who are interested in participating in the Tongue River I proceeding should file a notice of intent to participate by July 18, 2012.

On July 10, Northern Plains Resource Council (NPRC) requested a 60-day extension of the July 18, 2012 due date. NPRC explains that many residents of Rosebud and Powder River Counties have been severely affected by wildfires and will have difficulty complying with the July 18 deadline. On July 16, 2012, TRRC replied that it does not oppose the extension as long as it does not prevent the railroad from filing its revised application during the extension period or interfere with the ongoing environmental work associated with the revised application.

The extension request will be granted in part. To balance the needs of the parties, the due date for notices of intent to participate will be tolled for 30 days, until August 17, 2012. TRRC should not file its revised application until after the 30-day period has expired and the Board has issued a new service list.² This will make for an orderly process. The railroad may, however, continue with the ongoing environmental work associated with the revised application.

¹ Tongue River R.R.—Rail Construction and Operation—In Custer, Powder River and Rosebud Cntys., Mont. (Tongue River I), FD 30186 (ICC served Sept. 4, 1985), modified (ICC served May 9, 1986), pet. for judicial review dismissed, N. Plains Res. Council v. ICC, 817 F.2d 758 (9th Cir.), cert. denied, 484 U.S. 976 (1987).

² Even after the Board has issued a service list, parties can still be added to the list.

It is ordered:

1. NPRC's extension request is granted as described above.
2. This decision is effective on its date of service.

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