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ENTERED

November 21, 2012

Via E-FILING

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

Office of Proceeding
November 21, 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 original public notice set forth in Exhibit I of Tongue River Railroad Company, Inc.'s ("TRRC") Revised Application for Construction and Operation Authority filed on October 16, 2012 was published on October 18, 2012 and on October 25, 2012 in the Powder River Examiner, a newspaper of general circulation in Powder River County, Montana.

TRRC will file the affidavits of publication of the revised notice consistent with the Board's November 1, 2012 decision upon receipt from the newspapers.

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.

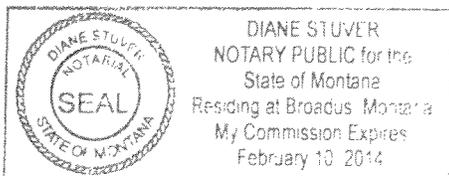
I, Joe Stuver, being duly sworn on oath says that ...he is and during the time hereinafter mentioned, has been the Publisher of the POWDER RIVER EXAMINER, a weekly newspaper of general circulation, printed and published at Broadus, in said County and State. That the attached notice, a printed and true 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 1 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:

October 18th 25th 2012

(Signature) [Handwritten Signature]

Subscribed and sworn to before me this 12 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 Filing a Revised Application to Construct and Operate the Previously Approved Line of Railroad in Custer, Rosebud, and Powder River Counties, Montana

SUMMARY:

Tongue River Railroad Company, Inc. ("TRRC") has filed a revised application with the Surface Transportation Board seeking authority to modify the alignment of the rail line between Miles City, Montana, and Ashland/Otter Creek, Montana that 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 an Operation – In Custer, Powder River and Rosebud Counties, MT, Finance Docket No. 30186 (ICC served may 9, 1986) (hereafter "186 Decision"). As the expected operator of the rail line, BNSF Railway Company ("BNSF") joined in the revised applications.

The rail line approved in 1986 connects with a BNSF line at its northern end near Miles City, MT. Near its south en, 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 it applications in TRRC II/1 and TRRC III/2.

The proposed refinements to the approved rail line address rail operational considerations that were raised subsequent to the 1986 Decision. They generally entail a straightening and shortening of the rail alignment approved in 1986. Most of the refinements to the authorized rail line that TRRC seeks authority to construct and operate were considered in the TRCC III proceeding, which has now been dismissed. In this revised application, TRRC is also proposing a few additional refinements to the authorized rail line that were not considered in the TRRC III proceeding. The new refinements are very minor curved adjustments near the Miles City Fish Hatchery that move the rail centerline further from hatchery facilities and certain adjustments along the Otter Creek Spur.

The purpose of the rail line, as refined, is the same as the purpose of the approved rail line, 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.

As part of its revised application, TRRC has incorporated by reference the draft Environmental Impact Statement ("EIS") served in this docket on July 15, 1983, the supplement to the draft EIS served in this docket on January 19, 1984, and the Final EIS served in this docket on August 23, 1985 for the rail line approved in the 1986 Decision. As part of its revised application, TRRC has also incorporated by reference a September 1998

report prepared by Radian International LLC, et al., titled "Analysis of Potential Changed Circumstances Related to the Environment and Proposed Action along the Original 89 Miles of the Tongue River Railroad approved in 1986," that was previously filed with the Board in the TRRC III proceeding, and the draft EIS from the TRRCIII proceeding served on October 15, 2004 and the final EIS from the TRRC III proceeding served on October 13, 2006, to the extent they evaluate proposed refinements to the 1986 approved rail line. In addition, TRRC is retaining a third party contractor pursuant to 49 C.F.R. 1105.10(d) to work with the Board's Office of Environmental Analysis in preparing additional necessary environmental documentation as required by NEPA in connection with TRRC's revised application. 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. Any notice of interest and/or written comments (with 10 copies) must be filed within 35 days from the date that TRRC filed the revised application with the Board, or by November 20, 2012. 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) 429-3000, FAX: (202) 429-3902. TRRC has 5 days from the due date of the comments to respond to them. On the basis of the comments and replies, the Board will decide if a hearing is necessary. A copy of the revised application, including the previous EISs and 1998 Radian Report, is available for public inspection at the office of the Surface Transportation Board.

1 Finance Docket No. 30186 (Sub-No. 2), Tongue River Railroad Company – Rail Construction and Operations – Ashland to Decker, Montana.

2 Finance Docket No. 30186 (Sub-No. 3), Tongue River Railroad Company, Inc. – Construction and Operation – Western Alignment.

3 F.D. No. 30186 (Sub No. 3), Tongue River Railroad Company, Inc. – Construction and Operation – Western Alignment (dismissed by order served June 18, 2012).

4 This 1998 Radian report is Exhibit 2 to the Reply of Tongue River Railroad to Comments on the Scope of the Supplement to the Final Environmental Impact Statement filed on September 8, 1998 in Finance Docket 30186 (Sub-No. 3).

CERTIFICATE OF SERVICE

I hereby certify that a copy of Tongue River Railroad Company, Inc.'s letter re publication of the revised newspaper notice and Affidavit of Publication of the original newspaper notice from the Powder River Examiner was been served this 21st day of November, 2012 via first-class U.S. mail, postage prepaid, upon all parties of record to this proceeding.



Keith Decker