

240276

**ENTERED**  
**Office of Proceedings**  
**March 10, 2016**  
**Part of**  
**Public Record**

**BEFORE THE**  
**SURFACE TRANSPORTATION BOARD**

---

**STB FINANCE DOCKET NO. 30186**

---

**TONGUE RIVER RAILROAD COMPANY, INC. – RAIL CONSTRUCTION**  
**AND OPERATION – IN CUSTER, POWDER RIVER**  
**AND ROSEBUD COUNTIES, MT**

---

**SUPPLEMENT TO PETITION OF TONGUE RIVER RAILROAD COMPANY, INC.**  
**TO HOLD PROCEEDING IN ABEYANCE**

---

David H. Coburn  
Linda S. Stein  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036  
(202) 429-3000

Attorneys for Applicant  
Tongue River Railroad Company, Inc.

March 10, 2016

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB FINANCE DOCKET NO. 30186**

---

**TONGUE RIVER RAILROAD COMPANY, INC. – RAIL CONSTRUCTION  
AND OPERATION – IN CUSTER, POWDER RIVER  
AND ROSEBUD COUNTIES, MT**

---

**SUPPLEMENT TO PETITION OF TONGUE RIVER RAILROAD COMPANY, INC. TO  
HOLD PROCEEDING IN ABEYANCE**

---

Applicant Tongue River Railroad Company, Inc. (“TRRC”) hereby supplements its pending Petition to Hold Proceeding in Abeyance filed in this proceeding on November 25, 2016 (“November Petition”) in response to actions taken by Otter Creek Coal, LLC (“Otter Creek Coal”), a subsidiary of Arch Coal, Inc. (“Arch”). In its pending November Petition, TRRC has requested that the Board hold this proceeding in abeyance pending a final decision from the Montana Department of Environmental Quality (“MDEQ”) on the Otter Creek Mine permit application submitted by Otter Creek Coal, and judicial affirmance of any decision granting that permit. TRRC subsequently advised the Board, on January 15, 2016, that Arch and Otter Creek Coal filed voluntary petitions under Chapter 11 of the U.S. Bankruptcy Code with the U.S. Bankruptcy Court for the Eastern District of Missouri on January 11, 2016.

TRRC understands that Otter Creek Coal intends to suspend, at least for now, its efforts to secure from MDEQ the Otter Creek Mine permit for various reasons, including near-term weakness in the coal market. Otter Creek Coal has not withdrawn its Otter Creek mine permit application, but intends only to suspend further prosecution of the application at this time.

As a result of Otter Creek Coal's actions, TRRC is supplementing its November Petition. TRRC continues to request that this proceeding be held in abeyance for the reasons set forth in the November Petition. However, now that Otter Creek Coal intends to suspend prosecution of its mine permit application TRRC believes that the trigger for considering when this rail proceeding should again become active should be the re-initiation of the Otter Creek mine permit proceeding at MDEQ. At that time, TRRC would be in a better position to advise the Board of the status and possible timing of the mine permitting proceeding and of TRRC's plans in terms of the timing of its further prosecution of its rail construction application. In that regard, TRRC commits to filing a notice in this proceeding informing the Board and the parties that the Otter Creek mine permit application proceeding has been reinstated within 7 business days of its reinstatement and to also inform the Board at that time of TRRC's views regarding the timing of the reinstatement of this rail construction proceeding.

### **CONCLUSION**

Consistent with the precedent cited in the November Petition, and for the reasons stated in the November Petition and above, the Board should hold the instant proceeding in abeyance, pending a decision to reinstate prosecution of the Otter Creek mine permit application. Within 7 days of the reinstatement of the Otter Creek mine permit application proceeding, TRRC will

inform the Board and the parties to this proceeding that the mine permit application proceeding has been reinstated and of its views regarding the timing of the reinstatement of this rail construction proceeding.

Respectfully submitted,



---

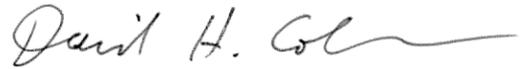
David H. Coburn  
Linda S. Stein  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036  
(202) 429-8063

Attorneys for Applicant  
Tongue River Railroad Company, Inc.

March 10, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of March 2016, I have caused a copy of the foregoing Petition of Tongue River Railroad Company, Inc. to be served by first-class mail, postage prepaid, on each of the parties of record in STB Finance Docket No. 30186.

A handwritten signature in cursive script, reading "David H. Coburn", with a long horizontal flourish extending to the right.

---

David H. Coburn