



March 10, 2009

Mr. Vernon A Williams
Secretary
Surface Transportation Board
1925 K Street NW
Washington, DC 20423-0001

224743

RE Finance Docket 30186 (Sub No. 2), Tongue River
Railroad Co -- Rail Construction and Operation --
Ashland to Decker, Montana

ENTERED
Office of Proceedings

MAR 24 2009

Part of
Public Record

Dear Mr. Williams:

I am submitting, on behalf of the Tongue River Railroad Company, an original and ten copies of our four-month progress report for the latest four-month period, pursuant to the Surface Transportation Board's favorable decision served November 8, 1996 in FD 30186 (Sub-No. 2).

Please note that a copy of the four-month report has been served only on the Parties of Record identified in the Surface Transportation Board's complete service list served October 3, 2003 and amended in a notice served by the Surface Transportation Board on October 24, 2003. We will continue to serve the four-month report on these parties.

Sincerely,

Douglas A. Day
Representative for the
Tongue River Railroad Company

Enc.
cc. Parties of record

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of March, 2009, a copy of the foregoing document was served via first class mail, postage prepaid, to the following Parties of Record.

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TONGUE RIVER RAILROAD COMPANY, INC.

**Four-Month Report
to the
Surface Transportation Board**

March 10, 2009

1. Surface Transportation Board - Regulatory Proceedings

The Surface Transportation Board ("Board") served its decision in STB Finance Docket No 30186 (Sub-No 3) on October 9, 2007 granting the application of Tongue River Railroad Company, Inc ("TRRC") to construct and operate a 17.3-mile rail line known as the Western Alignment in Rosebud and Big Horn Counties, Montana. The decision became effective on November 8, 2007.

The Board denied petitions for stay filed by several area landowners and other persons and petitions for reconsideration filed with the Board by several of the same landowners and other persons. Certain other parties have sought judicial review of the Board's decision by filing petitions for review in the U.S. Court of Appeals for the Ninth Circuit. The Court has placed briefing of the *TRRC II* and *TRRC III* cases on hold pending resolution of certain administrative record issues. It is anticipated that the Ninth Circuit Court of Appeals will establish a briefing schedule following resolution of the administrative record issue.

TRRC continues discussions with Montana State Government officials with respect to the regulatory process for acquiring certain state secondary approvals.

The Montana Fish Wildlife & Parks ("MFWP") staff, including counsel, Hatchery Bureau Chief and MCFH manager, and the TRRC have reached agreement on the terms of an Easement Agreement for the Miles City Fish Hatchery property. The agreement is pending approval by the MFWP Commission.

The TRRC participated in a working session before the MFWP Commission on January 15, 2009. The MFWP staff presentation made during the working session included a recommendation to the Commission to adopt the Easement Agreement as drafted. The

Commission agreed to review the Easement Agreement and provide comments to MFWP staff
In a letter dated February 18, 2009, the Acting Director of MFWP, Joe Maurier, informed TRRC that the Easement Agreement would not be on the agenda for the Commission's March 12, 2009 meeting. The Acting Director pointed out that he had only recently been appointed as Director of MFWP and that two new Commissioners have recently been appointed to the MFWP Commission. As a result, the Acting Director feels it is necessary to allow the decision makers more time to review and understand the Easement Agreement before making an informed decision. TRRC subsequently requested that the Easement Agreement be included on the MFWP Commission's April 2009 meeting agenda.