



July 10, 2009

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

225392



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

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,

A handwritten signature in cursive script that reads 'Douglas A. Day'.

Douglas A. Day  
Representative for the  
Tongue River Railroad Company

Enc.  
cc: Parties of record

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**TONGUE RIVER RAILROAD COMPANY, INC.**

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

*July 10, 2009*



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 the briefing of the *TRRC II* and *TRRC III* cases on hold pending resolution of certain administrative record issues. The administrative record issues remain pending with the Court.

TRRC continues to work with the staff and counsel of the Montana Department of Fish Wildlife & Parks ("MFWP") to reach agreement on the terms of an Easement Agreement allowing the TRRC line to cross a portion of the Miles City Fish Hatchery property.

TRRC participated in a working session before the MFWP Commission ("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. TRRC participated in a Commission meeting on May 14, 2009. During the meeting, TRRC learned of and received a copy of the comments to the easement agreement prepared by former Commission Chairman Dougherty. Subsequently, TRRC met with MFWP counsel and staff to prepare responses to the Dougherty comments and propose revisions to the easement agreement to respond to the comments.

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TRRC participated in a working session with the Commission on July 8, 2009. The TRRC easement agreement was on the Commission meeting agenda for July 9, 2009. MFWP staff presented the current draft of the easement agreement to the Commission and responded to questions raised by the Commission. The Commission also accepted public comments on the draft easement agreement. The Commission decided to delay a decision on the adoption of the easement agreement pending further review of information to be prepared by MFWP staff and TRRC in response to the Commission's questions raised during the previous days working session and the Commission meeting. TRRC will continue to work with the Commission and MFWP staff to respond to the Commission's questions. The Easement Agreement is expected to be placed on the Commission's agenda for further action at a meeting in the near future as determined by the Commission.

TRRC applications to other Montana state agencies for easements for the rail line to cross other state lands remain pending.

CERTIFICATE OF SERVICE



I hereby certify that on this 10<sup>th</sup> day of July, 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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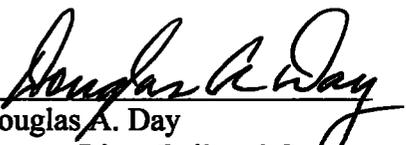
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Member of Congress  
Honorable Max Baucus  
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