



226672

March 10, 2010

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

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Public Record

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,

Douglas A. Day
Representative for the
Tongue River Railroad Company

Enc.
cc: Parties of record

TONGUE RIVER RAILROAD COMPANY, INC.

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

March 10, 2010



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Public Record**

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.

Certain parties 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. All parties to the appeal have reached an agreement on the administrative record issues. The parties are now working to establish a briefing schedule for the appeal.

TRRC has worked at length 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. Following nearly two years of effort to achieve a mutually satisfactory easement agreement, a draft agreement has been prepared. The MFWP Commission must approve the agreement before it can be deemed final. The MFWP Commission is a five member body composed of appointees of the Governor. The current Chair of the Commission is Mr. Bob Ream.

The MFWP Commission has repeatedly declined to place the easement agreement on the Commission meeting agenda. Correspondence from the MFWP Commission indicates that there remains a single issue to completing the easement agreement, a concern about when the TRRC easement will become effective. TRRC continues efforts to work with the MFWP

Commission and MFWP staff to respond to the remaining issue and reach agreement on the easement.

TRRC continues to follow activities related to the decision by the State of Montana Land Board to put the State's coal assets in the Otter Creek Tracts up for competitive lease bid. The Land Board's initiative follows a similar private coal lease transaction which has occurred between Great Northern Properties and Arch Coal, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of March, 2010, a copy of the foregoing document was served via first class mail, postage prepaid, to the following Parties of Record:

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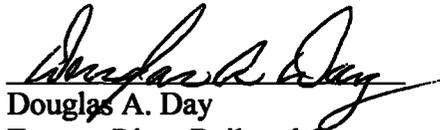
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A handwritten signature in black ink, appearing to read "Douglas A. Day". The signature is written in a cursive style with a horizontal line underneath it.

Douglas A. Day
Tongue River Railroad Company
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