Extension of the Programmatic Agreement Regarding Construction and Operation by the Tongue River Railroad Company of a Rail Line From Miles City to Decker in Custer, Rosebud, Powder River and Big Horn Counties, Montana STB Finance Docket No. 30186 (Sub-No. 3)

WHEREAS, the Programmatic Agreement (PA) regarding the Tongue River Railroad construction and operation, STB Finance Docket No. 30186 (Sub-No. 3), was executed among the Surface Transportation Board (STB), Montana State Historic Preservation Office, Advisory Council on Historic Preservation, U.S. Army Corps of Engineers, U.S. Department of Agriculture Agricultural Research Service, Montana Department of Natural Resources and Conservation, and the Tongue River Railroad Company on November 1, 2005; and

WHEREAS, the PA is scheduled to expire on November 1, 2010, after a term of five years from its date of execution; and

WHEREAS, during the period in which the PA was in force, the Wolf Mountain Battlefield, a property located within the area of potential effect (APE), was designated a National Historic Landmark on October 6, 2008; and

WHEREAS, since execution of the PA, Indian tribes, including the Northern Cheyenne Tribe, have notified the STB of their interest in initiating government-to-government consultation for the Tongue River Railroad construction project; and

WHEREAS, the Northern Cheyenne Tribe has adopted a formal resolution opposing the extension of the existing PA and has requested further consultation regarding historic properties of religious and cultural significance to tribes which may be located within the APE for this project; and

WHEREAS, the STB is committed to ensuring that the STB process for complying with the NHPA Section 106 affords tribes and consulting parties opportunities for participation consistent with the NHPA; and

WHEREAS, the STB has determined the need to revisit the applicability of the terms of the existing PA and update the PA given the passage of time and the designation of the Wolf Mountain Battlefield as a National Historic Landmark; and

WHEREAS, the STB shall consult with Indian tribes, including the Northern Cheyenne Tribe, and take appropriate measures to address tribal concerns when renegotiating the PA, regardless of whether the Indian tribes concur with this amendment to the PA; and

WHEREAS, the STB shall invite the National Park Service to participate to address potential effects on the Wolf Mountain Battlefield; and

WHEREAS, the signatories agree to extend the terms of the current PA until September 1, 2011, during which time its terms will be renegotiated, as appropriate;

NOW, THEREFORE, the signatories to the PA agree that the PA will remain in effect through September 1, 2011, to allow the consulting parties time to incorporate further the role of Indian tribes and to make revisions needed to update the original PA given the passage of time and the designation of the Wolf Mountain Battlefield as a National Historic Landmark.

SURFACE TRANSPORTATION BOARD

By: Victoria Rutson Date: 10-28-10

MONTANA STATE HISTORIC PRESERVATION OFFICER

By:_____ Date:_____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:_____ Date:_____

U.S. ARMY CORPS OF ENGINEERS

By:_____ Date:_____

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

By:_____ Date:_____

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL RESEARCH SERVICE

By:_____ Date:_____

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

By:_____ Date:_____

TONGUE RIVER RAILROAD COMPANY, INC.

By:_____ Date:_____

Concurrence:

NORTHERN CHEYENNE TRIBE

By:_____ Date:_____

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SURFACE TRANSPORTATION BOARD

By:_____ Date:_____

MONTANA STATE HISTORIC PRESERVATION OFFICER

By: Mark F. Baumler Date: 10/27/2010

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:_____ Date:_____

U.S. ARMY CORPS OF ENGINEERS

By:_____ Date:_____

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

By:_____ Date:_____

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL RESEARCH SERVICE

By:_____ Date:_____

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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By:_____ Date:_____

Concurrence:

NORTHERN CHEYENNE TRIBE

By:_____ Date:_____

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SURFACE TRANSPORTATION BOARD

By:_____ Date:_____

MONTANA STATE HISTORIC PRESERVATION OFFICER

By:_____ Date:_____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:_____ Date: 10/29/10

U.S. ARMY CORPS OF ENGINEERS

By:_____ Date:_____

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

By:_____ Date:_____

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL RESEARCH SERVICE

By:_____ Date:_____

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

By:_____ Date:_____

TONGUE RIVER RAILROAD COMPANY, INC.

By:_____ Date:_____

Concurrence:

NORTHERN CHEYENNE TRIBE

By:_____ Date:_____

CROW TRIBE

By:_____ Date:_____

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SURFACE TRANSPORTATION BOARD

By:_____ Date:_____

MONTANA STATE HISTORIC PRESERVATION OFFICER

By:_____ Date:_____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:_____ Date:_____

U.S. ARMY CORPS OF ENGINEERS

FOR COL ROBERT J. RUCH COMMANDING

By:_____ Date: 26 OCT 10

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

By:_____ Date:_____

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL RESEARCH SERVICE

By:_____ Date:_____

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

By:_____ Date:_____

TONGUE RIVER RAILROAD COMPANY, INC.

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SURFACE TRANSPORTATION BOARD

By:_____ Date:_____

MONTANA STATE HISTORIC PRESERVATION OFFICER

By:_____ Date:_____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:_____ Date:_____

U.S. ARMY CORPS OF ENGINEERS

By:_____ Date:_____

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

By: Deborah K. Johnson Date: Oct. 27, 2010

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL RESEARCH SERVICE

By:_____ Date:_____

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

By:_____ Date:_____

TONGUE RIVER RAILROAD COMPANY, INC.

By:_____ Date:_____

Concurrence:

NORTHERN CHEYENNE TRIBE

By:_____ Date:_____

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SURFACE TRANSPORTATION BOARD

By:_____ Date:_____

MONTANA STATE HISTORIC PRESERVATION OFFICER

By:_____ Date:_____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:_____ Date:_____

U.S. ARMY CORPS OF ENGINEERS

By:_____ Date:_____

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

By:_____ Date:_____

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL RESEARCH SERVICE

By: Wilbert H. Blackburn Date: Oct. 27, 2010

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

By:_____ Date:_____

TONGUE RIVER RAILROAD COMPANY, INC.

By:_____ Date:_____

Concurrence:

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By:_____ Date:_____

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SURFACE TRANSPORTATION BOARD

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MONTANA STATE HISTORIC PRESERVATION OFFICER

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ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:_____ Date:_____

U.S. ARMY CORPS OF ENGINEERS

By:_____ Date:_____

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

By:_____ Date:_____

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL RESEARCH SERVICE

By:_____ Date:_____

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

By: M Hart Date: 10/27/10

TONGUE RIVER RAILROAD COMPANY, INC.

By:_____ Date:_____

Concurrence:

NORTHERN CHEYENNE TRIBE

By:_____ Date:_____

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By:_____ Date:_____

MONTANA STATE HISTORIC PRESERVATION OFFICER

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ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:_____ Date:_____

U.S. ARMY CORPS OF ENGINEERS

By:_____ Date:_____

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

By:_____ Date:_____

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL RESEARCH SERVICE

By:_____ Date:_____

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

By:_____ Date:_____

TONGUE RIVER RAILROAD COMPANY, INC.

By: Douglas A. Day Date: 10/25/10

Concurrence:

NORTHERN CHEYENNE TRIBE

By:_____ Date:_____

CROW TRIBE

By:_____ Date:_____

NORTHERN PLAINS RESOURCE COUNCIL

By:_____ Date:_____