

Surface Transportation Board



Incoming Correspondence Record

#EI-19826

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Kay Paine	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

There is so much more harm than good when it comes to suppling coal to China, including, but not limited to:

- Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.
- Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.
- Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.
- Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.
- Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.
- Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment.

Please do whatever you can do to stop these coal trains and prevent the health and enviromental damage that using coal has proven to cause from damaging the lives of current and future generations.

Thank you.

Surface Transportation Board

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#EI-19827

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Suzanne Ravet	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Please scope the impacts on student learning, as created by health problems from noise pollution caused by increased rail traffic from coal mining and transportation via rail. As an educator and parent, I am very concerned about the additional rail traffic, both proximity to family homes and schools, existing tracks and proposed 'new' tracks in the Pacific Northwest. Many of the children I work with have learning disabilities, health impairments, mental health issues and asthma. I want to know what noise pollution, as related to student learning, will have on my child and all children in the communities along the proposed or foreseeable rail routes between the Powder River Basin and export terminals. I believe that school district leaders, educators, families, and students should know what risks the increased rail traffic has on student learning and student ability to meet state testing standards, both students' already at-risk and otherwise 'healthy' students. I believe it is imperative to know how additional exposure to noise pollution will effect education. This study should be comprehensive in range from the first year through to when the trains and terminal(s) is in full operation; year 5, year 20, etc.

The following areas of research are important to consider:

1. Potential Noise exposure impacts, as compiled by Whatcom Docs, such as cardiovascular disease, including increased blood pressure, arrhythmia, stroke, and ischemic heart disease; cognitive impairment in children; sleep disturbance and resultant fatigue, hypertension, arrhythmia, and increased rate of accidents and injuries; exacerbation of mental health disorders such as depression, stress and anxiety, and psychosis.

Reference: Statement of the Whatcom Docs organization (<http://www.coaltrainfacts.org/whatcom-docs-positionstatement-> [1] and-appendices) and referenced research.

2. Researched data from medical, educational, and scientific sources. Potential effects on student learning due to noise pollution. "Noise is defined as unwanted sound. Environmental noise consists of all the unwanted sounds in our communities except that which originates in the workplace. Environmental noise pollution, a form of air pollution, is a threat to health and well-being. It is more severe and widespread than ever before, and it will continue to increase in magnitude and severity because of population growth, urbanization, and the associated growth in the use of increasingly powerful, varied, and highly mobile sources of noise. It will also continue to grow because of sustained growth in highway, RAIL, and air traffic, which remain major sources of environmental noise. The potential health effects of noise pollution are numerous, pervasive, persistent, and medically and socially significant. Noise produces direct and cumulative adverse effects that impair health and that degrade residential, social, working, and learning environments with corresponding real (economic) and intangible (well-being) losses. It interferes with sleep, concentration, communication, and recreation. The aim of enlightened governmental controls should be to protect citizens from the adverse effects of airborne pollution, including those produced by noise.

People have the right to choose the nature of their acoustical environment; it should not be imposed by others.

http://journals.lww.com/smajournalonline/Abstract/2007/03000/Noise_Pollution_A_Modern_Plague.16.aspx

[2]

I would ask that you review and include in your scope known studies, collected and existing data from all school districts along the route and conduct additional studies as needed to quantify impacts with certainty.

Increase in rail traffic from the Powder River Basin to the proposed export terminals is noted to be between a minimum of 18 trains to a maximum of 60 additional trains through towns, cities, etc. each day.

The EIS should measure the cost of increased school services to meet student learning needs due to missed school days, mental health and counseling issues, increased school health and nursing needs, remedial programs, and testing needs. The EIS should measure a dollar equivalent for these services with direct and indirect costs. The EIS should measure the loss to school districts in all states impacted by increased coal exportations, due to families who will be unwilling or unable to move

to school districts/or move out of school districts due to the perception of being located in a injurious area due to rail traffic. The EIS should also measure the costs to school districts for the increase cost for inability to meet national and state testing standards. All relevant incurred costs should be reviewed with an allocated dollar amount for future mitigation paid for by the applicant.

Potential mitigations for the preceding concerns might include, increasing funding for school districts to meet student needs due to lost school days and decreased test scores, relocating families along the rail corridor to less injurious localities, and creating sound buffers along the rail tracks near all schools and family homes.

Thank you for your due attention to this comment and please accept an electronic signature if this document is submitted as the contents of or attached to an e-mail. You may call me, if you have any questions.

Links:

[1] <http://www.coaltrainfacts.org/whatcom-docs-positionstatement->

[2]

http://journals.lww.com/smajournalonline/Abstract/2007/03000/Noise_Pollution_A_Modern_Plague.16.aspx

Image Attachment(s)

[TR Comment 1.docx](#)



[TR Comment 1.docx](#)

Surface Transportation Board



Incoming Correspondence Record

#EI-19829

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Lisa Schmidt	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,

Lisa Schmidt
Helena, MT 59601

Surface Transportation Board



Incoming Correspondence Record

#EI-19830

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Ms. Shaun Hubbard	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

I am a regular visitor to Montana where I enjoy the wild beauty and the excellent fishing opportunities. I am particularly troubled by the proposed construction of a rail line for the sole purpose of carrying coal. I would ask that the EIS include a study of the impacts of the railroad construction on the water quality of the area's watershed and the fisheries habitat and fisheries survival. Please study the impacts of train activity, pollution from the trains, and pollution from the loads of coal on the water quality, future of the fisheries, the wildlife habitats, and the cultural/tribal resources of the region. In addition, the environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.

Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.

Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.

Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board



Incoming Correspondence Record

#EI-19831

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Hope Smith	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,

Hope Smith

Surface Transportation Board



Incoming Correspondence Record

#EI-19832

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	N Zack Blomberg	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett,

I was born and raised in the San Juan Islands and have chosen to raise my family and spend the rest of my days here. I am deeply concerned about the mining and shipping of additional coal in the Pacific Northwest and the impacts it will have on communities small and large along the way.

At this time I understand that Arch coal has agreements with the proponents (Ambre Energy and Kinder Morgan) of the three proposed terminals on the Columbia River. Those terminals propose to ship a combined 82 million metric tons of coal per year, and would require a minimum of 27 round-trip rail passages from/to the Powder River Basin.

All coal bound for the west coast will probably go west through the Columbia River Gorge, including trains ultimately bound for GPT (16 round-trip passages) and Coos Bay (3.6 train passages). That would make the grand total round trip train passages if every train is 1.6 miles long: 46. The Grand total of coal proposed to be exported through the five terminals proposed in Oregon and Washington: 155 million metric tons. This is a seismic shift in U.S. export of this commodity, impacting a region of 5 states with an infrastructure system that was never designed for activity at this level. I agree with the comments made by Debbie Milburn of Montana.

The federal government must look systemically at the effect of all these proposals on rail communities in considering impacts to the environment, human health, traffic, economies, etc. Without a programmatic EIS that models all possible rail expansion, regulators have no basis on which to identify indirect impacts or measure cumulative impacts which include reasonably foreseeable future activities. The Surface Transportation Board should stop addressing proposed expansions in the Powder River Basin in a piecemeal fashion, and conduct a rail PEIS so that all potentially impacted populations can be given proper notice of how they may be impacted. Many property owners who will be involved in this development have no way to know how to address potential impacts on their family, their property, and their environment without a systematic determination of how much coal may be extracted from the Otter Creek Mine at peak operations for shipment to terminals on the Columbia River or elsewhere on the west coast of North America. This situation is the same as all residents of rail communities from the Powder River Basin to the West Coast.

Surface Transportation Board



Incoming Correspondence Record

#EI-19833

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Irene Blomberg	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett,

I am a full time resident of the Pacific Northwest for over 20 years. I am deeply concerned about the mining and shipping of additional coal in the Pacific Northwest and the impacts it will have on communities small and large along the way.

At this time I understand that Arch coal has agreements with the proponents (Ambre Energy and Kinder Morgan) of the three proposed terminals on the Columbia River. Those terminals propose to ship a combined 82 million metric tons of coal per year, and would require a minimum of 27 round-trip rail passages from/to the Powder River Basin.

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The federal government must look systemically at the effect of all these proposals on rail communities in considering impacts to the environment, human health, traffic, economies, etc. Without a programmatic EIS that models all possible rail expansion, regulators have no basis on which to identify indirect impacts or measure cumulative impacts which include reasonably foreseeable future activities. The Surface Transportation Board should stop addressing proposed expansions in the Powder River Basin in a piecemeal fashion, and conduct a rail PEIS so that all potentially impacted populations can be given proper notice of how they may be impacted. Many property owners who will be involved in this development have no way to know how to address potential impacts on their family, their property, and their environment without a systematic determination of how much coal may be extracted from the Otter Creek Mine at peak operations for shipment to terminals on the Columbia River or elsewhere on the west coast of North America. This situation is the same as all residents of rail communities from the Powder River Basin to the West Coast.

Thank you for your time and efforts.

Irene Blomberg

Surface Transportation Board

Incoming Correspondence Record



#EI-19834

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Ann Jarrell	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

- Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Surface Transportation Board



Incoming Correspondence Record

#EI-19835

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Cynthia Patterson	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Docket No. FD 30186

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

- Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

- Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

- Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

- Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

- Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

- Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

- The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

- The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board



Incoming Correspondence Record

#EI-19836

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Evan Brown	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Docket No. FD 30186

Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

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Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

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The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,

Evan Brown

6247 S. Snowdrop Way, Boise, ID 83716

Surface Transportation Board

Incoming Correspondence Record



#EI-19837

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Ann Jarrell	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

- Please study the impacts on property values, potential risk and damage caused by fires, spread of noxious weeds, the impact on ranching and farming including the shift of liability at train crossings to the property owner. in half and separate fields from the river and Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board 
Incoming Correspondence Record

#EI-19838

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Ann Jarrell	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Please study the impact that coal transported on the proposed Tongue River Railroad that will be burned without benefit of scrubbing in coal plants in China will have on Carbon Dioxide emissions. Please study the impact to the economy as this coal is mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board

Incoming Correspondence Record



#EI-19839

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Geri Weigum	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

I am in favor of the coal transport and believe that it is time for the united states to allow our citizens to have good paying jobs. I have attended meetings here locally and read everything I can get my hands on and do believe it would be a great idea to support this industry and put American workers back to work.

Surface Transportation Board



Incoming Correspondence Record

#EI-19840

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Danny Galloway	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

- Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

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- Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

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Surface Transportation Board

Incoming Correspondence Record



#EI-19841

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Geraldine Dalbec	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

"No Action", please. You are intelligent people who realize that our planet is in peril. Science has proven that our global warming situation is caused by burning fossil fuels & it has become a threat to our freedom. Our State has had enough fire and floods. We need Agriculture and Ranches. Protecting the environment improves the economy. Start putting back, enough has been taken from this planet. Please. Thank you.

Surface Transportation Board

Incoming Correspondence Record



#EI-19842

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Lisa Penny	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Docket No. FD 30186

Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

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- The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.
- The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,

Lisa Penny
28 South Kings Road
Nampa, ID 83687



Ken Blodgett
Surface Transportation Board
395 E Street SW
Washington, D.C. 20423-0001

Attention: Scoping Comments on Environmental Filing, Docket No. FD 30186

Dear Mr. Blodgett:

These comments are submitted in response to the Surface Transportation Board's (STB) Notice of Intent to prepare an environmental impact statement (EIS) on the revised application of the Tongue River Railroad Company (TRRC) to construct and operate a rail line originating in the Otter Creek region of Montana. TRRC previously proposed, in its October 16 Revised Application, the construction of a rail line between Miles City, Montana and Ashland/Otter Creek. However, TRRC herein proposes as its preferred alignment a different routing, hereafter referred to as the "Colstrip Alignment" that will run between Colstrip, Montana and two ending points, one near the site of the previously planned Montco mine near Ashland, Montana, and another at the proposed Otter Creek mine in the Otter Creek area east of Ashland, Montana.

In this letter, the National Wildlife Federation identifies the topics that the STB should address in the Draft EIS for the proposed Tongue River Railroad (TRR) project.

The National Wildlife Federation (NWF) was founded in 1936 as the national voice of state and local conservation groups, and has since emerged as the nation's foremost grassroots conservation organization, leading an integrated network of members and supporters and 47 affiliated organizations throughout the United States and its territories. NWF has been involved in environmental issues – including coal development – in the Rocky Mountain West for decades. NWF has a strong presence in Montana, with a regional office in Missoula, staff presence throughout the state, and an active state affiliate in the Montana Wildlife Federation.

NWF is concerned with the manner in which the STB handled the scoping process under the National Environmental Policy Act (NEPA). On December 17, 2012, after all the public scoping hearings regarding the proposed TRR project had concluded, the TRRC submitted a supplemental revised application for the construction and operation of the TRR in which it identified the "Colstrip Alternative" as the company's preferred route for the railroad. A new map of this route was provided in the application and on the STB's website. However, maps sent to the landowners whose land would be severely impacted by the Colstrip Alternative were significantly different than the maps presented to the public. The maps sent to the landowners show the route going through land owned by an Amish community, which is not shown in the public maps. This situation is unacceptable.

Because of the lack of consistent data and maps from the STB and TRRC, we believe that the scoping and public comment period should be extended and additional public hearings held. Although the Colstrip Alternative has been included in the TRRC's alternatives since the project was first proposed, it has always been rejected as technically infeasible. Prior to December 17, when TRCC announced that the Colstrip Alternative was not only feasible, but now the preferred alternative, Colstrip area residents and landowners had no reason to believe that they would likely be affected by this railroad. They deserve a chance to attend public hearings and to comment on the new proposal.

The following are the issues that we believe the STB must analyze in an Environmental Impact Statement.

I. EIS must analyze the direct, indirect and cumulative impacts of the proposed project as well as the impacts of connected and cumulative actions

NEPA requires that federal agencies "provide full and fair discussion of significant environmental impacts" of proposed actions.¹ The EIS must analyze direct, indirect and cumulative impacts of the proposed project.² In addition, the EIS must analyze the impacts of any connected or cumulative actions.³

A. EIS must analyze the climate change impacts of mining, transporting and burning coal from the Otter Creek area.

Global climate change is perhaps the greatest threat to humankind. Scientists maintain that warming of the global climate system is unequivocal and that many natural systems are being affected by regional climate changes.⁴ The single greatest cause of increasing global temperatures is the observed increase in anthropogenic greenhouse gas (GHG) concentrations

¹ 42 U.S.C. § 4332.

² 40 C.F.R. §§ 1502.16, 1508.25(a)(1)-1508.25(a)(2). Direct effects "are caused by the action and occur at the same time and place." *Id.* at § 1502.8(a). Indirect effects "are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." *Id.* at § 1502.8(a). Cumulative impact is "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." 40 C.F.R. § 1502.7.

³ 40 C.F.R. § 1508.25. "Actions are connected if they: (i) Automatically trigger other actions which may require environmental impact statements; (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously; (iii) Are interdependent parts of a larger action and depend on the larger action for their justification." *Id.* "Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement." *Id.*

⁴ Intergovernmental Panel on Climate Change, Fourth Assessment Report: Climate Change 2007: Synthesis Report, p. 30-31.

resulting from the combustion of fossil fuels.⁵ Coal is one of the dirtiest fossil fuels in terms of contributing to the GHGs that are causing climate change.

The total amount of coal reserves available in the Otter Creek area is estimated to total some 1.5 billion tons, which includes coal in the leases secured through Great Northern Properties. This is in addition to billions of tons of coal in the Powder River Basin that is not leased.

Just taking into consideration the possible development of the Otter Creek tracts, the combustion of this amount of coal will result in some 2.4 billion tons of CO₂ emissions. Assuming this amount of emissions is generated over a 20 year period, the average annual emissions of burning Otter Creek coal will be 120 million tons per year. For comparison, this is equivalent to approximately two percent of the total annual CO₂ emissions of the entire United States (6,821.8 million metric tons of CO₂ eq. in 2010).⁶ and is nearly five times higher than the minimum standard for reporting emissions under the Clean Air Act.⁷ While this calculation may not be exact (because the exact quantity of coal that will eventually be extracted from the Otter Creek mine is unknown), it is in the correct order of magnitude to illustrate that the greenhouse gas emissions from the combustion of Otter Creek coal is a significant connected and cumulative impact that must be analyzed in the EIS. This would be the case even if only half of the 1.5 billion tons was available for extraction and transportation.

Current annual CO₂ emissions from burning coal in the United States is about 2 billion tons/year. The 120 million tons of annual CO₂ emissions derived from the Otter Creek mine development, wherever it is burned, represents approximately 6% of this total. This number is significant.

From a local, national, and global perspective, the GHG emissions that will result from the development of a coal mine the size of Otter Creek and the transport and combustion of that coal are significant. This is especially true if the coal will be burned in countries, like China, that do not mandate measures to minimize greenhouse gas emissions from coal-fired generation facilities and where emission controls for coal combustion are highly inadequate. The EIS must analyze the impacts of the projected emissions from mining, transporting and burning coal from the Otter Creek mines.

Our recommendation that these cumulative and connected climate change impacts be addressed in the EIS is consistent with the Council on Environmental Quality's (CEQ) *Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions*, in which the CEQ advises Federal agencies to "quantify and disclose its estimate of the expected annual direct and indirect GHG emissions in the environmental documentation for the proposed action" and to "consider opportunities to reduce GHG emissions caused by proposed Federal actions and adapt their actions to climate change impacts throughout the NEPA process and to address these issues in their agency NEPA procedures."⁸

⁵ *Id.* at 39.

⁶ U.S. Environmental Protection Agency, U.S. Greenhouse Gas Inventory Report, <http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html>.

⁷ *See, e.g.*, U.S. Environmental Protection Agency, Mandatory Reporting of Greenhouse Gases Final Rule, 74 FR 56260 (Oct. 30, 2009).

⁸ Nancy H. Sutley, Memorandum for Heads of Federal Departments and Agencies re: Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions (Feb. 18, 2010), *available at*

B. EIS must analyze all impacts – direct, indirect and cumulative – of the proposed Otter Creek Mine, including the possibility that the Otter Creek mine is not constructed.

As described in the TRRC's application, the principal purpose of the proposed rail line is to transport coal from the proposed mine in the Otter Creek area.⁹ If not for the need to transport coal from the Otter Creek mines, there would be no need to construct and operate the TRR. Because these two projects are inexorably linked, the impacts of the Otter Creek mine must be included in the TRR EIS.

The Otter Creek mine proposal has many barriers including but not limited to extensive cultural and historic resources in the Valley, an Alluvial Valley Floor designation by the USGS¹⁰, and high public opposition to the development, locally, in Montana and throughout the United States. In addition, the spur that is proposed to run to the defunct Montco Mine site is an absurd proposal. There is **no** viable mining operation that could occur in that site and it should be roundly rejected by the STB as an option for an additional mine.

The proposed TRR project and the proposed Otter Creek mines are clearly connected actions. Correspondingly, an EIS on the TRCC proposal must consider and analyze the direct, indirect and cumulative impacts resulting from the development, extraction, transportation, and use of coal from the Otter Creek mine.

C. EIS must analyze the public health and public safety impacts of increased coal train traffic from the mine sites all the way to destination facilities.

It is a fact that Arch Coal's only potential market for this coal is an Asian market. To reach this market, they are planning to transport this coal over 1,000 miles by rail from the proposed Otter Creek mine to export port facilities in the Pacific Northwest. The EIS must consider the cumulative impacts of increased coal train traffic along the entire route. An increase in coal train traffic will result in the release of significant amounts of airborne pollutants from diesel engines¹¹ and coal dust.¹² The increased train traffic will also cause significant delays at many

http://ceq.hss.doe.gov/nepa/regs/Consideration_of_Effects_of_GHG_Draft_NEPA_Guidance_FINAL_02182010.pdf.

⁹ TRRC Application at 3.

¹⁰ U.S. Geological Survey, Effects of Potential Surface Coal Mining on Dissolved Solids in Otter Creek and In the Otter Creek Alluvial Aquifer, Southeastern Montana by M.R. Cannon, Water Resources Investigations Report 85-4206.

¹¹ Diesel particulate matter is associated with impaired pulmonary development in adolescents; increased cardiopulmonary mortality and all-cause mortality; measurable pulmonary inflammation; increased severity and frequency of asthma attacks, ER visits, and hospital admissions in children; increased rates of myocardial infarction (heart attack) in adults; and increased risk of cancer. See Whatcom Docs, Position Statement on Coal Shipments to Cherry Point, available at <http://www.powerpastcoal.org/wp-content/uploads/2011/08/Whatcom-Docs-Position-Statement-Final-July-241.pdf>.

¹² Coal dust is associated with chronic bronchitis; emphysema; pulmonary fibrosis (pneumoconiosis); and environmental contamination through the leaching of toxic heavy metals. See Whatcom Docs, Position Statement on Coal Shipments to Cherry Point, *supra* note 11.

rail crossings,¹³ increased risk of vehicle and pedestrian injuries along the tracks, and increased noise pollution.¹⁴

In addition, increased train traffic will increase the risk of train derailment and resulting release of dangerous materials into the environment.¹⁵ Train traffic also sparks wildfires.¹⁶ The West is experiencing extreme drought due to cumulative impacts of climate change and therefore the fire dangers to people, wildlife and our agricultural system is becoming more severe.¹⁷ The public should not have to pick up the tab for fighting wildfires caused by trains. The EIS must analyze the impacts of these fires to our environment, people's livelihoods and local, state and federal budgets.

Finally, the volume of rail traffic originating in the nearby Bakken oil field of Montana and North Dakota is likely to increase in the near future.* Considering the proximity of the Bakken field to the Otter Creek region, it is likely that there will be some overlap between routes used to transport oil and routes used to transport coal from the Otter Creek mine. The EIS must analyze the cumulative impacts of this potential drastic increase in rail traffic.¹⁸

Increased hazards to public safety and public health are not in the public interest, so the EIS must address ways of mitigating such hazards.

II. EIS must analyze the direct, indirect and cumulative environmental impacts to the resources of the Tongue River watershed

A. EIS must analyze impacts of the rail line to the movement, migration, breeding, health and biodiversity of wildlife species found in southeastern Montana and along the rail route.

¹³ Frequent long trains at rail crossings will mean delayed emergency medical service response times and increased accidents, traumatic injury and death.

¹⁴ Noise exposure causes cardiovascular disease, including increased blood pressure, arrhythmia; stroke and ischemic heart disease; cognitive impairment in children; sleep disturbance and resultant fatigue, hypertension, arrhythmia, and increased rate of accidents and injuries; exacerbation of mental health disorders such as depression, stress and anxiety, and psychosis. *See* Whatcom Docs, Position Statement on Coal Shipments to Cherry Point, *supra* note 11.

¹⁵ *See* Manuel Quinones, *Derailments Add Fuel to Export Battle*, E&E NEWS GREENWIRE (Jul. 11, 2012), *available at* <http://www.eenews.net/public/Greenwire/2012/07/11/2>.

¹⁶ *Wildfire Today*, *available at* <http://wildfiretoday.com/2010/07/22/railroad-caused-fires-in-michigan-and-washington-two-different-approaches/>.

¹⁷ For example, Seattle's King 5 News exposed the negligence of railroad companies in regards to starting hundreds of wildfires along tracks in Washington state. The news reporter found that during a 10-year period, trains caused 234 fires. One person was killed when he was overrun by one of the fires as he operated a combine. Several people have lost their homes. However the company has never been cited for causing any of the fires. King 5 News, Seattle Washington, *available at* <http://www.king5.com/news/investigators/K5-INVESTIGATORS--Railroad-Pledges-More-Fire-Safety-Following-Investigation-98938179.html>.

¹⁸ Selam Gebrekidan, *Phillips 66 Makes \$1 bln Commitment to ship Bakken Crude*, Reuters (Jan. 8, 2013), *available at* <http://www.reuters.com/article/2013/01/08/refinery-bayway-bakken-crude-idUSL1E9C844X20130108>.

The Tongue River drainage is a high-quality wildlife habitat, home to hundreds of species of fish, animals, birds and plants. Construction and operation of the TRR will result in direct and indirect harm to wildlife and wildlife habitat. Wildlife-train collisions are highly likely in this area, and will result in wildlife injuries and deaths. Indirect harm to wildlife will result from habitat destruction, habitat fragmentation and interruption of wildlife movements.

Wildlife-Train Collisions: Wildlife, especially large hooved species like antelope, elk and deer, will congregate on the railroad tracks during heavy and deep snow events in order to move more easily. Migrating antelope trying to get away from the snow often end up on the railroad tracks, which are kept clear of snow. In addition, antelope are unable to jump over fences, which is why they often follow the railroad for long distances until they find a break in the fencing or an open gate. High snow makes it hard for pronghorn to cross under cattle fences. With miles of fencing to keep cattle off the tracks, pronghorn will face a double barrier to reaching the Tongue River. The tendency of wildlife to congregate on railroad tracks can lead to a high number of wildlife-train collisions. For example, in 2011, 800 ungulates died in one winter on the Montana Hi-Line.¹⁹ One train killed 270 antelope near Vandalia, Montana where both Amtrak and freight trains run on the Burlington Northern Santa Fe Railway tracks.²⁰

Sidings and Wildlife: The TRR will create a barrier to the movement of wildlife. The TRRC's application indicates that each coal train will have 150 cars and measure over 1.5 miles in length. When trains of this length are parked on sidings or set-out tracks for extended periods, they pose an impenetrable barrier to wildlife movements. This is true for all wildlife and is especially serious for large hooved species like antelope, elk and deer and during periods of seasonal movements. It is necessary the EIS address this issue and to identify solutions such as avoiding placing sidings in areas frequented by wildlife and not allowing siding use for extended periods especially during times when wildlife are making seasonal movements.

Fences and Wildlife: In addition, because the rail line will cross numerous cattle ranches, fences will have to be constructed along the proposed railroad line to prevent cattle from crossing the tracks. These fences will impede the movement and migration of wildlife. The EIS must address the impacts of at least 40 miles of new fencing on all wildlife species that use the Tongue River as a water source and migrating wildlife. Antelope movements are especially impacted because of their inability to jump fences. The EIS must address such issues as the means of constructing a wildlife-friendly fence and who is responsible for maintaining the fence.

Wildlife Corridors: Additionally, the most important corridors for wildlife movements are typically along creeks, streams and rivers. The EIS must look at the impacts of the rail line and new fencing on riparian habitats and how it will impact the continued use of these riparian corridors by wildlife.

¹⁹ Kate Whittle, *Hundreds of Antelope Hit by Trains on the Montana Hi-Line*, NEW WEST, available at http://www.newwest.net/topic/article/hundreds_of_antelope_hit_by_trains_on_the_montana_hi_line/C41/L41/

²⁰ Associated Press, *Trains Taking Toll on Montana Antelope and Deer*, BILLINGS GAZETTE, available at http://billingsgazette.com/news/state-and-regional/montana/trains-taking-toll-on-montana-antelope-and-deer/article_f3444d60-482c-11e0-8aa8-001cc4c03286.html#ixzz2H1rOzMnq.

The EIS must identify and the TRRC must agree to implement mechanisms to avoid and mitigate wildlife and wildlife habitat impacts and to compensate the state for adverse impacts on wildlife, including animals directly killed by the TRR.

Impacts to mating and breeding behavior: The EIS must analyze the impacts of the train and coal on wildlife's ability to mate and rear young and how the train and mine will impact their behavior.

B. EIS must analyze impacts to endangered and threatened wildlife species.

Because it is unclear whether the route from Otter Creek to Miles City has been taken completely off the table, NWF will retain our comments associated with the Miles City Fish Hatchery. This route passes the Miles City Fish Hatchery, which has a focus on preservation of the endangered pallid sturgeon. The concerns of the Montana Department of Fish, Wildlife and Parks with regard to minimizing or eliminating project impacts on this hatchery must be considered and mitigated. These include impacts from vibrations of the proposed project.

The greater sage grouse is an imperiled species and the entire population is a candidate for listing under the Endangered Species Act.²¹ There is critically important sage grouse habitat in the vicinity of the proposed project. Noise and disturbance impacts on sage grouse of the proposed project must be documented and appropriation mitigation measures proposed.

Burrowing owls, short-eared owls, Mountain plovers, golden eagles and ferruginous hawks are other bird species potentially impacted by the proposed project. All of these species are limited by declining habitat quality and quantity and this limitation will likely be exacerbated by the proposed project.

The EIS should address impacts to and mitigation measures designed to protect all other listed species in the area that will be impacted by the TRR and the Otter Creek mine, including downstream waterways.

C. EIS must analyze the direct, indirect and cumulative impacts to the water quality of the Tongue River and all associated creeks that may result from the proposed rail line and the proposed mine operations and those impacts to the Northern Cheyenne water rights.

The Northern Cheyenne Tribe, which is authorized by the U.S. Environmental Protection Agency to administer water quality standards and certification programs, is in the process of enacting stringent water quality standards in the Tongue River, more stringent, even, than the State of Montana.²² Although not yet approved by the EPA, they are expected to be approved

²¹ See U.S. Fish and Wildlife Service, Species Profile, Greater sage-grouse, *available at* <http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=B06W>.

²² See Northern Cheyenne Tribe, Surface Water Quality Standards, *available at* <http://www.cheyennation.com/water.html>. These standards were enacted in response to the water quality degradation caused by the disposal of produced water from coalbed methane development upstream of the reservation. Operators in the Powder River Basin pump billions of gallons of water annually from underground

soon. These Northern Cheyenne water standards are meant to ensure that the Tongue River flows clean through the southeastern Montana reservation. The EIS must analyze the water quality impacts resulting from the settling and run-off of airborne pollutants released from coal trains, including diesel emissions, coal dust and other particulates. The EIS must also analyze wastewater treatment and disposal from the Otter Creek mine, including where the wastewater will be disposed, how the wastewater will be treated, the resulting water quality of the wastewater including but not limited to the SAR and EC levels, how much wastewater will make it into waterways, how it will impact the Tongue River water quality, and the cumulative impacts of the coal mine wastewater in addition to the coal-bed methane produced water that is already being dumped into the river system.

Mining in the Otter Creek valley will increase the dissolved solids load to Otter Creek, which in turns runs to the Tongue River, and the alluvial aquifer through the leaching of soluble minerals from mine spoils. The EIS must analyze this water quality change and how it will impact current water use and rights in the region.

This analysis must also include projected impacts to the agriculture-based economy along the Tongue River, as the disposal of CBM produced water into waterways used for irrigation has already resulted in destruction of irrigated lands along many waterways in the Powder River Basin.²³

III. EIS must analyze the socio-economic impacts on the local economy and residents

A. EIS must analyze the impacts on the Tongue River Ranch and other local, state and federal property along the route that is used for grazing allotments and public land for hunting.

There are numerous publically owned lands along the route and near the proposed Otter Creek mine that currently are used by the public, for their “convenience and necessity,” for hunting and grazing for their livestock. The EIS must analyze the rail line and coal mine’s impact on current beneficial and sustainable uses of this land. Will the grazing leases in Custer National Forest be impacted by this rail line and mine? If so, what will the impacts to Custer National Forest be? Will there be an increase in wildfire risk due to decreased grazing and management? How will state and federal land that is now open to hunting be impacted?

In addition, the Tongue River Ranch was acquired by the State of Montana in 2007 and is now managed as part of the school trust by the Montana Department of Natural Resources and Conservation. This ranch is an important recreational site and provides access to adjacent public lands used by many people, including hunters. All impacts of the proposed project on this important state land must be identified and mitigated. If the route to Miles City is still a potential route, the impact to the Tongue River Ranch needs to be analyzed.

aquifers to free trapped coal-bed methane, or natural gas. That water is high in salts and often pumped straight into rivers, a potential threat to the crops of downstream farmers.

²³ U.S. Environmental Protection Agency, Coalbed Methane Extraction: Detailed Study Report (Dec. 2010), at 4-9, available at http://water.epa.gov/lawsregs/lawsguidance/cwa/304m/upload/cbm_report_2011.pdf.

B. EIS must analyze the impacts to southeastern Montana’s hunting and wildlife recreation economy and MT FWP’s Block Management lands.

Montana’s second largest economy is travel and tourism, behind agriculture.²⁴ People flock to Montana from around the world to see its wide expanses of landscape, untouched by human development. A significant portion of the economy in southeastern Montana relies on healthy wildlife populations to support hunting, fishing and wildlife recreation. Out-of-state and in-state hunters flock to the Tongue River drainage and surrounding region for the abundant deer, elk, pronghorn, wild turkey, pheasant, grouse and numerous other game species. These hunters spend a significant amount of money on lodging, food, gas, hunting fees and licenses, hunting equipment and other amenities.

The EIS must analyze how the rail line and the proposed Otter Creek mine will impact the hunting and wildlife recreation economy and the financial impacts to the ranchers who outfit their properties in addition to the block management units that are open to public through Montana Fish Wildlife and Parks Block Management Program. Over nine miles of the proposed rail line will cross one of the largest Block Management ranches in southeastern Montana.

C. The EIS must analyze the economic impacts to agricultural operations and impacts to land values

Current land use in the regions is mostly agricultural with farming and ranching providing a stable and sustainable economy in southeastern Montana. The EIS must analyze the impacts of the industrialization of the Tongue River valley to the current economic driver in the region, agriculture. In addition, there must be an analysis of how the rail line and the proposed Otter Creek coal mine will impact property values of all landowners and homeowners in the region.

IV. STB must engage impacted Native American tribes in government-to-government consultation and EIS must analyze cultural, socio-economic and environmental impacts on tribes and tribal resources

The U.S. government, under its trust obligation to Indian tribes, “has charged itself with moral obligations of the highest responsibility and trust” toward Indian tribes.²⁵ The STB, as an agency of the U.S. government, has a trust responsibility to consult with Tribes in the development of the TRR project and to prevent and/or mitigate the impacts of development on Tribes and their reservations, consistent with federal and state laws and regulations.²⁶ As the Department of Transportation set forth in its Tribal Consultation Plan,

The United States government has a unique legal relationship with Federally-recognized Indian tribal governments as set forth in the

²⁴ The Institute for Tourism and Recreation Research at the University of Montana – Missoula, *The Economic Review of the Travel Industry in Montana* (July 2010), *available at* <http://www.itrr.umt.edu/ecorev/EconomicReview2010ITRR.pdf>.

²⁵ *Seminole Nation v. United States*, 316 U.S. 286, 297 (1942).

²⁶ See Appendix.

Constitution of the United States, treaties, statutes, and court decisions. The Federal government recognizes the right of self-determination for Indian tribal governments and the obligation to work with Indian tribal governments in a government-to-government relationship. As an executive agency, the U.S. Department of Transportation has a responsibility and is committed to working with Indian tribal governments in this unique relationship, respecting tribal sovereignty and self-determination.²⁷

A. Tribes and Tribal Resources Potentially Affected by the Tongue River Railroad

Tribes that currently occupy the planned activity area include the Crow Tribe and the Northern Cheyenne Tribe. The Northern Cheyenne Tribe occupies a reservation located in southeastern Montana and has property and water rights to the Tongue River. The Tongue River forms the Northern Cheyenne Reservation's eastern boundary. The Crow Reservation, located in south central Montana, is bordered by Wyoming to the south and the Northern Cheyenne Indian Reservation to the east. Some of the headwaters of the Tongue River lie on the Crow Reservation.

Tribes that aboriginally occupied the planned activity area and tribes that have a cultural relationship to the sites in the planned activity area include but are not limited to: Crow, Northern Cheyenne, Arapahoe and numerous Sioux bands including the Oglala, Brule, Minniconjou, Hunkpapa and Sans Arc Lakota. All the Tribes who have cultural and historic sites in the planned development area must be consulted in the EIS process.

The EIS must address the following potential direct and indirect impacts from the rail line and the coal mines to the Northern Cheyenne Tribe. Reservation demographics confirm that the Northern Cheyenne community is a distinct community from other populations and communities in the region. For this reason, the Northern Cheyenne community should be neither ignored nor averaged into county-wide or regional analyses for EIS or land use planning purposes. For instance, the Northern Cheyenne Reservation is much more densely populated than the surrounding highly rural, ranching areas. The age and income profile of the Reservation population is much younger and poorer than non-Indian populations elsewhere in the region.²⁸

The EIS must analyze following subjects in detail:

- 1. Impacts to the Northern Cheyenne Class I Airshed.** In 1977, the Northern Cheyenne voluntarily classified their reservation as a “Class I Airshed,” which puts the reservation on par with national parks and wilderness areas. The proposed coal mine and rail line will impact the Northern Cheyenne air quality. How does the TRRC propose to mitigate these impacts?

²⁷ U.S. Department of Transportation, Tribal Consultation Plan, *available at* <http://www.dot.gov/sites/dot.dev/files/docs/Tribal%20Consultation%20Plan.pdf>.

²⁸ Northern Cheyenne Tribe, Report to the U.S. Bureau of Land Management, 2002, p. 1-2.

- 2. Impacts to the Northern Cheyenne resident's health including asthma, cancer and other diseases associated with air and water pollution.** Compared to the general U.S. population, Native American populations suffer higher rates of poverty, earlier onset of disease, shorter life spans, lower levels of education and a lack of truly comprehensive care in many rural Indian Health Services facilities.²⁹ Air quality and water quality heavily impact people's health and overall quality of life, especially vulnerable populations like the Native American population in southeastern Montana. The coal mine and rail line will impact air quality and water quality in the region (see comments associated with these issues above).

Exposure to air pollution is associated with numerous effects on human health, including pulmonary, cardiac, vascular, and neurological impairments. High-risk groups such as the elderly, infants, pregnant women, and those who suffer from chronic heart and lung diseases are more susceptible to air pollution. Children are at greater risk because they are generally more active outdoors and their lungs are still developing. Exposure to air pollution can cause both acute (short-term) and chronic (long-term) health effects. Acute effects are usually immediate and often reversible when exposure to the pollutant ends. Some acute health effects include eye irritation, headaches, and nausea. Chronic effects are usually not immediate and tend not to be reversible when exposure to the pollutant ends. Some chronic health effects include decreased lung capacity and lung cancer resulting from long-term exposure to toxic air pollutants. The scientific techniques for assessing health impacts of air pollution include air pollutant monitoring, exposure assessment, dosimetry, toxicology, and epidemiology.³⁰

The EIS must analyze the health impacts to the Northern Cheyenne people and the impacts to their health system on the reservation. Does the Northern Cheyenne healthcare system have the resources to deal with increased cases of asthma, cancer, and other diseases caused by air and water pollution from the Otter Creek mine and Tongue River Railroad? What is an "acceptable" increase in health problems among an impoverished community that the STB is willing to permit?

- 3. Impacts to Northern Cheyenne socio-economic conditions, including poverty rates, incomes, crime rates, transportation and safety issues, social services and health care system.** In 2002, the U.S. Bureau of Land Management (BLM) and the State of Montana Department of Natural Resources and Conservation received a report prepared by the Northern Cheyenne Tribe about the Tribe's culture and history, the social and economic conditions, demographics, environmental resources, cultural and archaeological sites, health and well-being and the tribal government as well as numerous other subjects. This study found that "previous energy development boom in the immediate area, centered on coal mining and power plant construction at Colstrip just north of the Reservation, worsened conditions on the Reservation. These effects have

²⁹ Indian Health Services, Trends in Indian Health, *available at* http://www.ihs.gov/nonmedicalprograms/ihs_stats/index.cfm?module=hqPubTrends03

³⁰ U.S. Environmental Protection Agency, Effects of Air Pollutants, *available at* <http://www.epa.gov/apti/course422/ap7a.html>

been documented in studies performed in connection with regional coal leasing in the early 1980s. The EIS must analyze the realistic economic impacts of this rail line and coal mine to the Northern Cheyenne Tribe. The STB should be wary of coal company promises of “jobs and training” for Northern Cheyenne people, as similar past promises have come to naught. One only has to look at adjacent coal mines and coal fired power plants to see the lack of employment opportunities for the Northern Cheyenne.

In addition, the Tribe will be heavily impacted by the influx of large numbers of non-Native outsiders that will work to construct the rail line and work in the mine. As the report to the BLM stated, this situation will increase crime, drug use and other social ills that the Tribe is not properly equipped to handle. The report also found severe public services deficits in the areas of housing, utilities, and crime and fire protection. The Reservation has a severe housing shortage with more than 800 families needing new housing and fully two-thirds of the existing housing stock in substandard condition. Some Northern Cheyenne residents must find housing off the Reservation, in Colstrip and Ashland. How will the influx of workers impact the ability of tribal residents to find and keep affordable housing? Existing housing programs on the Reservation are barely able to prevent further deterioration in the housing situation let alone address these severe deficiencies. The rail line and coal mine will only exacerbate these problems.

The Reservation’s fire protection system is essentially unfunded. More than half of the fire hydrants in Lame Deer do not properly function and the Tribe lacks a formal spill contingency plan. Due to lack of funding, volunteer fire fighters have only the most basic training and operate with severely outdated equipment. The rail line will increase fires. These fires will threaten the lives and homes of reservation residents. The EIS must address how this issue will be handled.

Law enforcement, transportation and social services are three other areas where public services are deficient on the Northern Cheyenne Reservation. The Reservation is suffering from a crime epidemic already. The Reservation police force is underfunded and understaffed. At times only one officer is on-duty for the entire Reservation. The Tribal Court lacks adequate facilities and the Tribe’s detention center is chronically overcrowded. Existing law enforcement deficiencies have the potential to be exacerbated by jurisdictional gaps which threaten to make the Reservation a haven for non-Indian lawbreakers with an influx of new workers from the rail line and coal mine.

Although the Reservation’s road network has recently been improved, accident rates on Reservation highways remain much higher than on comparable off-Reservation highway segments. The Reservation lacks basic traffic safety laws or the means to enforce them. Again, the Reservation’s traffic problems are made worse by non-

Natives who take advantage of the Reservation's lack of traffic law enforcement.³¹ The proposed rail line and coal mine will increase traffic through the reservation exponentially. The EIS must analyze the impacts if increased traffic on accidents, traffic violations, safety of residents and roads.

- 4. Impacts to Northern Cheyenne cultural and historic resources on and off the Reservation and the ability of Northern Cheyenne to gather important cultural plants and harvest wildlife in the Tongue River region.** The Northern Cheyenne's "cultural resources" are not necessarily limited to specific historical or archeological sites, but also include natural resources that support ceremonial and subsistence uses, and landscapes needed to perform important rituals. These cultural resources can be found both on and off the Reservation and especially in the Tongue River valley, an area that was homesteaded by Tribal members in the 1880s and with which many Cheyenne still feel an intense bond. There are an immense number of cultural, burial and historic sites in the region that will be destroyed or heavily impacted by the proposed rail line and coal mine. The EIS must look at the impacts of this rail line and coal mine to the cultural resources of the Northern Cheyenne Tribe off the Reservation.

B. Development of a Consultation Plan

First and foremost, the STB needs to develop a comprehensive tribal consultation plan that is made widely available to tribes affected and potentially affected by construction of the Tongue River Railroad. The STB cannot simply rely on the information and results that it gathered from earlier consultation efforts with tribes concerning the TRR project.³² Therefore, the STB must begin the consultation process anew while also taking into account previous comments and recommendations made by tribes about how consultation should take place.

Some recommendations to help the STB conduct effective consultation with tribes include:

- Develop guidance on how the STB intends to assure that consultation meetings result in meaningful dialogue rather than simply pro forma consultation.
- Start the consultation process early in the planning stages. Because the STB has initiated the scoping process, we hope the STB has already initiated the tribal consultation process.
- Assign a tribal liaison to the TRR project who has extensively worked with tribes on similar construction projects.

³¹ Northern Cheyenne Tribe, Report to the U.S. Bureau of Land Management, 2002, p. 1-5.

³² *Tongue River R.R.—Rail Constr. and Operation—In Custer, Powder River and Rosebud Cnty., Mont. (Tongue River I)*, FD 30186 (ICC served Sept. 4, 1985), *modified* (ICC served May 9, 1986), *pet. for judicial review dismissed*, *N. Plains Res. Council v. ICC*, 817 F.2d 758 (9th Cir.), *cert. denied*, 484 U.S. 976 (1987); *Tongue River R.R.—Rail Constr. and Operation—Ashland to Decker, Mont. (Tongue River II)*, 1 S.T.B. 809 (1996), *pet. for reconsid. denied* (STB served Dec. 31, 1996); *Tongue River R.R.—Rail Constr. and Operation—Ashland to Decker, Mont. (Tongue River III)*, FD 30186 (Sub-No. 3) (STB served Oct. 9, 2007), *pet. for reconsid. denied* (STB served Mar. 13, 2008).

- Provide adequate time to tribes to review and provide comments concerning actions involving the TRR project, well beyond the 30- to 60-day periods provided to the public to make its comments.
- Send a letter to each tribal chairperson with copies provided to appropriate staff (*e.g.*, tribal administrator, environmental manager) that asks each tribe how it would like to be consulted on the TRR project. Providing copies to different individuals of authority within the tribe provides better assurances that the tribe will clearly be made aware of the project. Asking each tribe about how it would like to be consulted respects their individual preferences and tribal cultures, and helps to insure that true government-to-government consultation occurs.
- Make every effort to provide tribes with any additional resources and assistance that they might require to engage in effective consultation. Although they consider consultation to be very important, tribes have limited resources and time to expend on it. The STB must be sensitive to this fact.
- Provide assurances to tribes that the most senior-level STB officials will be engaged in consultation with them because tribes will likely be represented by their highest-level officials such as tribal chairpersons and council members.
- Include affected tribes in the EIS process as consulting agencies.
- Keep the channels of communication open throughout the consultation process and throughout development of the TRR, should construction proceed. According to tribes, coming to a final agreement is not as important as building ongoing channels of communication.³³
- Mutual respect must be the basis upon which successful consultation builds.

NWF is available to provide additional recommendations and help the STB coordinate its consultation process with tribes.

C. Government-to-Government Consultation is a Necessity

Government-to-government consultation, as required by federal laws and regulations,³⁴ is necessary for a number of reasons. First, it provides for more candid conversations between individual tribes and the federal government than would occur otherwise during a public or non-public group meeting with multiple tribes. Second, each tribe's circumstances are unique and must be treated as such by the federal government. A group meeting would only give short shrift to these circumstances. Third, most cultural resources information is protected from release under statutory exemptions to the Freedom of Information Act. Discussion of such information as part a group meeting risks its release to the general public and potentially endangers tribal cultural sites and practices. Finally, the subject matter may be so unique, such as a dispute between tribes about whose cultural resources might be located within a given TRR project site, that government-to-government consultation between the tribes and the STB provides the best opportunity for a resolution to the situation versus a group meeting of tribes where any number of tribal issues may be discussed in a finite period of time.

³³ National Association of Tribal Historic Preservation Officers, *Tribal Consultation, Best Practices in Historic Preservation*, iv (May 2005), available at <http://www.nathpo.org>.

³⁴ See Appendix.

The STB must not mistake public and non-public group meetings with tribes as true government-to-government consultation called for under Executive Order 13175.

V. EIS must independently and objectively analyze the TRRC’s claim of public convenience and necessity.

The construction and operation of the proposed project requires STB approval.³⁵ Before it approves a new rail line, the STB must find that construction and operation of the proposed line are consistent with the “public convenience and necessity.”³⁶ Under this standard, the STB weighs the transportation need or benefits against any kind of harm likely to result.

It appears from the Notice of Intent that the STB has already determined that the proposed project meets the statutory “public convenience and necessity” standard. This assumption must be eliminated. The STB cannot make such a determination prior to the preparation of an EIS that fully explores the needs and costs of the proposed action. A full independent analysis of whether this railroad is in the “public convenience and necessity” must consider and weigh the safety, environmental and socio-economic impacts of transporting coal by rail through the largely ranching and rural communities crossed by the proposed line and the impacts that this rail line and the coal that it will transport to coal burning facilities will have on the millions of people along the rail line, in the port regions and who are impacted greatly by global climate change.

The proposed project is strongly opposed by a majority of the current residents of the Tongue River region. The STB’s determination must consider Arch Coal’s business plans to export Otter Creek coal to foreign markets. The EIS must clearly describe the ultimate destinations and markets for the coal that will be transported by the proposed TRR. The costs imposed on local residents whose lands, cultural resources, health and businesses will be harmed by the proposed project are more likely to be unacceptable to those residents if the coal is intended for export rather than for domestic consumption.

VI. EIS must thoroughly, and in good faith, examine the “No Action” alternative.

Regulations implementing NEPA require that the analysis of alternatives in the EIS “include the alternative of no action.”³⁷ It is essential that the EIS include and genuinely examine a “no action” alternative as mandated.

³⁵ 49 U.S.C. §§ 10502, 10901.

³⁶ 49 U.S.C. § 10901(c).


³⁷ 40 C.F.R. § 1502.14(d).



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Appendix

Laws, Executive Orders, and Presidential Memoranda Applicable to Tribal Consultation

The STB must comply with the full slate of laws, Executive Orders, and Presidential Memoranda when determining how to adequately address tribal interests and concerns. These include:

1. National Historic Preservation Act

The National Historic Preservation Act (NHPA) requires federal agencies (*e.g.* the STB) to complete the procedures prescribed by the statute to account for any adverse effects on historical places that may occur due to any “proposed Federal or federally assisted undertaking” (including approval of a license or permit) on federal, state, tribal, or private land “prior to the approval of the expenditure of any Federal funds . . . or prior to the issuance of any license.”³⁸ NHPA requires consultation with Indian Tribes regarding places of traditional religious and cultural significance, to identify and determine appropriate management within the area of potential effect of an undertaking. Consultation is also required with Tribes that have assumed historic preservation duties as Tribal Historic Preservation Officers (THPOs) for sites on Tribal land and with Tribes on the mitigation of effects to historic and sacred places on federal land.³⁹

Federal Agency Requirements. As the lead federal agency, the STB must ensure that tribal participation “is conducted through the tribe’s [tribes’] official government structure” with formal representation “including designation of...[a] tribal signatory for the tribe.”⁴⁰ For any section of the TRR project on tribal lands, the STB must identify the appropriate tribal historic preservation officer or tribe.⁴¹ For portions of the TRR project on federal lands, the STB must make a reasonable and good faith effort to identify any tribes that may attach religious and cultural significance to historic properties in the areas of potential effects (APEs) and invite them to consult.⁴² Any identified tribe that wishes to be consulted will become a consulting party.⁴³

The STB must gather information from any identified tribe to assist in the identification of properties, including those located off tribal lands.⁴⁴ Such properties may (1) have religious and

³⁸ 16 U.S.C. § 470 (1992); *see also Friends of the Atglen-Susquehanna Trail, Inc. v. Surface Transp. Bd.*, 252 F.3d 246, 252 (3rd Cir. 2001).

³⁹ The NHPA in section 101(d)(2) creates the Tribal Historic Preservation Officer Program, and reads: “A tribe may assume all or any part of the functions of a State Historic Preservation Officer with respect to Tribal lands.” In section 301(14) “tribal lands” are defined as: “(a) all lands within the exterior boundaries of any Indian reservation, and all (b) dependent Indian communities.” This definition of “tribal lands” excludes Alaskan Natives from having a Tribal Historic Preservation Officer program. (U.S. Department of Interior, Office of the Solicitor, Request for Opinion Regarding National Historic Preservation Act of 1966, as Amended, November 2002.)

⁴⁰ <http://www.achp.gov/regs-tribes.html>

⁴¹ 36 C.F.R. § 800.3(c). The TRR project is not expected to traverse tribal lands.

⁴² 36 C.F.R. § 800.3(f)(2).

⁴³ *Id.*

⁴⁴ Section 304 of NHPA provides that information gathered about cultural resources will be kept confidential if the federal agency determines that the disclosure of such information may cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners.

cultural significance to that tribe and (2) be eligible for the National Register.⁴⁵ Based on gathered information and consultation with the State Historic Preservation Officer (SHPO) and any identified tribes that might attach religious and cultural significance to properties within the APEs, the STB shall make a reasonable and good faith effort to carry out appropriate identification efforts that may include background research, consultation, field surveys, oral history interviews, and sample field investigation.⁴⁶

The remaining steps of the Section 106 process involve (1) an evaluation of the National Register eligibility of all potentially APEs, (2) an assessment of the adverse effects potentially caused by the TRR project, and (3) an assessment of the possible means to “avoid, minimize, or mitigate” the effects, if they are found to be adverse, in consultation with the SHPO and other consulting parties.⁴⁷

Role of License Applicant. License applicants for federal licenses, permits, and other approvals (*e.g.*, Tongue River Railroad Company, Inc.) may voluntarily participate in the section 106 review process as a consulting party.⁴⁸ Further, the responsible STB official “may authorize an applicant to initiate consultation with the SHPO and others, but remains legally responsible for all findings and determinations charged to the agency official.”⁴⁹ The STB also remains responsible for its government-to-government relationship with tribes.⁵⁰

Official communication by the Tongue River Railroad Company with a tribe during the section 106 process depends on the agreement that the tribe has with the STB. The Advisory Council on Historic Preservation explains the different roles of a lead agency and applicant as such:

[F]ederal agencies cannot unilaterally delegate their responsibilities to conduct government-to-government consultation with Indian tribes to non-federal entities. It is important to remember that Indian tribes are sovereign nations and that their relationship with the federal agency exists on a government-to-government basis. For that reason, some Indian tribes may be unwilling to consult with non-federal entities associated with a particular undertaking. Such non-federal entities include applicants for federal permits or assistance (which would include any contractors hired by the applicant), as well as contractors who are not government employees but are hired to perform historic preservation duties for a federal agency. In such cases, the wishes of the tribe for government-to-government consultation must be respected, and the agency must carry out tribal consultation for the undertaking.

⁴⁵ 36 C.F.R. § 800.4(a)(4). Section 101(d)(6) of NHPA provides properties that have religious and cultural significance to a tribe may be determined eligible for the National Register.

⁴⁶ 36 C.F.R. § 800.4(b)(1).

⁴⁷ 36 C.F.R. §§ 800.5, 800.6.

⁴⁸ 36 C.F.R. § 800.2(c)(4).

⁴⁹ *Id.*

⁵⁰ *Id.*

However, *if an Indian tribe agrees in advance*, the agency may rely, where appropriate, on an applicant (or the applicant's contractor), or the agency's own historic preservation contractor to carry out day-to-day, project-specific tribal consultation. In order to ensure that the tribe, the agency, and the applicant or contractor all fully understand that the tribe may request the federal agency to step in and assume consultation duties if problems arise, the agency should obtain the tribe's concurrence with the agency's delegation in writing.

Even when an Indian tribe agrees to consult with an applicant, the federal agency remains responsible for ensuring that the consultation process is carried out properly, meeting the letter and spirit of the law, as well as resolving any issues or disputes. Therefore, any agreement between the agency and an Indian tribe documenting the tribe's willingness to consult with a non-federal entity should contain a provision that explains the agency's responsibility to assume consultation responsibilities at the tribe's request. The government-to-government relationship requires that the federal agency is ultimately responsible for tribal consultation.⁵¹

2. Archaeological Resources Protection Act

The purpose of the Archaeological Resources Protection Act (ARPA) is the "protection of archaeological resources and sites which are on public lands and Indian lands..."⁵² Archaeological resources can include "any material remains of past human life or activities" greater than 100 years old, such as basketry, graves, human skeletal materials, pit houses, rock carvings or paintings, structures or portions of structures, or tools.⁵³

The ARPA is intended to apply to purposeful exploration and removal of archaeological resources,⁵⁴ so it generally does not impose conditions on development projects.⁵⁵ However, the ARPA will come into play when archaeological resources are uncovered during project

⁵¹ Advisory Council of Historic Preservation, Consultation With Indian Tribes in the Section 106 Review Process: A Handbook, 16-17 (Nov. 2008).

⁵² 16 U.S.C. § 470aa(b).

⁵³ 16 U.S.C. § 470bb(1).

⁵⁴ *Attakai v. United States*, 746 F. Supp. at 1410. The court stated NHPA and HADPA address inadvertent discoveries. *Id.*; see also 43 C.F.R. § 7.5(c) (1992). However, an ARPA permit may be required to conduct NEPA compliance work. See 16 U.S.C. § 470cc (1988).

⁵⁵ 16 U.S.C. § 470kk. However, ARPA has been used to help defeat development projects on federal lands. As part of NHPA compliance procedures, an applicant for a federal license to construct a hydroelectric power project in Montana sought an ARPA permit to conduct test excavations of historic properties on National Forest lands. Pursuant to regulations, the Forest Service notified affected tribes of its intent to issue the permit. The tribes objected, and the Forest Service denied the ARPA permit. The tribes then argued that NHPA compliance was impossible and the power license should not be issued. For a variety of reasons, the project ultimately died. See generally *Northern Lights Inc.*, 27 FERC (CCH) ¶ 633,024, 65,080-85 (1984); FERC, Dept. of Energy, Final Environmental Impact Statement, Kootenai River Hydroelectric Project No. 2752 - Montana (1981).

execution and must be excavated or removed.⁵⁶ If project implementation will require excavation of archaeological sites, the ARPA planning should be incorporated into the permit and environmental review process.

The intentional excavation or removal of archaeological resources from federal or tribal lands is unlawful unless a permit to do so has been issued by an appropriate federal land manager.⁵⁷ If the permit may result in harm to or destruction of a religious or cultural site, the federal land manager must notify any tribes that may consider the site to have religious or cultural importance at least 30 days prior to issuance of the permit.⁵⁸ Further, the federal land manager may notify any other Native American groups that consider the site to have religious or cultural importance.⁵⁹ If they so request, the notified tribes and Native American groups can meet with the federal land manager to discuss their interests and concerns, including ways to avoid or mitigate harm or destruction to the site that can be incorporated into an ARPA permit.⁶⁰ On tribal lands, the federal agency must have the permission of the Tribe to issue an ARPA permit.⁶¹

3. Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act (NAGPRA) protects Native American graves and certain cultural artifacts on federal and tribal lands from uncontrolled disturbance.⁶² NAGPRA also accords to living descendants or culturally related tribes certain rights to ownership and control of burial remains and cultural items discovered on federal or Indian lands.⁶³

Consultation. Consultation plays a prominent role under the NAGPRA as it does under section 106 of the NHPA. However, the purpose of NAGPRA consultation is to help the federal agency (*i.e.* the STB) determine ownership and control of Native American cultural items and appropriate treatment of such items. The statute establishes a hierarchy of ownership interest covering all classes of cultural items. NAGPRA's ownership scheme is material to federal agencies and project developers because it determines the tribe or tribes which must approve excavation or which are entitled to notice and consultation with respect to cultural items inadvertently discovered and that must be excavated or removed from a project area.

If Native American graves or cultural items are present in the project area, the responsible STB official⁶⁴ must request from tribes the names and addresses of tribal officials to act as representatives in consultation, the names and appropriate methods to contact lineal descendants

⁵⁶ This may be true even if discoveries occur on private lands. See *United States v. Gerber*, 20 Ind.L.Rep. 2127 (7th Cir. 1993).

⁵⁷ 16 U.S.C. §§ 470cc(a), 470cc(c).

⁵⁸ 16 U.S.C. § 470cc(c).

⁵⁹ 43 C.F.R. § 7.7(a)(2).

⁶⁰ 43 C.F.R. § 7.7(a)(3).

⁶¹ 43 C.F.R. § 7.8(a)(5).

⁶² See 25 U.S.C. §§ 3001-3013; 43 C.F.R. §10.1. Native American cultural items include human remains, funerary objects, sacred objects, and objects of cultural patrimony.

⁶³ *Id.*

⁶⁴ A “federal agency official means any individual authorized by delegation of authority within a federal agency to perform the duties relating to these regulations.” 43 C.F.R. § 10.2(a)(2).

who should be contacted to participate in the consultation process, recommendations on how the consultation process should be conducted, and the kinds of cultural items considered to be unassociated funerary objects, sacred objects, or objects of cultural patrimony.⁶⁵ The STB must work with tribal officials and lineal descendants to protect and mitigate damage to graves and cultural items, to ensure the proper care and handling of cultural items, and to determine who will take possession of the items if they are excavated.

Upon the completion of consultation, the responsible STB official must prepare, approve, and sign a written plan of action that documents the objects to be considered as cultural items and their planned treatment, care, and handling.⁶⁶ Further, the plan must include the information used to determine custody of the cultural objects and the planned disposition of such objects.⁶⁷ The STB is also encouraged to enter into comprehensive agreements with tribes affiliated with any of the cultural items or likely to claim such affiliation.⁶⁸ These agreements should address all federal agency land management activities that could result in the intentional excavation or inadvertent discovery of cultural items on federal lands.⁶⁹ If any of the actions are also subject to Section 106 of the NHPA, the responsible STB official should coordinate consultation and any subsequent compliance agreements conducted under the statute with the requirements of the NAGPRA.⁷⁰

NAGPRA compliance will be facilitated if, early in project planning, the project developer and agency seek to identify and consult with tribes or groups that may own or control cultural items under NAGPRA. Identification of potentially interested tribes at an early stage also will facilitate prompt decisions over disposition or removal of cultural items inadvertently discovered during the project. The consultation participants should aim for agreements between developer, agency, and affected tribes over ownership and control of cultural items, excavation or removal methods, and custody of cultural items immediately following removal.

Intentional Excavations. NAGPRA requires the responsible STB official to take reasonable steps to determine whether a planned activity may result in the intentional excavation of any cultural items from federal or tribal lands.⁷¹ If such excavation may occur, the official must notify, in writing, any tribes likely to have affiliations with any cultural items to be excavated, prior to issuing any approvals or permits for excavation.⁷² Further, the official must provide written notification to any present-day tribe that aboriginally occupied the planned activity area and any other tribes reasonably believed to have a cultural relationship to the cultural items.⁷³ The written notification must describe the planned activity, its general location, the basis on

⁶⁵ 43 C.F.R. § 10.5(d). An unassociated funerary object is “an object for which the human remains with which they were intentionally placed are not in the possession or control of a museum or federal agency.” 43 C.F.R. § 10.2(d)(2)(ii).

⁶⁶ 43 C.F.R. § 10.5(e).

⁶⁷ *Id.*

⁶⁸ 43 C.F.R. § 10.5(f).

⁶⁹ *Id.*

⁷⁰ 43 C.F.R. § 10.3(c)(3).

⁷¹ 43 C.F.R. § 10.3(c)(1).

⁷² *Id.* Prior to any excavation, a permit must be issued under the Archaeological Resources Protection Act, 16 U.S.C. SS 470aa-11 (1988); 16 U.S.C. § 470cc (1988).

⁷³ *Id.*

which it was determined that cultural items might be excavated, and the basis for determining likely custody.⁷⁴ If the responsible STB official does not receive a response to the written notification within 15 days, he or she must follow up with a telephone call.⁷⁵

NAGPRA allows for the intentional excavation of cultural items. However, four conditions must exist. First, the cultural items must be excavated or removed in accordance with ARPA and its implementing regulations.⁷⁶ Second, the cultural items can be excavated only after consultation with or, in the case of tribal lands, consent of, the appropriate tribe.⁷⁷ Third, the ownership and right of control of the disposition of the cultural items must be consistent with their custody pursuant to NAGPRA.⁷⁸ Fourth, proof of the consultation or consent must be shown to the responsible STB official or other agency official responsible for issuance of the required permit.⁷⁹

Inadvertent Discovery. NAGPRA provides that, if a person makes an inadvertent discovery of cultural items in connection with an ongoing activity on federal or tribal land, he or she must provide both telephonic and written communication to the responsible agency official.⁸⁰ Further, the person must cease the activity and make a reasonable effort to protect the cultural items.⁸¹ No later than three working days after receiving written confirmation of the notification, the responsible the STB official must: (1) certify receipt of the notification, (2) take immediate steps, if necessary, to further protect the cultural items, (3) notify by telephone, with written confirmation, any tribes likely to have cultural affiliations with the inadvertently discovered cultural items, and any present-day tribe which aboriginally occupied the area and any other tribes reasonably believed to have a cultural relationship to the cultural items, (4) initiate consultation with the relevant tribes, (5) follow the requirements and procedures for intentional archaeological excavations if the cultural items must be excavated or removed, and (6) ensure that the requirements and procedures for final custody and disposition of all inadvertently discovered cultural items are properly followed.⁸² The activity that resulted in the inadvertent discovery may resume within 30 days after certification of the written notification confirming the inadvertent discovery if resumption of the activity is otherwise lawful.⁸³

Disposition of Cultural Items. Following consultation and execution of the written action plan, the STB must publicize a “Notice of Intended Disposition” twice in a newspaper of general circulation in the area in which the cultural items were intentionally excavated or inadvertently discovered and, when appropriate, the area where the tribes reside that claim affiliation to the cultural items.⁸⁴ Further, the second publication must occur at least 30 days prior to transfer of

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ 43 C.F.R. § 10.3(b)(1).

⁷⁷ 43 C.F.R. § 10.3(b)(2).

⁷⁸ 43 C.F.R. § 10.3(b)(3).

⁷⁹ 43 C.F.R. § 10.3(b)(4).

⁸⁰ 43 C.F.R. § 10.4(b).

⁸¹ *Id.*

⁸² 43 C.F.R. § 10.4(d)(1).

⁸³ 43 C.F.R. § 10.4(d)(2).

⁸⁴ 43 C.F.R. § 10.6(c). Newspapers serving eastern Montana include: A Cheyenne Voice, Billings Gazette, Billings Outpost, Crow Agency News (<http://www.topix.com/city/crow-agency-mt>), Daniels County Leader, Glendive Ranger-Review, Helena IR, Laurel Outlook, Lewiston News-Argus, Miles City Star, Sidney Herald, Wolf Point

the cultural items to the rightful claimant(s) entitled to their custody and must provide information on the nature and affiliation of such items.⁸⁵ Finally, the responsible STB official must send a copy of the notice and information to the National NAGPRA Program.⁸⁶

4. Historical and Archaeological Data Preservation Act of 1974

The Historical and Archeological Data Preservation Act of 1974 (HADPA) provides for the “preservation of historical and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed” due to (1) flooding, the building of access roads, the erection of workmen’s communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency or, (2) any alteration of the terrain caused as a result of any federal construction project or federally licensed activity or program.⁸⁷ HADPA applies to the preservation of data whereas NAGPRA applies to the physical preservation of historic and archaeological resources. Further, HADPA is intended to protect data during and after ground-disturbing activities.

An STB official must notify the Secretary of the Interior (Secretary) if the agency discovers, or is notified by the appropriate authority, that its activities in connection with the TRR project may cause irreparable loss or destruction of “significant scientific, prehistorical, historical, or archeological data.”⁸⁸ Further, it may request that the Secretary recover, protect, and preserve the data, or may do so itself based on funds appropriated for the TRR project.⁸⁹ If the Secretary determines that the data is significant and may be irrevocably lost or destroyed, he or she will conduct or cause to be conducted a survey of the site and undertake the recovery, protection, and preservation of the data.⁹⁰ However, the Secretary must initiate the survey or recovery effort within 60 days upon notification about the activities or within a time period agreed upon with the the STB.⁹¹

5. American Indian Religious Freedom Act of 1978⁹²₅₉

The American Indian Religious Freedom Act provides that it shall be the policy of the United States to “protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of American Indians, . . . including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.”⁹³ No regulations have been implemented for the Act, nor are federal agencies required to consult with tribes. However, a number of tribes consider the statute

Herald News, and Yellowstone County News. In addition, the reservations are served by the Indian Country Today Media Network.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ 16 U.S.C. § 469.

⁸⁸ 16 U.S.C. § 469a-1(a).

⁸⁹ *Id.*

⁹⁰ 16 U.S.C. § 469a-2(a).

⁹¹ 16 U.S.C. § 469a-2(c).

⁹² 42 U.S.C. § 1996.

⁹³ *Id.*

as a source of federal authority that recognizes and protects their rights to engage in activities at sites not necessarily on their lands.

6. Executive Order 13007, Indian Sacred Sites⁹⁴

EO 13007 directs federal agencies with management responsibility over federal lands to accommodate Indian religious practitioners with access to sacred sites and their ceremonial use, and to avoid adversely affecting the physical integrity of such sites. Further, federal agencies are required to maintain the confidentiality of the sacred sites as appropriate.

7. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments⁹⁵

EO 13175 expanded the breadth of tribal consultation to “ensure the meaningful and timely input by tribal officials in the development of regulatory policies [rules, policies, and guidance] that have tribal implications.” Tribal implications are defined as having substantial direct effects on one or more tribes, on the relationship between the federal government and tribes, or on the distribution of power and responsibilities between the federal government and tribes. Among other things, EO 13175 requires federal agencies to respect tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet responsibilities arising from the unique relationship between the federal government and tribes.

8. Executive Order 13604, Improving Performance of Federal Permitting and Review of Infrastructure Projects⁹⁶

Issued in conjunction with President Obama’s commitment to complete construction of the southern terminus of the TRR project, EO 13604 directs federal agencies to improve the performance of the Federal infrastructure permitting and review processes. Federal agencies are required to enhance coordination with tribes and other governments concerning federal government-wide initiative. This includes (1) institutionalizing best practices for enhancing coordination on permitting and review processes, and (2) engaging in early and active consultation to avoid conflicts or duplication of effort, resolve concerns, and allow for concurrent rather than sequential reviews.

9. Presidential Memorandum, “Government-to-Government Relations with Native American Tribal Governments”⁹⁷

Issued by former President Bill Clinton, the Presidential Memorandum outlines several principles that federal agencies and departments should follow in their interactions with tribal governments. Heads of federal departments and agencies are to (1) operate within a government-to-government relationship with federally-recognized tribes, (2) consult with tribal governments

⁹⁴ Exec. Order. No. 13,007, 61 *Fed. Reg.* 26771 (May 24, 1996).

⁹⁵ Exec. Order. No. 13,175, 65 *Fed. Reg.* 67249 (November 6, 2000).

⁹⁶ Exec. Order. No. 13,604, 77 *Fed. Reg.* 18887 (March 22, 2012).

⁹⁷ Presidential Memorandum on Government-to-Government Relations with Native American Tribal Governments (April 29, 1994).

prior to taking actions that affect them, (3) assess the impact of federal government plans, projects, programs, and activities on tribal trust resources and the related rights and concerns of tribal governments, and (4) take appropriate steps to remove any procedural impediments to working with tribal governments on activities affecting trust property and/or tribal governmental rights.⁹⁸

10. Presidential Memorandum, “Memorandum for the Heads of Executive Departments and Agencies”⁹⁹

As part of a summit with tribal leaders, President Barack Obama issued a memorandum that adopted EO 13175 and reiterated former President Clinton’s directions to federal agencies concerning consultation with tribes as part of his April 29, 1994 Memorandum. Specifically, the Memorandum states that “executive departments and agencies (agencies) are charged with engaging in regular and meaningful consultation with tribal officials in the development of Federal policies that have tribal implications, and are responsible for strengthening the government-to-government relationship between the United States and Indian tribes.” However, THE STB’ responsibility does not begin nor does it end with these laws, Executive Orders, and Presidential Memoranda. It must also honor its trust responsibility to tribes with respect to the TRR project to insure that its actions and those of others do not adversely affect the cultural resources or practices of such tribes.

11. Montana Antiquities Act¹⁰⁰

The Montana Antiquities Act addresses the responsibilities of the State Historic Preservation Office and other state agencies regarding historic and prehistoric sites including buildings, structures, paleontological sites, or archaeological sites on state owned lands. Each state agency is responsible for establishing rules regarding historic resources under their jurisdiction, which address National Register eligibility, appropriate permitting procedures and other historic preservation goals. The Department of Natural Resources and Conservation (Trust Lands) and Montana Fish, Wildlife and Parks have written rules for implementing the Antiquities Act. All other agencies are responsible for following the administrative rules written by the State Historic Preservation Office in 1999. The State Historic Preservation Office also issues antiquities permits for the collection of archaeological or paleontological remains on state owned lands under the Act.

12. Montana Human Skeletal Remains and Burial Site Protection Act¹⁰¹

The Human Skeletal Remains and Burial Site Protection Act is the result of years of work by Montana Tribes and state agencies and organizations interested in assuring that all graves within the State of Montana are adequately protected. The law provides legal protection to all unmarked

⁹⁸ *Id.*

⁹⁹ Presidential Memorandum for the Heads of Executive Departments and Agencies (November 5, 2009).

¹⁰⁰ MCA § 22-3-421 *et seq.* See also Montana Historic Preservation Office, The Law: The Legal Framework for Historic Preservation, at <http://mhs.mt.gov/shpo/>.

¹⁰¹ MCA § 22-3-801 *et seq.* See also Montana Historic Preservation Office, The Law: The Legal Framework for Historic Preservation, at <http://mhs.mt.gov/shpo/>.

burial sites regardless of age, ethnic origin or religious affiliation by preventing unnecessary disturbance and prohibiting unregulated display of human skeletal remains. Anyone who discovers human skeletal remains on public or private lands should immediately contact the county coroner. The Act created a thirteen-member Burial Preservation Board that determines the treatment and final disposition of any discovered human remains and associated burial materials. The Act establishes the preference that human remains be left undisturbed where they are found.

D. Planning for Compliance with NHPA, ARPA, NAGPRA and HADPA

The project applicant and federal agency can minimize project delay and disruption by effective planning during early stages. Native American cultural resources in a proposed project area should be evaluated carefully under NEPA, NHPA, and possibly, other statutes (see above). NAGPRA-protected cultural resources also should be evaluated in the reviews under these statutes, and the project proponent should seek to reach agreements concerning NAGPRA compliance as part of a coordinated consultation process.

Cultural resource inventories prepared under NHPA at the project proposal stage should directly address NAGPRA protected cultural items. Impacts on NAGPRA-protected sites or cultural items should be considered in environmental assessments or environmental impact statements under NEPA and may be pertinent to "adverse effect" determinations under NHPA. The notice and consultation processes under NAGPRA and NHPA also should be coordinated where possible.

Project planning also must accommodate requirements of ARPA that apply to excavation and removal of NAGPRA-protected cultural items. NAGPRA prescribes that excavation and removal of cultural items be pursuant to ARPA permit. ARPA also covers "graves," and "human skeletal materials"¹⁰² and requires notice of proposals to excavate cultural or religious sites to tribes which may consider the site important.¹⁰³ ARPA regulations requires that applicable tribes be notified 30 days before issuance of an ARPA permit and contemplate consultation between agency and tribes upon tribal request.¹⁰⁴ The project proponent should coordinate ARPA compliance at an early stage in the project, with agencies and tribes.

Lastly, a look to state law is necessary to avoid unanticipated conflicts. Increasing numbers of states have enacted statutes protecting Indian burial sites and related items. Where NAGPRA and state law conflict, NAGPRA likely will control; however, state law may be applicable if not inconsistent with federal law.

E. Planning for Inadvertent Discovery of Cultural Items

The STB must provide for a clear process regarding the inadvertent discovery of cultural resources, preferable in the environmental impact statement prepared pursuant to NEPA. Such a

¹⁰² 16 U.S.C. §§ 470bb (1988).

¹⁰³ 16 U.S.C. §§ 470cc (1988); 43 C.F.R. S 7.7 (1992); 25 C.F.R. Part 262 (58 Fed. Reg. 65246, December 13, 1993).

¹⁰⁴ See 43 C.F.R. § 7.7 (1992).

process should include: (1) immediate tribal notification procedures that extend beyond the tribal monitors required to be onsite, (2) a framework for deciding the potential significance of newly discovered cultural resources and development of a mitigation plan that favors avoidance, both of which allow for meaningful consultation with affected tribes, and (3) a procedure for resolving disagreements over a significance determination and the mitigation plan.

Further, excavation and curation should be the last alternative considered for the protection of tribal cultural resources, not the first, since resources that are lost can never be replaced. However, if the excavation and curation of tribal cultural resources is necessary, THE STB should be wary of giving too much discretion to its staff in determining what is significant. The vagueness of the term “significant” necessitates that THE STB should consult with tribes to determine what is significant in regards to tribal cultural resources. For example, while a THE STB staff person may not consider a “bone” to be significant, a tribe may find it significant for various traditional, religious, and spiritual reasons.

Specific Tribal Concerns

NWF recommends that the STB solicit from affected Tribes an assessment of tribal resources – cultural, natural, and socio-economic – that might be impacted by the TRR project. For example, the Crow Tribe and the Northern Cheyenne Tribe each prepared a “Resources Report” at the request of the U.S. Bureau of Land Management in 2002.¹⁰⁵ The STB must provide adequate time and resources to aid the Tribes in preparing these reports.

The sole purpose of the proposed TRR is to transport coal mined at the proposed Otter Creek mine. Indeed, if not for the proposed development of the Otter Creek coal leases, there would be no need to construct and operate a rail line along the Tongue River. The owner of the Otter Creek leases – Otter Creek Coal, LLC, a subsidiary of Arch Coal, Inc. – is pushing to develop the proposed rail line because it is the most economical means of transporting coal from the Otter Creek mine to market.¹⁰⁶ Furthermore, we understand that if the Otter Creek lease tracts are developed, the large majority of this coal will be exported to foreign markets, primarily in Asia, where demand is rising and where emission controls at coal-fired generation facilities are relatively lax.

¹⁰⁵ Both reports are available at http://www.blm.gov/mt/st/en/fo/miles_city_field_office/og_eis.html (see Technical Report Documents). These reports were intended to identify and characterize the affected environment of the reservations for purposes of inclusion in the *Montana Statewide Revised Draft/Final Oil and Gas Environmental Impact Statement and Amendment of the Powder River and Billings Resource Management Plans (Statewide Revised Draft/Final Oil and Gas EIS)*.

¹⁰⁶ Arch Coal, Inc. owns a 34% share of the TRCC.

Surface Transportation Board

Incoming Correspondence Record



#EI-19844

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Connie Voget	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

I am a member of Earth Ministry and attend a church that has earned the designation of Energy Star Congregation. We are committed to responsible stewardship of the earth and its resources and acknowledge the grave threat of climate disruption/global warming related to the burning of fossil fuels. The Tongue River Railroad Company proposal to transport 20 million tons of coal per year for export to China would result in 35 million tons of carbon dioxide being released into the atmosphere when the coal is burned. The diesel fuel used to move the coal would emit 700,000 tons more. Additionally the door would be opened to expanded mining operations and even more emissions.

Damaging the natural systems that sustain us is wrong. Jeopardizing our children's future is wrong.

I ask you to include climate disruption/global warming impacts in the EIS. Thank you.

Surface Transportation Board

Incoming Correspondence Record



#EI-19845

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Tom Tully	Date of Letter:	01/10/2013
Group:			

Submitter's Comments

Mr. Blodgett:

This project has kept ranchers, the Northern Cheyenne Tribe, and others along the proposed route and alternative routes in limbo for over 30 years. At this point the only reason for building this railroad is to ship Montana coal to China and other Asian countries in an ill-advised attempt to balance our trade deficit. What we give up to do so is one of the last relatively undeveloped river valleys in Montana, a unique combination of geography, culture, history, and rural landscape that cannot be re-established. This is a short-sighted and irresponsible approach to managing precious resources, whether they be energy, cultural, agricultural, human, or wildlife. We strongly urge you to deny this permit.

Sincerely,

Tom Tully and Barbara Archer

2210 Pryor Ln

Billings, MT 59102

archtul@bresnan.net

Surface Transportation Board



Incoming Correspondence Record

#EI-19846

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Paul J. Pickett	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Greenhouse Gas Emissions: The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants. The complete climate impact of the lifecycle carbon emissions of mining, processing, shipping, and burning the coal should be analyzed, quantified, and mitigated so there is zero net emissions of greenhouse gasses.

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.

Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.

Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.

Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

Surface Transportation Board

Incoming Correspondence Record



#EI-19847

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Carol Suzanne Bryan	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

I urge you to consider the effect of coal mining, transportation and burning on air quality NO MATTER WHICH ROUTE IS SELECTED. Air quality is getting to be a global problem in which there is a cumulative effect from many sources. This combines to produce global warming. Any amount of air pollution must be considered as part of a serious global problem. The costs of coal outweigh the benefits.

Surface Transportation Board

Incoming Correspondence Record



#EI-19848

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	James Emerson	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Let's not destroy any more of The Last Best Place. We can't afford to subsidize big coal with traffic problems at every grade crossing, so they can trundle miles of coal cars full one way and again empty. NO TO COAL TRAINS!!

Surface Transportation Board

Incoming Correspondence Record

#EI-19849

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Elizabeth Braided Hair	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Requesting an extension on the 01/11/13 cut off date for submitting comments on TRR.

Surface Transportation Board

Incoming Correspondence Record



#EI-19850

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Theresa L. Small	Date of Letter:	01/11/2013
Group:	Northern Cheyenne Tribe		

Submitter's Comments

I am opposing the Tongue River Railroad. I am a member of the Northern Cheyenne Tribe, mother, grandmother to children who may be exposed to coal waste from cars passing through/by the reservation, either by probable derailments or just from the blow off.

I am citing the Executive Order 12898
from the U.S. Department of Transportation.
Federal Railroad Administration

Executive Order 12898

EO 12898, known as the Federal Environmental Justice Policy, requires federal agencies to address, to the greatest extent practicable and permitted by law, the potential disproportionately high, adverse human health and environmental impacts of their programs, policies, and activities on minority and low income populations. Federal agency responsibilities under this Executive Order also apply to Native American Programs. The U.S. Department of Transportation (DOT) order 5610.2 was issued in 1997 to comply with EO 12898. The policy of the DOT Order is to promote the principles on the environmental justice in all DOT programs which includes the FRA. The DOT Order defines environmental justice to mean adverse impact that is predominately borne by a minority population and/ or a low income population, or that would be suffered by the minority population and /or low income population.

I will also be sending a certified letter to the Northern Cheyenne Tribe.

Thank you

Surface Transportation Board

Incoming Correspondence Record



#EI-19851

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Judith Akins	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Please study the entire expected coalmtai route and not just this one.

Secondly we need to study the need for removing more coal from the earth. We are at a critical point in our CO2 capacity. We need to look to the science of climate change and listen to the International Academy of Scientists who agree that the burning of fossil fuels is harmful to our planet.

Surface Transportation Board 
Incoming Correspondence Record

#EI-19852

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	James Plunkett	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

The environmental impact statement for the Tongue River Railroad should include analysis of how the power of eminent domain would be applied. The criteria of public convenience or necessity needs to be measured against the actual harm to the public caused by this railroad. The public will be injured by air pollution, especially diesel particulates. The public will be injured by climate change caused by CO2 emitted when the coal is burned.

Surface Transportation Board

Incoming Correspondence Record

#EI-19853

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Paul Coe	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Please don't approve this scheme with such a downside.

Surface Transportation Board



Incoming Correspondence Record

#EI-19854

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Michelle Lenhart	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186
Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

- Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.
- Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.
- Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.
- Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.
- Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.
- Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.
- The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.
- The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,

Michelle Lenhart
9630 W Glen Ellyn St.
Boise, ID 83704

Surface Transportation Board 
Incoming Correspondence Record

#EI-19855

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Jean Olson	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett,

On December 13, 2012, I attended the Coal Terminal Hearing held at the Washington State Convention Center in Seattle. I went because as a resident of the Seattle area, I am concerned about the train traffic here. However, while I was listening to the comments, I heard two very troubling things.

1. In order to haul the coal from the mine to Western Washington, the tracks would travel through private land currently held by ranchers. One rancher has traveled from Montana to Seattle, just so he could comment. He stated that several miles of his land was going to be condemned so the tracks could be laid. This is appalling, in two ways. First, that the railroad can condemn private land, build a line thus cutting a ranch in half. Second, that there was not a process in Montana for this rancher to comment so that he would not be required to spend the money to travel several hundred miles for a 3 hour comment section.

2. That the cultural heritage of the Native American communities living in the area where the mines are planned does not appear to have been considered in this process. Cultural Resources need to be respected. How would you like it if someone decided to mine where your ancestors buried?

Because of the two aforementioned concerns, I believe that the EIS for the Tongue River Valley should include the following items.

1. The unlawful condemnation of privately held land.
2. The cultural resources and heritage of the Native American tribes in and around the Tongue River Valley.
3. The impacts to the wildlife in the area. Montana is home to wide-ranging species such as elk, cougar, grizzly bear and wolf should be assessed.
4. Mining is notorious for polluting water resources. The EIS needs to have an in-depth study into which streams will be affected by the coal from the mines and leaked fluids from machinery used to mine as well as by workers moving throughout the area.
5. Effects to fish species need to be considered. Not just those species which are recreationally fished, but also the aquatic invertebrates and smaller fish species they depend on.

Thank you for the opportunity to comment on this proposed project.

Jean Olson

Surface Transportation Board

Incoming Correspondence Record



#EI-19856

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Marsha Riek	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

The environmental impact statement for the proposed Tongue River Railroad - analyze the following:

This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve for the profit only of Arch Coal, who plans to sell coal to China and Asia who will use this coal to compete with the U.S. to produce products more cheaply. No residents of the Tongue River will benefit in any way from this. There are many negatives to this proposed project that greatly impact the residents of this area.

Please investigate the impacts to the following:

Impacts on property values: loss of property value and infringement on property rights. This railroad will cause devaluation of property (especially riverfront property), will cause ranches and farms to be split in half making portions unusable, liability of train crossings will be left to the landowner.

Impacts to Wildlife: The Tongue River Valley is rich in wildlife and home to elk and mule deer populations as well as birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.

Impacts on Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.

Noise Impacts: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City. Noise also impacts health with disrupted sleep.

Impacts on Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. There are health issues involved with diesel fumes for people with asthma or emphysema. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

National & Global Impacts: The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board

Incoming Correspondence Record



#EI-19857

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Patti Steinmuller	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186

I am very concerned regarding the application for the proposed Tongue River Railroad. Due to a recent change in the route that would go through Colstrip, instead of Miles City, a public hearing is warranted in Colstrip and the comment period should be reopened. Also, the likelihood of transport of additional coal beyond that in the Otter Creek Mine warrants further investigation into the pollution effects, negative impacts on agriculture, and transportation effects on communities along the transport line. I am requesting that the review be halted and further investigation be conducted due to the recent changes in the transportation route, incomplete information provided on the intended scope of the proposal, and the pollution effects to be imposed on communities in Montana and Washington state and especially those communities along the transportation route.

Surface Transportation Board

Incoming Correspondence Record



#EI-19858

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Mark Schofield	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186
Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

I live in Bellingham, WA - about 1000 miles from the Tongue River Valley. However, I'm directly connected to this magnificent Montana landscape by:

*RAIL - Coal transport made possible by the proposed coal-hauling line through the Tongue River Valley would likely result in an increase of coal train traffic through my community on its way to current and proposed coal export terminals in the Northwest.

*CLIMATE - Increased coal burning made possible by the proposed coal-hauling line through the Tongue River Valley would exacerbate global anthropocentric climate change, intensify ocean acidification, release additional toxic mercury into air and water, and impact my local community in a host of other ways (especially when considering the cumulative impact with other fossil fuel activities).

*HUMANITY - Though strangers to me, the rural residents of the Tongue River Valley are my brothers and sisters and are every bit entitled to a clean and healthy environment, protection of their livelihoods and traditional ways of life, and self-determination in matters that affect their lives.

Because of my connections to the Tongue River Valley, I respectfully request that you take a hard look at the following impacts in your EIS for the proposed Tongue River Railroad:

- 1) Study the increased coal train traffic and its resulting traffic delays, noise, fugitive coal dust and diesel pollution.
- 2) Study the taxpayer burden of constructing expensive overpasses and safety crossings, which would be necessary to deal with considerable train traffic.
- 3) Study and explain whether and how this proposal (that's dependent on a variety of public resources) is in the short-term and long-term public interest.
- 4) Study how the proposed coal-hauling line would impact elk and mule deer populations, upland bird species and other wildlife, as well as native plant communities.
- 5) Study what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any, of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.
- 6) Study the quantitative (economic loss from decreased visits) and qualitative (perceptions on sense of place) impacts of loud trains diminishing the quiet enjoyment of nearby recreation areas.
- 7) Study how this proposed coal-hauling line would contribute to the acceleration of anthropocentric climate change - and include analysis of local and regional climate impacts such as more violent storm events, shifts in precipitation patterns, habitat disruption, etc.

Thank you for considering these comments.

Sincerely,

Mark Schofield

400 Whatcom Street
Bellingham, WA 98225

Surface Transportation Board



Incoming Correspondence Record

#EI-19859

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Terri Copeland	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186

Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,
Terri Copeland
B

Surface Transportation Board

Incoming Correspondence Record



#EI-19860

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Julie Bergevin	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Please stop the coal trains. Shipping coal on the Tongue River Railroad will:

- contribute to the devastation beautiful Montana
- drive down prices in China causing more coal to be burned in dirty plants
- significantly increase CO2 emissions in the mining, hauling over land/sea/land, and finally in the burning all leading to further climate change
- increase dependence on and demand for a limited resource further prolonging the world's necessary switch to sustainable energy futures
- have a significant local impact on communities along the way from the dust, the noise, and the unsightly reminder of the will of a business winning out over the needs of future generations for a cleaner, more sustainable and more stable source of energy. The deleterious effects of the dust on the sensitive lungs of many here will be problematic beyond measure. The time to stand up and invest in our future is now. Our numbers our growing and we need to invest in ways that can support the coming tide - not in a manner that is shortsighted, unsustainable and destructive. The only way to make that happen is to stop the coal trains and start working on alternatives that will support the future that is barreling our way.

Surface Transportation Board

Incoming Correspondence Record



#EI-19864

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Maureen Kelly	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186

Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,

Maureen Kelly

Surface Transportation Board

Incoming Correspondence Record



#EI-19865

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	John Meyer	Date of Letter:	01/11/2013
Group:	Cottonwood Environmental Law Center		

Submitter's Comments

The scope of the EIS for the proposed Tongue River Railroad needs to include an analysis of the impacts to all wildlife. A Baseline analysis needs to be conducted to determine what species exist in the area and the population levels for those species. The cumulative impacts of the coal mines and the railroad need to be considered. The impacts of burning the coal in Asia needs to be considered as an indirect impact. The climate change impacts will have huge consequences and need to be considered. In addition, the EIS must consider the impacts of increased train traffic on communities along the rail between Miles City and the ports in Washington State. Thank you for your consideration.

Surface Transportation Board

Incoming Correspondence Record



#EI-19866

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Laura Derevensky	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

I am very concerned about the potential impact on public health and the environment from the various proposals to transport coal from Montana and Wyoming to terminals on the Pacific Coast for export to Asia. The proposal to build a coal-hauling railroad line through the Tongue River Valley seems especially misguided for two main reasons: 1) it would have negative impacts on the residents, the quality of life, and the environment in the Tongue River Valley; and 2) it would contribute to similar negative impacts for the residents, the quality of life, and the environment in the Pacific Northwest in general.”

“Because it is part of a larger project to export coal from the US to Asia through ports on the Pacific coast, the proposed Tongue River Valley railroad would have much more extensive impacts. I believe that a responsible EIS will take these impacts into account. For example the EIS should investigate possible negative impacts on the values of coastal properties in the San Juan islands, and should include a plan to recompense property owners for any decrease in property values. It should investigate the possible effects on tourism in the San Juan islands, on which many businesses rely, especially whale watching, boating, fishing and consequently the hotel industry. It should investigate the possible effect of the shipping from the coal port terminal on the marine wildlife populations, especially the orcas, which are already under stress. Please make sure that the EIS addresses the impact of coal shipping on property values and quality of life, on the tourism industry, and on the marine wildlife in the Pacific Northwest. Furthermore, by encouraging the use of coal in China, this project would contribute further to global warming. Therefore, the EIS would have to consider the contributions of the increased coal use on air quality and global temperature

Surface Transportation Board



Incoming Correspondence Record

#EI-19867

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Kathleen Wright	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186

Dear Mr. Ken Blodgett,

I am highly concerned about the impacts that a Tongue River Railroad would have. Specifically:

- Public convenience and necessity: It is not right for our government to use the power of eminent domain and condemnation authority in this case. This proposed railroad is not for the "public convenience and necessity." It would serve only one coal company, Arch Coal; the coal is not being mined for domestic needs.
- Wildlife: Not only does the Tongue River Valley itself support rich wildlife populations highly valued by sportsmen and many others, the increase in coal trains across Montana and beyond would lead to an unconscionable increase in wildlife collisions with trains. Increased train traffic in wildlife crossing zones – including recognized movement corridors important for wildlife migration, such as the routes north from Yellowstone National Park – would impact wildlife populations, and this must be addressed.
- Increased train traffic: This project would impact many, many communities along our rail lines as the coal heads to coastal ports for shipment. Increase coal train traffic – a result of the Tongue River rail-line – will cause more delays, more noise, more diesel pollution, more noxious weed spreading, more dead/injured wildlife. Increased train traffic not only inconveniences a large number of citizens, it often require expensive over passes and safety crossing which are paid for primarily by taxpayers.
- Property value: This railroad will cause fires, spread weeds and make ranching and farming more difficult and expensive. It will split ranch land in half and separate fields from the river. Most insidious, it will shift the liability of train crossings to the landowner – that makes NO sense.

Perhaps most important for our children, the Tongue River Railroad will allow coal that should stay in the ground to be burned in power plants on the other side of the world, power plants with few (if any) restrictions on emissions. This continued addition to decades-long increases in CO2 in our atmosphere can't go on for the profits of a few businessmen and shareholders.

The climate impacts of Otter Creek coal go far beyond just burning the coal. This coal must be mined and then hauled by diesel-powered trains and ships half way around the globe. It simply does not make sense.

Sincerely,
Kathleen Wright
Bozeman, Montana

Surface Transportation Board



Incoming Correspondence Record

#EI-19868

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Jeanine Hart-Horner	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

I am very concerned about the potential negative impacts of coal export facilities and the associated rail lines in Whatcom County where I have been a resident for 36 years. These include the negative impact on public health, local finances, environment and quality of life. I realize, too, that the impact of coal export extends well beyond my city, county and state. I share these same concerns with proposals to transport coal from Montana and Wyoming to terminals on the Pacific Coast for export to Asia. Specifically, the proposal to build a coal-hauling railroad through the Tongue River Valley is truly disturbing.

The Tongue River Railroad Company's proposal renews it's attempt to cut the Tongue River Valley in half destroying Montana ranchland. Thus, I request the new EIS address and analyze the following:

- 1) Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.
- 2) Financial impact: This would include potential devalued property, infringement on property rights and the increased difficulty and cost associated with spitting ranches in half.
- 3) Wildlife: The Tongue River Valley is a rich wildlife habitat which will be seriously compromised by the coal strip mine and associated rail lines. Please investigate the impacts.
- 4) Noise: The impact of loud trains on the recreation areas and the residents living in communities near the rail lines should be studied.
- 5) Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

Finally, the Otter Creek coal transported on these lines will be exported to China. Mining, transportation to terminals, shipping overseas and hauling coal to plants all involve the burning of fossil fuel. Transporting and burning this coal is contrary to the essential need to decrease carbon emissions, which contribute to global climate change. This, too, should be addressed in the Environmental Impact Statement to determine whether proposed rail lines should be built.

Sincerely,
Jeanine Hart-Horner

Surface Transportation Board



Incoming Correspondence Record

#EI-19869

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Sean Perry	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,
Sean Perry

Surface Transportation Board



Incoming Correspondence Record

#EI-19870

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	John Horner	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

I am very concerned about the potential negative impacts of coal export facilities and the associated rail lines in Whatcom County where I have been a resident for 36 years. These include the negative impact on public health, local finances, environment and quality of life. I realize, too, that the impact of coal export extends well beyond my city, county and state. I share these same concerns with proposals to transport coal from Montana and Wyoming to terminals on the Pacific Coast for export to Asia. Specifically, the proposal to build a coal-hauling railroad through the Tongue River Valley is truly disturbing.

The Tongue River Railroad Company's proposal renews it's attempt to cut the Tongue River Valley in half destroying Montana ranchland. Thus, I request the new EIS address and analyze the following:

- 1) Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.
- 2) Financial impact: This would include potential devalued property, infringement on property rights and the increased difficulty and cost associated with spitting ranches in half.
- 3) Wildlife: The Tongue River Valley is a rich wildlife habitat which will be seriously compromised by the coal strip mine and associated rail lines. Please investigate the impacts.
- 4) Noise: The impact of loud trains on the recreation areas and the residents living in communities near the rail lines should be studied.
- 5) Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

Finally, the Otter Creek coal transported on these lines will be exported to China. Mining, transportation to terminals, shipping overseas and hauling coal to plants all involve the burning of fossil fuel. Transporting and burning this coal is contrary to the essential need to decrease carbon emissions, which contribute to global climate change. This, too, should be addressed in the Environmental Impact Statement to determine whether proposed rail lines should be built.

Sincerely,
John Horner

Surface Transportation Board

Incoming Correspondence Record



#EI-19871

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Cal Cumin	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

The Tongue River Railroad is not for the "public convenience and necessity" and should not have the right of eminent domain and condemnation. The impact of increased rail traffic on local governments needs to be carefully analyzed.

Surface Transportation Board

Incoming Correspondence Record



#EI-19872

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	LaTrelle Scherffius	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

My concern is the negative impacts of increased train traffic on communities throughout the northwest like Bozeman that would be impacted by noise and wait time for emergency vehicle crossings. I live close to the tracks and worry that increased traffic would severely impact both myself and neighbors. I am also concerned with the impact that shipping coal to Asia would have on global warming. Thank you for your consideration and attention.

Surface Transportation Board

Incoming Correspondence Record



#EI-19873

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	K Scott	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely, K Scott

Surface Transportation Board



Incoming Correspondence Record

#EI-19874

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Barbara Williamson	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

You surely have heard the comments before which follow. Transport of coal through many communities in the United States is being applied for simultaneously, so there is little (yet) to observe to see what damage can be done. However, look to Delta in the Vancouver, BC area to see the effects of the filth of "clean" coal. The comparatively few jobs cannot begin to compensate for the damage done. Please do not be taken in by their glossy presentations.

Read on:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.

Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.

Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.

Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board

Incoming Correspondence Record



#EI-19875

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Steve Hinton	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett;

It is my understanding the Tougue Valley Rail project is being constructed on the speculation that an appropriate terminal will be developed on the West Coast to handle shipments of coal product to China. Given the dependency of the Tougue Valley project on export markets I believe the EIS analysis for this project must take into consideration the environmental impacts derived both locally, regionally, and nationally from the proposed Tougue River Valley project. Coal shipments will impact the environment throughout the shipment corridor by;

Impacting Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade these keystone populations.

Flooding: Railroad beds often function as earthen dams that impede hydraulic connections between floodplains, river bottoms and wetlands. These impediments to natural processes lead to shifts in native populations of flora and fauna and functioning ecosystems.

Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution throughout the shipment corridor.

Thank you for considering my comments,

Steve Hinton
Bellingham, WA.

Surface Transportation Board

Incoming Correspondence Record



#EI-19876

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	JM Callahan	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

In consideration of the Tongue River Railroad and the intentions of Arch Coal to haul hundreds of thousands of tons of coal across Montana. I hope that you will seriously study the impacts of train traffic on communities like Bozeman and Belgrade. Thank you.

Surface Transportation Board

Incoming Correspondence Record



#EI-19877

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Laura Ziemer	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Please consider the impact to communities of increased rail traffic. The air pollution is a significant issue, as well as noise pollution. Our Montana communities should not have to bear the brunt of a decrease in the quality of our lives and our health for others to profit.

Surface Transportation Board 
Incoming Correspondence Record

#EI-19878

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Sarah DeOpsomer	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

My family and I reside near railroad tracks (east Frontage Road, Bozeman.) Every day we cross the tracks several times a day. The school bus is on the other side of the tracks for both pick up and drop off. I am deeply concerned about an increase in rail traffic. I am concerned as both a home owner and parent about the impact more trains will have on our life. More noise, more waiting, more fumes. I am also concerned about the increased amount of vibrations from the passing trains on our home, we feel each and every train. Please consider everyone's welfare in this decision, not just the welfare of those who stand to profit.

Surface Transportation Board

Incoming Correspondence Record

#EI-19879

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/10/2013
Name of Sender:	Buffy Hake	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

I am deeply concerned about property values due to increased rail traffic - There will be significant impacts on property values all along the route. I would like you to study the impact on property values.



January 11, 2013

Ken Blodgett
Surface Transportation Board
395 E Street, SW, Washington, D.C. 20423-0001
Environmental filing, Docket No. FD 30186

**RE: Scoping Comments and Objections to the Proposed Tongue River
Railroad**

Mr. Blodgett,

The Sleeping Giant Citizens Council (SGCC) submits the following scoping comments and objections to the Tongue River Railroad Company, Inc.'s (TRRR Inc.) application to construct the Tongue River Railroad (TRRR).

SLEEPING GIANT CITIZENS COUNCIL

SGCC is a non-profit, public interest community organization that works to create change to promote healthy communities by advocating for the sustainable use of our water and land resources in Lewis and Clark, Broadwater, and Jefferson Counties. As an affiliate of Northern Plains Resource Council, we are part of a network of vibrant, active community groups that work at the local level to make Montana an even better place to live, work and raise a family.

SGCC is concerned that the TRRR, while enriching private investors, will entrain numerous negative impacts on public health and wellbeing of the state of Montana and the community of Helena (and similarly situated communities). Pursuant to the National Environmental Policy Act (NEPA) and implementing regulations, the following issues should be closely scrutinized in the EIS for the TRRR.

NATIONAL ENVIRONMENTAL POLICY ACT

The National Environmental Policy Act (NEPA) 42 U.S.C. § 4321-4370h is "our basic national charter for the protection of the environment." 40 C.F.R. § 1500.1(a). NEPA

“promotes its sweeping commitment to ‘prevent or eliminate damage to the environment’ . . . by focusing Government and public attention on the environment effects of proposed agency action.” *Marsh v. ONRC*, 490 U.S. 360, 371 (1989). NEPA is an “action forcing” statute, 40 C.F.R. § 1500.1(a), requiring agencies to prepare a “detailed statement” on the environmental impacts of every “major Federal action[] significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). Preparation of such a detailed statement “has twin aims. First, it places upon [a federal] agency the obligation to consider every significant aspect of the environmental impact of the proposed action. Second, it ensures that the agency will inform the public that it has indeed considered environmental concerns in the decisionmaking process.” *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1066 (9th Cir. 2002) (citing *Balt. Gas & Elec. Co. v. NRDC*, 462 U.S. 87, 97 (1983)). “Ultimately, of course, it is not better documents but better decisions that count. NEPA’s purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.” 40 C.F.R. § 1500.1(c).

NEPA requires agencies to consider connected, cumulative, and similar actions. It also requires agencies to consider direct, indirect, and cumulative impacts that will result from a proposed action. Further, agencies must also consider all reasonable alternatives, including the no action alternative, other reasonable actions, and mitigation measures. 40 C.F.R. § 1508.25(a)-(c).

Under NEPA agencies must “make diligent efforts to involve the public in preparing and implementing their NEPA procedures.” 40 C.F.R. § 1506.6(a). Agencies must “affirmatively solicit comments” from the public and “those persons or organizations who may be interested or affected.” 40 C.F.R. § 1503.1(a)(4). Furthermore, the agencies must “[h]old or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency” including when there is “substantial environmental controversy” over the proposed project or “substantial interest” in holding hearings. 40 C.F.R. § 1506.6(c). Agencies’ duty to actively involve the public in environmental decision-making begins during the scoping phase of the review. 40 C.F.R. § 1501.7(a). When “substantial changes” occur in a proposed action, the agency must seek further input from the public. 40 C.F.R. § 1501.7(c).

COMMENTS, ISSUES, AND OBJECTIONS

1. Additional Time for Comments

The scoping process is intended to allow an agency to set the parameters of its subsequent review of a proposed action. 40 C.F.R. § 1501.7. When there are “substantial changes” made to the proposed action, the agency must allow the public to weigh in on those changes prior to determining the scope of the review. 40 C.F.R. § 1501.7(c). Here, less than one month before the end of the public comment period in the scoping process and following both public hearings, the railroad proponents (TRRR

Inc.) submitted a “Supplemental Application,” proposing to entirely change the route of the proposed TRRR.¹ Instead of routing the rail line down the Tongue River to Miles City, TRRR Inc. now proposes the “Colstrip Alignment” by which the railroad would veer west to Colstrip to meet an existing spur connecting to Forsythe, Montana. TRRR Inc. should not be able to skirt public participation by making this eleventh-hour major application change. The public should be afforded additional time to comment, as well as additional public hearings at which to speak publicly.

2. Direct, Indirect, and Cumulative Effects

a. Impacts to Helena

A NEPA analysis must specifically address indirect effects of a proposed action. 40 C.F.R. § 1508.27(c)(2). Indirect effects are those effects “which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.” 40 C.F.R § 1508.8(b).

In its application, TRRR Inc. asserts the TRRR is intended as a means of developing coal resources at Otter Creek. TRRR Inc. estimates that 1.5 billion tons of coal can be strip-mined from the Otter Creek area and then shipped via the TRRR to markets. TRRR Inc. admits that this coal “may find markets overseas.”² TRRR Inc. asserts that this would result in 26 round trips per week.³ If, as is likely, this coal travels to coal ports in the Northwest, this would result in approximately eight trains each day traveling through Helena, Montana, and other communities that are also split by railroad tracks. This number would be on top of existing train traffic, and it could also be increased significantly if other coal tracts made accessible for strip-mining by the TRRR are developed. For example, the permit application indicates that the TRRR will have two terminus points, one at the proposed Otter Creek strip-mine and the other terminus point would be along the Tongue River at the site of the previously proposed Montco Mine.⁴ It strains credulity to imagine that the railroad will be built track to that terminus point if it is not reasonably foreseeable that a coal mine will be developed there as well. Thus, it is reasonably foreseeable that construction of the TRRR will induce significant growth in train volumes that cross Montana, cutting through towns such as Helena. As such, the environmental impact statement (EIS) for the proposed line must consider these indirect

¹ See TRRR Inc., December 17, 2012, Supplemental Application (Supplemental Application) at 2, http://www.tonguerivereis.com/enviro_review.html (follow “December 17, 2012 Supplemental Application” hyperlink).

² Supplemental Application at 20.

³ Supplemental Application at 17.

⁴ Supplemental Application at 3.

effects. The STB has considered similar downline impacts in previous proceedings and should do so again here.⁵

b. Noise

A significant increase in coal train traffic will cause noise impacts from the trains' engines and wheels, and train horns, as well as coupling and de-coupling. *See Mid-States Coal. for Progress v. Surface Transp. Bd.*, 345 F.3d 520, 534-35 (8th Cir. 2003). Noise pollution "has been recognized as a major threat to human health and well-being."⁶ Effects of noise pollution include "increased blood pressure, increased heart rate, vasoconstriction, elevated stress hormones such as epinephrine and cortisol, arrhythmias, ischemic heart disease, and strokes."⁷ Noise pollution has been linked to "lower academic achievement in various forms of reading, learning, problem solving, concentration, social and emotional development, and motivation."⁸ Noise also has negative impacts on sleep, including "delay in falling asleep, frequent night time awakenings, alteration in sleep stages with reduction of REM sleep, and decreased depth of sleep."⁹ Even after people grow accustomed to noise pollution, non-auditory effects continue, causing "increased blood pressure, increased heart rate, vasoconstriction, changes in respiration, and arrhythmia."¹⁰ The decreased alertness associated with poor sleep can lead to accidents, injuries, and death.¹¹ Noise can also aggravate and intensify mental illnesses, such as depression, mental instability, neurosis, hysteria, and psychosis.¹² Noise pollution also causes hearing impairment, which can cause numerous complications for individuals (e.g., cognition, behavior, social-emotional development, academic outcomes, and vocational opportunities.)¹³ Groups that are especially vulnerable to the effects of noise pollution include "neonates, infants, children, those with mental or physical illnesses, and the elderly."¹⁴

The noise impacts of significantly increased coal-train traffic induced by the construction of the TRRR will negatively impact every town through which the trains pass. Helena will have impacts throughout on the community, and especially on the neighborhoods located closely to the tracks. Additionally, both of Helena's high schools are located in close proximity to the tracks, as are both of Helena's colleges (Carroll College and

⁵ Whiteside, Frauth, & Streeter, *Heavy Traffic Ahead: Rail Impacts of Powder River Basin Coal to Asia by Way of Pacific Northwest Terminals* 55 (2012).

⁶ Whatcome Docs. Appendix D: Health Impacts of Noise Pollution, <http://www.coaltrainfacts.org/docs/appendix-D.pdf>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Groins & Hagler, *Noise Pollution: A Modern Plague*, available at <http://www.nonoise.org/library/smj/smj.htm>.

¹⁴ *Id.*

Helena College). A recent study commissioned by the City of Helena, showed that current train noise subjects a central corridor of Helena to noise levels of 80-90 and above.¹⁵ This area includes Carroll College, portions of Memorial Park and Bill Roberts Golf Course, and it borders the campuses of Capital High School, Helena High School, and Helena College.¹⁶

Thus, the negative impacts of noise on education will be particularly acute in Helena. The EIS must address these impacts, especially the impacts of the noise on Helena's educational institutions. What are the expected decibel volumes of the trains? Will the trains pass through town in the day or night? How can schools, businesses, and residences protect themselves from the increased noise pollution from these trains? Will the noise impacts be aggravated by the vibrations caused by the same trains? How will these impacts be aggravated? Will the increased noise affect livestock and domestic animals? Who will pay for mitigation measures?

c. Ground Vibrations

Train traffic, especially traffic of 100-plus car coal trains carrying nearly 15 thousand tons of coal,¹⁷ causes ground vibrations. *Mid-States Coal. for Progress*, 345 F.3d at 539. Vibrations from heavy coal trains could cause damage to structures located close to the tracks. Vibrations could also affect people living and working near the tracks. As mentioned above, four educational institutions are located adjacent to or in close proximity to the tracks. The EIS must address the impacts of increased coal train traffic through Helena and other towns on schools (an indirect effect of the TRRR).

d. Traffic

Increased coal train traffic caused by the construction of the TRRR would impact traffic patterns in Helena and other communities. Development (via strip-mining) of the coal reserves at Otter Creek would cause an increase of approximately 8 trains through Helena each day. This is more than a doubling of the current number of 5 coal trains that pass through Helena each day.¹⁸ It is reasonably foreseeable that this number could increase if other existing coal reserves along the Tongue River are also exploited due to construction of the TRRR.

Currently, Helena only has three grade separation crossings and a fourth separated grade crossing outside of town. Six at grade crossings will be significantly impacted as a result of increased coal train traffic: Joslyn Street, Benton Avenue, National Avenue, Montana Avenue, Roberts Street, and Carter Drive. There are many additional at grade crossings

¹⁵ Kadrams, Lee & Jackson, City of Helena: Railroad Quit Zone Preliminary Feasibility Study at app. 7.3-A (March 2011).

¹⁶ *Id.*

¹⁷ Whiteside, Frauth, & Streeter, Heavy Traffic Ahead: Rail Impacts of Powder River Basin Coal to Asia by Way of Pacific Northwest Terminals 10 (2012).

¹⁸ *Id.* at 9.

in the surrounding communities outside of Helena. These crossings are integral to the daily commerce of Helena. Benton and Montana Avenues accommodate significant commuter traffic and traffic to Helena's high schools and colleges, which would face numerous delays (with corresponding reductions in economic productivity in community) and accidents (there have been 3 and 5 car/train accidents at these crossings, respectively, over the past three decades, a number that will surely increase with an increase in coal train volumes).¹⁹ Similarly, Carter Drive is an important crossing for freight vehicles. The delay from just the trains associated with the proposed Otter Creek strip-mine would be approximately one hour of delays each day (assuming the trains are approximately 1.5 miles long, travelling at speeds around 35 mph, and additional time for gate closures before and after the train crosses each crossing).²⁰ Further, if all of the proposed coal export facilities are developed in the Pacific Northwest to ship coal to Asia, then Helena could face up to 33 *additional* coal trains each day by 2022.²¹ By the same calculation, this would result in nearly four hours of closures at each crossing each day, every day of the year. This delay will result in lost work hours and increased air pollution from idling traffic. The EIS should analyze and monetize these impacts.

Potential traffic impacts from this increase in coal trains include blocked vehicle traffic crossings and related congestion, as well as increases in traffic accidents, injuries, and deaths. This disruption will be particularly harmful in cases where emergency traffic—ambulance, police, and fire—are delayed or rerouted around blocked at grade crossings. Studies have shown that increased train traffic can result in delayed response time from emergency providers.

The EIS should also thoroughly address mitigation measures that would alleviate these impacts and should impose the cost of those mitigation measures on TRRR Inc. *See infra* part 4.

e. Impacts on Existing Rail Services

Currently, significant amounts of Montana grain moves on the railroads in Montana.²² Agriculture is among Montana's most significant economic drivers. It is possible and, indeed, likely that increased coal train traffic will negatively impact grain exports from Montana, by congesting existing rail networks and, relatedly, causing freight rates to increase.²³ The Surface Transportation Board (STB) should closely consider these

¹⁹ Kadrams, Lee & Jackson, City of Helena: Railroad Quit Zone Preliminary Feasibility Study at app. 5, 9 (March 2011).

²⁰ Memorandum from Gibson Traffic Consultants on Cherry Point Export Facility Rail Operations—City of Seattle, to Peter Hahn, Director of Seattle Department of Transportation (Feb. 13, 2012), <http://www.coaltrainfacts.org/docs/GTC-Seattle-Traffic-Report.pdf>.

²¹ Whiteside, Frauth, & Streeter, Heavy Traffic Ahead: Rail Impacts of Powder River Basin Coal to Asia by Way of Pacific Northwest Terminals 7 fig. 4 (2012).

²² Whiteside, Frauth, & Streeter, Heavy Traffic Ahead: Rail Impacts of Powder River Basin Coal to Asia by Way of Pacific Northwest Terminals 43 (2012).

²³ *Id.*

indirect effects of permitting the TRRR (what is the extent of this impact? What will the economic implications be? Will jobs be lost as a result? If so, how many and where?). The STB should also consider these impacts in making any determination about the public convenience and necessity for this line.

In addition to the impacts on bulk grain shippers, increased coal train traffic in Montana (as from the TRRR) could potentially impact the existing passenger rail service in Montana.²⁴ This could result in congestion and delays.²⁵ Given that many people in Montana rely on this service, these potential impacts should be carefully addressed in the EIS. Additionally, there is significant interest in Montana in restoring passenger rail service through the southern route of Montana, allowing Montanans to travel between Billings and Missoula (and beyond in each direction).²⁶ Such rail service would be a practical transportation option for Montanans, given that Montanans currently spend over 6% of their income on gasoline.²⁷ Passenger rail service would also bring tourists to Montana, improving another important aspect of Montana's economy. It is unclear what effect the coal train traffic associated with the TRRR (and connected, cumulative, and related actions, *see* 40 C.F.R. § 1508.25(a)) would have on the possibility of renewed rail service on the southern route in Montana. The EIS should consider this effect, and the STB should consider this effect in making any determination of public need and convenience.

f. Coal Dust

As the STB knows, there is currently significant controversy surrounding the release of coal dust from open-topped coal cars.²⁸ BNSF itself contends that significant amounts of coal dust are lost from coal cars.²⁹ Coal dust can clog rail ballast leading to derailments.³⁰ Additionally, coal dust causes harms to “neighboring streams, people, and communities.”³¹ The extent of the harm caused by coal dust is not clear. Coal contains numerous toxic constituents, which over time could cause harm to communities and

²⁴ *Id.* at 46.

²⁵ *Id.*

²⁶ *See* National Ass'n of Railroad Passengers, NARP Vision, <http://www.narprail.org/resources/narps-vision-for-the-future>.

²⁷ NRDC, Fighting Oil Addiction: Ranking States' Gasoline Price Vulnerability and Solutions for Change 6 (Nov. 2012), *available at* <http://www.nrdc.org/energy/states/files/Oil-Vulnerability-Nov-2012.pdf>.

²⁸ *See, e.g. Arkansas Elec. Coop. Corp.—Pet. for Declaratory Or.*, Doc. No. FD 35305 at 8, Surface Trans. Bd. (Mar. 3, 2011).

²⁹ *Id.*

³⁰ *Id.* at 3.

³¹ *Id.* at 9.

environmental resources, such as water supplies.³² The EIS should fully address potential impacts from coal dust and include mitigation measures.

g. Property Values

Recent studies indicate that property values along railroad tracks decrease 5% to 10% with increased train traffic.³³ This is likely the result of the many negative impacts of freight train traffic (noise, vibration, pollution, traffic congestion, as well as stigma and negative perception that affect market dynamics.). Because construction of the TRRR will lead to increased coal train traffic through Helena, the EIS should address the indirect impacts of lost residential and business property value from this increased train traffic. The EIS should also consider what how much this loss of property value will effect local tax receipts.³⁴

h. Impacts to Sensitive Areas

Coal trains from the proposed Otter Creek strip-mine, as well as other mines that are reasonably foreseeable upon construction of the TRRR could cross Montana travelling west to ports in Washington, Oregon, and British Columbia. One potential route would be via Great Falls and the “High Line” to Spokane, Washington. Trains on this route would travel along some of Montana’s most treasured landscapes and waterways, including Glacier National Park and the Flathead River, one of only two Wild and Scenic Rivers in Montana. The EIS should address potential impacts from coal train traffic to these resources. Potential impacts include pollution from locomotives and coal dust, impacts to wildlife, and potential derailments. *See NWF v. Burlington Northern R.R., Inc.*, 23 F.3d 1508, 1510 (9th Cir. 1994) (derailments of trains near Glacier National Park and subsequent take of endangered grizzly bears); *see also* AP, *Freight Train Derails Near Montana’s Glacier Park*, Seattle Times (Mar. 9, 2011) (reporting train derailment near Glacier).³⁵

³² *See* Bounds & Johannensen, *Arsenic Addition to Soils from Airborne Coal Dust Originating at a Major Coal Shipping Terminal*, *Water Air Soil Pollution* 185:195-2007 (2007).

³³ *See* Memorandum from Paul Zemtseff, of the Eastman Company, on Increased Coal Train Traffic and Real Estate Values, to Ross McFarland, *Climate Solutions* 10-12 (Oct. 30, 2012), <http://climatesolutions.org/nw-states/coal-train-study>; *see also* Simmons & El Jaouhari, *The Effect of Freight Railroad Tracks and Train Activity on Residential Property Values*, *Entrepreneur* (Summer 2004), *available at* <http://www.coaltrainfacts.com/docs/The-effect-of-freight-railroad-tracks-and-train-activity-on-residential-property-values.pdf>.

³⁴ *See e.g.*, Memorandum from Paul Zemtseff, of the Eastman Company, on Increased Coal Train Traffic and Real Estate Values, to Ross McFarland, *Climate Solutions* 11 (Oct. 30, 2012), <http://climatesolutions.org/nw-states/coal-train-study>.

³⁵ *See also* Coal Train Facts, *Derailments*, <http://www.coaltrainfacts.org/key-facts#derail> (cataloguing 39 coal train derailments over the past two and one half years).

i. Air Pollution Impacts

The proposed TRRR will result in indirect and cumulative air pollution impacts that must be studied in the EIS. *See e.g., Mid-States Coal. for Progress*, 345 F.3d at 548-50 (STB required to consider indirect air emissions from construction of rail line that would increase supply of low grade coal to power plants); *CBD v. NHTSA*, 538 F.3d 1172, 1215-17 (9th Cir. 2008) (NHTSA required to take hard look at cumulative effects of climate emissions from proposed CAFE standards); *see also* 40 C.F.R. § 1508.7, .8 (defining direct, indirect, and cumulative impacts); CEQ, *Considering Cumulative Effects Under the National Environmental Policy Act* 1 (Jan. 1997).

One principal indirect effect of the construction of the TRRR will be the carbon emissions from burning of the 1.5 billion tons of coal from the Otter Creek coal tracts. “The impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct.” *CBD*, 538 F.3d at 1217. Indeed, for over a decade CEQ has directed agencies to consider cumulative impacts that contribute to climate change. CEQ, *Considering Cumulative Effects Under the National Environmental Policy Act* at 7, 24 (noting that “the importance of . . . climate change and other cumulative effects problems has resulted in many efforts to undertake and improve the analysis of cumulative effects” and that in evaluating cumulative impacts agencies should address “[r]egional and global atmospheric alterations from cumulative additions of pollutants that contribute to global warming”). Recently, CEQ has provided additional draft guidance to agencies for evaluating climate change impacts. CEQ, *Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions* (Feb. 2010) (hereinafter CEQ, *Draft Guidance*).

Scientific opinion is clear that anthropogenic carbon emissions, principally from combustion of fossil fuels, is causing global temperatures to increase and resulting in considerable negative impacts to humanity and natural systems.³⁶ Recent reports have emphasized the dire situation of the current climate disruption caused by combustion of fossil fuels and the potentially catastrophic results if drastic reductions in global warming pollution do not occur at a significantly faster pace than our current trajectory:

We cannot afford further delay further action to tackle climate change if the long-term target of limiting the global average temperature increase to 2°C, as analysed

³⁶ National Research Council, *America’s Climate Choices: Panel on Advancing the Science of Climate Change* 21-22 (2010) (“Some scientific conclusions or theories have been so thoroughly examined and tested, and supported by so many independent observations and results, that their likelihood of subsequently being found wrong is vanishingly small. Such conclusions and theories are then regarded as settled facts. This is the case for the conclusions that the Earth system is warming and that much of this warming is likely due to human activities.”); *see also, e.g.*, U.S. Global Change Research Program, *Global Climate Change Impacts in the United States* (2009); Intergovernmental Panel on Climate Change, *Climate Change 2007: Synthesis Report*.

in the 450 scenario, is to be achieved at reasonable cost. In the New Policies Scenario, the world is on a trajectory that consistent with a long-term average temperature increase of more than 3.5°C. Without these new policies, we are on an even more drastic track, for a temperature increase of 6°C or more.

Four-fifths of the total energy-related CO₂ emissions permissible by 2035 in the 450 scenario are already “locked in” by our existing capital stock (power plants, buildings, factories, etc.). If stringent new action is not forthcoming by 2017, the energy-related infrastructure then in place will generate all the CO₂ emissions allowed by the 450 Scenario up to 2035, leaving no room for additional power plants, factories, and other infrastructure unless they are zero-carbon, which would be extremely costly³⁷

Current impacts of climate change from .8°C (which are becoming readily apparent to lay observers) include “an exceptional number of extreme heat waves around the world with consequential severe impacts,” “extreme precipitation,” “increased droughts,” “negative effects . . . on agricultural production” and reduced economic growth.³⁸ Impacts in the American west include “declining water resources,” increased stresses to agriculture and ranching, destruction of native ecosystems in the Plains region, exacerbated impacts on aging, rural, and Native American communities, reduced snow pack and summer streamflows, increased forest fires and insect outbreaks that harm the forest products industry, rising stream temperatures that are stressing Salmon and other cold water fish species, and sea-level rise affecting coastal areas.³⁹ If drastic reductions in carbon emissions (and thus drastic reductions in coal consumption) do not occur quickly, all of these impacts are expected to worsen, potentially causing non-linear responses and cascading effects; as global temperatures approach 4°C, “the risk of crossing critical social system thresholds will grow. At such thresholds, existing institutions that would have supported adaptation actions would likely become much less effective or even collapse.”⁴⁰

The EIS for the TRRR must consider the existing impacts of climate change, as well as the indirect and cumulative impacts of the emissions that would result from the construction of TRRR. The EIS should monetize the value of this carbon, and the STB should consider this monetization in making any determination of public necessity and convenience. This is especially important given that, when external costs are

³⁷ International Energy Agency, World Energy Outlook 2011: Executive Summary 2 (2011).

³⁸ World Bank, Turn Down the Heat: Why a 4°C Warmer World Must Be Avoided, xiv (2012).

³⁹ U.S. Global Change Research Program, Global Climate Change Impacts in the United States at 123-28, 135-38.

⁴⁰ World Bank, Turn Down the Heat: Why a 4°C Warmer World Must Be Avoided at xvi-xviii.

internalized, coal is extremely expensive and likely has a negative value.⁴¹ The EIS must also consider the cumulative impacts of these emissions over the course of proposed mining, when combined with carbon emissions from around the planet. This analysis should also address potential tipping points and non-linear responses that could result from these additional emissions. Further, the EIS must consider the indirect and cumulative effects of the carbon emissions from the TRRR (and the resultant coal mines and coal consumption) on ocean acidification.⁴² The EIS must consider the cumulative impacts of climate disruption on Montana's existing economic drivers: tourism, agriculture, forestry, and fisheries.⁴³

In addition to the indirect and cumulative impacts of carbon pollution from the TRRR, the EIS must also consider the impacts from other air pollutants that will occur as a result of the increased coal consumption enabled by the TRRR.⁴⁴ Air pollution from Asia returns to the United States in a matter of days.⁴⁵ This pollution includes particulate matter, oxides of nitrogen, sulfur dioxides, and mercury. For example mercury pollution from Asian sources has been documented in rivers and mountains in Oregon. The EIS should also quantify and monetize the impacts from the increased (and cumulative) impacts of mercury, a potent neuro-toxin that is especially harmful to children and fetuses.⁴⁶

In addition to the indirect and cumulative air pollution caused by the burning of the coal that the TRRR is being built to access, the EIS must also consider the localized air pollution from the diesel locomotives that would transport that coal through towns throughout Montana, particularly the various non-attainment areas in Montana (including Billings and East Helena) and Class 1 air-sheds (including Glacier National Park,

⁴¹ Nicholas Z. Muller et al., *Environmental Accounting for Pollution in the United States Economy*, 101 Am. Econ. Rev. 1649, 1664-72 (2011); Epstein et al., *Full Cost Accounting for the Life Cycle of Coal*, Annals N.Y. Acad. Sci. 73 (2011).

⁴² World Bank, *Turn Down the Heat: Why a 4°C Warmer World Must Be Avoided at 11-12* (discussing the worsening impacts of ocean acidification).

⁴³ See, e.g., Isaak, et al., *The Past as Prelude to the Future for Understanding 21st-Century Climate Effects on Rocky Mountain Trout*, 37 Fisheries 542 (Dec. 2012); Mitton & Ferrenberg, *Mountain Pine Beetle Develops an Unprecedented Summer Generation in Response to Climate Warming*, 170 Am. Naturalist 179 (May 2012).

⁴⁴ Thomas Power, *The Greenhouse Gas Impact of Exporting Coal from the West Coast: An Economic Analysis* (2012) (concluding that increased coal exports from the United States will result in increased coal consumption in Asia).

⁴⁵ Eric de Place, *Do Asian Coal Plants Pollute America?* Sightline Daily (Apr. 3, 2012).

⁴⁶ See, e.g., Bellenger, *Economic Benefits of Methylmercury Exposure Control in Europe: Monetary Value of Neurotoxicity Prevention* (2012), available at <http://www.ehjournal.net/content/pdf/1476-069X-12-3.pdf> (monetizing impacts of mercury exposure); Mahaffery, *Adult Women's Blood Mercury Concentrations Vary Regionally in the United States: Association with Patterns of Fish Consumption (NHANES 1999-2004)*, 117 *Envtl. Health Perspectives* 47 (2009).

Montana's wilderness areas, and the Flathead and Northern Cheyenne Reservations).⁴⁷ In particular the EIS should closely consider the direct, indirect, and cumulative impacts of diesel exhaust from locomotives that would be transporting coal made accessible by the TRRR. Such exhaust, recognized by the World Health Organization as carcinogenic, could have serious health effects on communities, like Helena, that are divided by railroad tracks.⁴⁸ The EIS must determine these impacts in light of worsening air pollution from wildfire in these communities.

j. Economic Effects

The EIS for the TRRR must consider the economic effects of the proposed rail line and reasonably foreseeable coal strip-mining. *See* 40 C.F.R. § 1508.8 (effects include economic effects). This evaluation should consider whether public coal is being sold at or below market rates and the resulting impacts to public revenues.⁴⁹ The analysis should also consider whether royalties from the coal sold will be based on values of the coal in the United States or the value of the coal in Asian markets where it is to be sold. The EIS should also consider whether the proposed TRRR and Otter Creek strip-mine will compete with the Western Energy Mine in Colstrip and if so, what the likely effects will be.

k. Threatened and Endangered Species

A number of threatened, endangered, and candidate species live in and around Rosebud and Powder River Counties: pallid sturgeon, least tern, greater sage grouse, sprague's pipit, black-footed ferret, whooping crane, Ute ladies' tresses, and blowout pastemon. The EIS must consider potential direct, indirect, and cumulative impacts from the proposed TRRR and Otter Creek (and other coal mines) would have on these species. Because these species occur in the action area, the STB must consult with the U.S. Fish and Wildlife Services (FWS) to determine whether the TRRR and its direct, indirect, and cumulative effects may result in jeopardy to these species or adverse modification of critical habitat. 16 U.S.C. § 1536(a)(2). Additionally, the EIS must consider (and STB must consult with FWS) how impacts of GHG emissions resultant from the mine will impact other endangered species or critical habitat.

l. Water Pollution

⁴⁷ *See* Montana Dep't of Env't'l Quality, Citizen's Guide to Air Quality in Montana, <http://deq.mt.gov/airmonitoring/citguide/understanding.mcp>.

⁴⁸ Erin Lory, Diesel Exhaust Can Cause Cancer, World Health Organization Says, L.A. Times (June 12, 2012), <http://articles.latimes.com/2012/jun/15/local/la-me-gs-diesel-exhaust-causes-cancer-says-world-health-organization-20120615>.

⁴⁹ *See e.g.*, Tom Sanzillo, The Great Giveaway: An Analysis of the United States' Long-term Trend of Selling Federally-Owned Coal for Less Than Fair Market Value (2012) (finding that public coal has been sold at significantly below market prices costing taxpayers billions of dollars).

The EIS must address any water pollution impacts from the construction and operation of the TRRR and connected actions (such as the Otter Creek strip-mine and downline track improvements). It must also consider whether ground or surface water pollution could result from potential accidents and derailments. The EIS must consider whether NPDES permits are necessary for any of these activities and if so, whether high quality or impaired waters will be affected.

m. Strip-Mining

The proposed Otter Creek strip-mine is a connected action that must be evaluated in the TRRR EIS, *see infra* Part 3, as is the reasonably foreseeable coal mine at the end of Terminus 1 of the TRRR. As such, this EIS must consider the myriad impacts of these mines, including but not limited to damage to ground and surface water, pollution of the Tongue River,⁵⁰ impacts from blasting, and growth inducing impacts. Further, the EIS must consider whether the proposed mine complies with the environmental standards of the Surface Mining Control and Reclamation Act (SMCRA), 30 U.S.C. § 1265(b).

n. Historical and Cultural Resources

The EIS must also consider the impacts that the TRRR and the Otter Creek strip-mine (and other related mines) will have on historical and cultural resources to comply not only with NEPA, but also the Archaeological Resource Protection Act (ARPA), National Historic Preservation Act (NHPA), or Native American Graves Protection and Repatriation Act (NAGPRA).

o. Environmental Justice

Coal mining and combustion across the world is associated with social injustice. Social justice impacts of coal include:

lack of community awareness of damage, distress resulting from concerns and uncertainties about the health impacts of mining-related pollution, . . . the impact of water pollution on securing safe water for drinking, producing food, swimming, and fishing, . . . the cost of environmental damage to communities and society, [the] inability of the community to capture economic benefits, social changes inhibiting the generation of alternative means of economic capital to mining, socio-demographic changes resulting in labour shortages in other industries; reducing access to and affordability of accommodation; increased road traffic accidents,

⁵⁰ *See, e.g.,* Woessner et al., *The Impacts of Coal Strip Mining on the Hydrologic System of the Northern Great Plains: Case Study of Potential Impacts on the Northern Cheyenne Reservation*, 43 J. of Hydrology 445 (1979) (analyzing impacts of strip-mining on the Tongue River and surrounding hydrology).

increased pressure on local emergency services, [and] increases in criminal and other anti-social behaviours.⁵¹

Native American communities often bear a disproportionate share of industrialization's harmful byproducts, such as resource contamination and resource extraction. These communities often lack the political agency and economic leverage required for effective participation in environmental decision-making processes.

In Montana there has long been a concern that coal development would turn eastern portions of the state into a national "sacrifice zone."⁵² Coal development in Montana has historically been focused on and near Indian lands.⁵³ The Northern Cheyenne tribe has often found its reservation imperiled by coal development. When the tribe sought to obtain legal protections for itself from such development, it has had to defend its actions in court against powerful energy corporations. Its efforts and surprising successes have often resulted despite the involvement of government agencies and not because of it.⁵⁴ In addition to the disproportionate impacts to Native American communities, the impacts of coal mining also disproportionately harm local communities that often lack the resources to protect themselves from large corporations. It is to mitigate these historical inequities that agencies now regularly address issues of environmental justice. *See* Executive Order 12898.

Here, the EIS will need to address health problems on the nearby Indian lands and adjacent landowners that may be caused by construction of the TRRR, the Otter Creek strip-mine, and any other reasonably foreseeable strip-mining. The EIS should address impacts from blasting and fugitive dust emissions. These emissions likely contain, among other pollutants, mercury and radiological contaminants. This dust travels off-site and may contaminate residences. The dust may also coat plants used by tribal members for medicinal purposes and grazing of livestock. These impacts must also be quantified with air pollutant emissions from the nearby Colstrip Station. The EIS must address and mitigate any deterioration in air quality that is already being disproportionately experienced by the local populations.

The EIS should also address data from IHS and other medical facilities/agencies on the current health of tribal members on the nearby reservations. This data should be compared to similar national data. Additionally, the EIS must identify any environmental factors that may be contributing to health impacts of tribal members. The EIS should look at statistics on aging tribal populations and as compared to national averages—all related to human health.

⁵¹ Ruth Colaguiri et al., *Beyond Zero Emissions, Health and Social Harms of Coal Mining in Local Communities* v (2012).

⁵² K. Ross Toole, *The Rape of the Great Plains* 4 (1976).

⁵³ *Id.* at 50-68.

⁵⁴ *See, id.* at 50-52.

The EIS must accurately analyze the impacts from arsenic on local populations, specifically identifying cancer risks.

Due to the complex history of the region and the reliance on coal facilities for jobs, economics and revenue in the region, environmental justice issues also relate to the identification of ways to provide meaningful new economic opportunities/transitions that benefit local communities. Such sustainable economic opportunities should be developed in the alternatives analysis section of the EIS.

The EIS must also address the often invisible impacts of intensive resource development to native cultures. Such invisible impacts include: cultural and life-style losses, loss of identity, health losses, the loss of self-determination and influence, emotional and psychological losses, loss of order in the world, losses of traditional ecological knowledge, and indirect economic losses and lost opportunities for alternative development.⁵⁵ The STB should address these issues by directly reaching out to the Northern Cheyenne and Crow tribes. The STB should determine what the central concerns are for the tribes and then construct alternatives that can respond to these concerns.

3. *Connected, Cumulative and Similar Actions*

Under NEPA, an agency is required to consider connected and cumulative actions and “may” analyze similar actions. 40 C.F.R. § 1508(a). Connected actions are actions that are “closely related and therefore should be discussed in the same impact statement.” *Id.* Actions are considered connected if they (1) “automatically trigger other actions which may require environmental impact statements”; (2) “cannot or will not proceed unless other actions are taken previously or simultaneously”; and (3) “are interdependent parts of a larger action and depend on the larger action for their justification.” *Id.* Agencies may not “divid[e] a project into multiple ‘actions,’ each of which individually has a insignificant environmental impact, but which collectively have a substantial impact.” The test that courts have established for determining if actions are connected is “whether each of two projects would have taken place with or without the other and thus had independent utility.” *Wetlands Action Network v. U.S. Army Corps of Eng’rs.*, 222 F.3d 1105 (9th Cir. 2005). Relevant factors for determining whether actions are connected include, whether the segment (1) “has logical termini”; (2) “has substantial independent utility”; (3) “does not foreclose the opportunity to consider alternatives”; and (4) “does not irretrievably commit federal funds for closely related projects.” *Utahns for Better Transp. v. U.S. Dept. of Transp.*, 305 F.3d 1152, 1182-83 (10th Cir. 2002).

Here, the proposed Otter Creek coal strip-mine, as well as other reasonably foreseeable coal development along the Tongue River are connected actions that must be considered in the same EIS as the TRRR. This is because these mines cannot proceed unless the TRRR is built. This point is particularly apparent given that TRRR Inc. specifically

⁵⁵ See Nancy J. Turner, et al., *From Invisibility to Transparency: Identifying the Implications*, vol. 13 (2008).

includes the proposed Otter Creek mine as the basis for its proposed finding of public convenience and necessity.⁵⁶ Because these are connected actions, the State of Montana (the permitting authority for the mine) must be a cooperating agency in this EIS process.

Additionally, numerous coal export terminals proposed in the Northwest are connected actions that must also be considered in this EIS. Given that coal consumption in the United States is currently and rapidly declining and is expected to decline in the near future and not rebound to previous levels for decades⁵⁷ and that it is highly unlikely that new coal power plants will be constructed in the United States in the future,⁵⁸ the only future for coal from Otter Creek and the TRRR is in Asia. Current export capacity does not exist to transport this coal from the United States. However, numerous coal ports are being proposed in the Northwest to ship this coal to Asia.⁵⁹ The corporation seeking to strip-mine Otter Creek (Arch Coal) is also a principal investor in one of these export terminals, the Millenium Bulk Terminals, LLC, at Longview, Washington.⁶⁰ Because the TRRR would not be constructed but for the construction of coal export terminals—specifically the terminal at Longview—the EIS must consider these connected actions in the same EIS. The logical termini are the mines (Otter Creek and other mines made possible by the TRRR) and the export terminals; the mines have no independent value (given the declining coal market in the United States) without the export terminals and the railroad tracks, and the TRRR has no independent utility without the mines and the export terminals). It would be wholly improper for federal agencies to segment the environmental analysis of these actions. Accordingly, these actions should be considered in the same EIS.

Other connected actions include rail road upgrades that will be necessary to accommodate the increased coal train traffic made possible by the TRRR. These rail upgrades may not be segmented from this analysis, but must be considered in this EIS.

4. Mitigation

EISs must consider and include mitigation measures associated with any project. 40 C.F.R. § 1502.14(f). A decision document accompanying an EIS must “state whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.” 40 C.F.R. § 1505.2(c). “Mitigation and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be

⁵⁶ Supplemental Application at 19.

⁵⁷ U.S. Energy Information Administration, Annual Energy Outlook 2013: Early Release Overview 11 (2013), available at <http://www.eia.gov/forecasts/aeo/er/>.

⁵⁸ Brad Plummer, *The Big Climate Question: Will the World Build 1,200 New Coal Plants?* Wash. Post (Nov. 20, 2012) (construction of coal plants in the U.S. unlikely).

⁵⁹ Whiteside, Frauth, & Streeter, *Heavy Traffic Ahead: Rail Impacts of Powder River Basin Coal to Asia by Way of Pacific Northwest Terminals* 11-18 (2012).

⁶⁰ *Id.* at 15.

implemented by the lead agency or other appropriate consenting agency.” 40 C.F.R. § 1505.3. The Surface Transportation Board (STB) has previously imposed mitigation requirements on railroads that sought expansions that would, as here, result in increased train traffic.⁶¹ Such mitigation measures have included mitigation downline of the proposed construction projects, where downline communities would not have experienced increased train volume but for the proposed construction project.⁶² The STB has also required railroads to pay for significant portions of the cost of mitigation projects.⁶³

Here, the STB should consider mitigation measures that address increased noise, vibrations, and traffic disruption in Helena and other communities caused by the coal train traffic that the TRRR would engender. Such mitigation measures would include, but not be limited to, quiet zones, grade separation crossings, and improvements to buildings, homes, and schools to limit impacts from vibrations. The cost of mitigation measures could be quite high. The cost of a quiet zone in Helena would cost between \$130 and \$1 million.⁶⁴ Similarly, a single overpass in Billings would cost around \$20 million. In all, infrastructure costs associated with increased coal train traffic from the TRRR as well as existing lines could cost states and local governments hundreds of millions of dollars over the next decade.⁶⁵

The STB should assure that TRRR Inc. pays all, or at least a significant portion (STB has imposed 67% and 78% of costs on other railroads in previous cases) of the costs of mitigation measures. After all, TRRR Inc. will enjoy the profits from the proposed line; the city of Helena and similarly situated towns will not enjoy any—only the negative impacts.

The STB should also require TRRR Inc. to cover any coal cars that run from the TRRR, in order to mitigate the impacts from coal dust, as it appears that new technologies will make it possible to cover coal cars.⁶⁶

CONCLUSION

SGCC looks forward to participating fully in this NEPA process, as we also look forward to the STB’s close scrutiny of the misguided and overwhelmingly deleterious project that

⁶¹ Whiteside, Frauth, & Streeter, *Heavy Traffic Ahead: Rail Impacts of Powder River Basin Coal to Asia by Way of Pacific Northwest Terminals* 52-53 (2012).

⁶² *Id.* at 55-56

⁶³ *Id.* at 57.

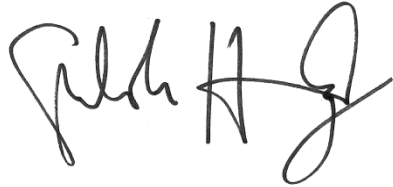
⁶⁴ Kadrams, Lee & Jackson, *City of Helena: Railroad Quiet Zone Preliminary Feasibility Study* at 17-26 (March 2011).

⁶⁵ Whiteside, Frauth, & Streeter, *Heavy Traffic Ahead: Rail Impacts of Powder River Basin Coal to Asia by Way of Pacific Northwest Terminals* 51 (2012).

⁶⁶ Coal Age, *PBR Coal Dust Control—Next Steps Kick Off in 2012* (Jan. 2012), available at <http://coal.epubxp.com/i/53542/21>.

is the proposed TRRR. Please do not hesitate to contact me know if you have any questions about these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Shiloh H. Hernandez". The signature is fluid and cursive, with a large initial "S" and "H".

Shiloh Hernandez
432 N. Last Chance Gulch, Suite H
Sleeping Giant Citizen's Council
Helena, MT 59601

Surface Transportation Board 
Incoming Correspondence Record

#EI-19881

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Sherwood Hake	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

I am deeply concerned about the impact increased rail traffic will have on environmental concerns. Please consider impacts to wildlife habitat as well as to air and water quality due to the pollution generated by these trains both from the diesel fumes and the coal dust.

Surface Transportation Board



Incoming Correspondence Record

#EI-19882

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Patricia Rodgers	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,

Patricia Rodgers
8121 NE 141st Street
Kirkland, WA, 98034

Surface Transportation Board



Incoming Correspondence Record

#EI-19883

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Harold and Jan Hoem	Date of Letter:	01/11/2013
Group:	Montana Elders for a Livable Tomorrow (MELT)		

Submitter's Comments

Dear Mr. Blodgett,

We write in opposition to the Tongue River Railroad construction through the Tongue River Valley in order to export coal to Asia. Granting the railroad construction would serve Arch Coal, but it would not be in the best interest of the citizens who would live along that railroad or for the state of Montana as a whole. Tremendous expenses by individual communities would be required to mitigate the effects of the additional trains transporting the coal across the entire state. At the very least, overpasses and at-grade crossing bars (four) at crossings need to be borne by the companies that make the profit, which is unlikely. This railroad would not be for the "public convenience and necessity."

Transporting that amount of coal would no-doubt leave coal dust dropped through the bottom dumpers onto the tracks. That weakens the ballast and would lead to derailments, as has happened in the past. We've witnessed cleaning efforts on the tracks, and small particulates are thrown over fifty feet into the air. Please investigate this.

Is the infrastructure of the railroad lines strong enough, especially at bridges, to deal with the amount of traffic that would join other tracks?

We attended the scoping hearing in Spokane, and the following concerns, to name a few, were expressed: impacts on property values, noise and its effects, traffic delays (especially for emergency vehicles -- we were both EMT's for eight years), and the health impacts of increased diesel emissions down-line.

In the bigger picture, this coal burned in Asia would take longer to get from the Tongue River than it would take for the emissions to return to us on prevailing air currents. Our children's lungs don't mature until age ten, and they don't handle coal emissions well. The health impacts to them are devastating. Putting this in place ensures that at least three decades of children will suffer the effects.

We are better than this.

Harold and Jan Hoem

Surface Transportation Board

Incoming Correspondence Record



#EI-19884

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Scott Bischke	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear STB members--

We are writing to ask you to disallow the transport of coal from SE Montana across the Western US (and eventually to China and the Far East) via rail or any other route. Our desire is that neither the infrastructure to allow such transfer, nor the permission be granted.

Two issues loom large:

* The smaller is the quality of life decline (noise pollution, air quality declines, repeated long road closures) for those having to put up with thousands of passing trains each year.

** The larger is the impact of putting this much carbon into the air. Climate change is real and our society should be doing everything it can to minimize its impact. As the STB you have the potential to make an impact, to help our society make a stance and a statement, to say "No" this is not the direction we want to go.

Thank you for considering our thoughts
Scott Bischke and Katie Gibson
Bozeman, MT

Surface Transportation Board

Incoming Correspondence Record



#EI-19885

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Dolores Andersen	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

To: US Surface Transportation Board

Docket No. FD 30186

Attention of: Mr. Ken Blodgett

From: Dolores Andersen

Resident of Missoula, Montana

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Why is this project and the increase in exporting of coal to China even being considered!?

The mining of coal and the infrastructure required to export it to China uses our tax dollars in the form of subsidies directly and indirectly.

How can we afford this? How can this be justified? How much in direct and indirect subsidies are going to be used or are already being used?

The People's Republic of China is the world's largest consumer of coal, using more coal each year than the United States, the European Union and Japan combined. Coal power has been the dominate source of energy used to fuel the rapid economic development of China. Many carbon-industries in the U.S. are moving to China because of the less stringent environmental codes, cheap labor and vast coal resources

How can our economy afford the job loss that is a result of this coal going to China?

China's leaders have vowed to improve their nation's energy efficiency, but have been reluctant to approve the extra spending to do that. Every week to ten days, another coal-fired plant opens somewhere in China using old style equipment; equipment that has a 75 year lifespan. China's coal-produced air pollution reaches the United States. Studies show that particles of iron, titanium and other elements are being sent airborne and are reaching the U.S. These particles are dense enough that, at maximum levels during the spring , they account for a fifth or more of the maximum levels of particles allowed by the latest federal air quality standards. These particles effect the higher elevations and not lower lying cities like Seattle. Over the course of a year, Chinese pollution averages 10 to 15 percent of allowable levels of particles.

How is this increased air pollution being monitored? How is this increased air pollution being mitigated?

Renewable energy is the future, not fossil fuels

How can we say NO to this project?

Dolores Andersen

(406) 493-0606

Image Attachment(s)

[To US Surface Transportation Board.docx](#)



[To US Surface Transportation Board.docx](#)

To: US Surface Transportation Board

Docket No. FD 30186

Attention of: Mr. Ken Blodgett

From: Dolores Andersen

Resident of Missoula, Montana

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How can our economy afford the job loss that is a result of this coal going to China?

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titanium and other elements are being sent airborne and are reaching the U.S. These particles are dense enough that, at maximum levels during the spring , they account for a fifth or more of the maximum levels of particles allowed by the latest federal air quality standards. These particles effect the higher elevations and not lower lying cities like Seattle. Over the course of a year , Chinese pollution averages 10 to 15 percent of allowable levels of particles.

How is this increased air pollution being monitored? How is this increased air pollution being mitigated?

Renewable energy is the future, not fossil fuels

How can we say NO to this project?

Dolores Andersen

(406) 493-0606

Surface Transportation Board



Incoming Correspondence Record

#EI-19887

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Elisha Rose	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186

Attention of: Mr. Ken Blodgett

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.

Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.

Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.

Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board

Incoming Correspondence Record



#EI-19888

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Tim Walsh	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Please heed my request that an EIS for the Tongue RR closely examine the following:

Public convenience and necessity

Impacts on property values

Impacts on Wildlife

Flooding and groundwater problems as a result of a railroad bed.

Increased noise pollution

Impacts on infrastructure and traffic.

I am a resident of Seattle and have spent a significant portion of my life in Whatcom county. The impact on mine and my families lives should not be at the mercy of a profit driven motive.

America needs to be the source for a global transition from fossil fuel, not a supplier of it.

Surface Transportation Board

Incoming Correspondence Record



#EI-19889

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Abigail Breuer	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Members of the Surface Transportation Board:

As a 12 year resident of Bozeman, MT, I write to request additional attention to 3 aspects of the proposed coal railroad that would affect my community, and others like it in Montana, Idaho and Washington.

I am concerned that the increase in railroad traffic would be a detriment to our community, where the railroad already affects the ability to cross town in key locations for emergency vehicles and others needing access to no longer 'remote' parts of town throughout the day.

Second, I have misgivings about the maintaining the environmental integrity of the transportation route, which includes agricultural lands, wildlife habitat, and water resources on which we all depend.

Third, given that the majority of the coal is projected to be burned in countries where strict environmental controls are known to be lacking, the greenhouse gas and potential climate impacts are those whose burden will be shared by present and future generations around the world alike.

I hope you will take the time to investigate and debate my concerns. I would appreciate the courtesy of a response.

Thank you.

Surface Transportation Board



Incoming Correspondence Record

#EI-19890

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Bill Zaroni	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

To Whom it May Concern,

I am a resident of Livingston, Montana, a rural railroad town on the banks of the Yellowstone River. This is a quiet town that attracts hundreds of tourists every year because of its iconic beauty and close proximity to Yellowstone National Park. We boast some of the best freshwater fly fishing on the longest undammed river in the US.

I am deeply concerned about the impacts of the new railroad proposed to transport coal from southeast Montana, through my town, through nearby communities, and to Asian markets. We have already seen immense increases in train traffic over the past few years. The increased traffic brings with it noise, congestion, and dust. The railroad tracks split our community in half. We have several traffic lights in town to control traffic at the railroad crossings, but we are not prepared to deal with the significant increase in train traffic this project contemplates. Increased traffic and congestion leads to accidents and endangers the pedestrian traffic in our downtown.

The Surface Transportation Board must seriously evaluate the cumulative impacts from this project on Montanan railroad communities like Livingston. As a small community, we likely do not have the resources we need to deal with the increased train traffic through the middle of our town. I have a one-year-old son that loves to see the trains. He shouts and covers his ears. They are loud and exciting, but we are happy when they pass and we can continue our walks through one of the parks on the railroad in our downtown community.

Additionally the increased trains bring noise and dust that further pollute our community. The train passes through downtown Livingston. Several very popular restaurants sit on the railroad, including the famous Montana Rib and Chop House. The outdoor seating in these areas is uncomfortable and loud when a train passes through town. With the increased train traffic these outdoor seating areas may be unusable. During the summer months Livingston hosts a farmer's market and artists markets in the park adjacent to the railroad tracks. This is important community space to Livingston that may no longer be usable as a result of increased train traffic.

I work as an architect in a firm downtown in a historic railroad building. Our community has been built around the railroad. We value the beauty the old railroad buildings add to our community. I am concerned that many of these old structures could be impacted negatively by the increased traffic on our railroads.

I respectfully request that the Surface Transportation Board analyze the impacts of increased train traffic on rural Montana railroad communities, including communities like Livingston that rely on tourism and the iconic beauty and quiet of our community for our economic livelihood.

I also respectfully request that the Surface Transportation Board consider the cumulative impacts from burning the billions of tons of Montana coal to increased carbon in our atmosphere. This project will facilitate significant increases of carbon in the atmosphere. The increase of carbon in our atmosphere and resulting impacts from global climate change threatens the United States economy, security, and health. Not to mention the tourist based industry that the community of Livingston depends upon--healthy rivers, snow in the mountains, abundant wildlife and biological diversity.

I hope that I can look forward to a future where I can teach my son to fish in the Yellowstone, take him skiing in the Bridger Mountains, and see grizzly bears in Yellowstone National Park. All of these activities are threatened by climate change. Climate change that this project has the potential to greatly exacerbate.

Finally, the Surface Transportation Board must consider impacts to the Yellowstone River.

Thank you for your time and consideration.

Best regards,
Bill Zaroni (and on behalf of Luke Zaroni)

Surface Transportation Board

Incoming Correspondence Record



#EI-19891

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	David Graber	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

We as a nation have believed our laws are not selective, or to be obeyed by only the majority. The Tongue River Railroad advocates need to obey the law and complete the environmental impact studies appropriately. Our farms and ranches need government protection, not government collusion in destruction.

Surface Transportation Board

Incoming Correspondence Record



#EI-19892

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Bonnie McKinlay	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett,

I am urge you to deny development of the Tongue River Railroad. At the very least, further study must proceed on the potential threats to wildlife, citizen's quality of life, native ancestral sites and rights. Of foremost concern to me is the construction of another route to climate disaster with coal shipments to Asia. I agree with the climate scientists' majority assessment that the only way to lower our carbon level is to limit emissions. The Tongue River RR only enhances climate disruption. Sincerely, Bonnie McKinlay

Surface Transportation Board



Incoming Correspondence Record

#EI-19893

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Dan Dickinson	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186
 Attention of: Mr. Ken Blodgett

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.

Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.

Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.

Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Thank You, Dan Dickinson

Surface Transportation Board



Incoming Correspondence Record

#EI-19894

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Joan L. Brownell	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

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Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board

Incoming Correspondence Record



#EI-19895

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Holly Byrne	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186

Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

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Sincerely,
Holly Byrne

Kathleen B. Masis M.D.
2035 St. Andrews Dr.
Billings, MT 59105
January 11, 2013

Ken Blodgett
Surface Transportation Board
295 E Street SW
Washington, D.C. 20423-0001

ATTN: Environmental filing, **Docket Number FD 30186**

Mr. Blodgett:

I testified at the Surface Transportation Board public hearing in regard to the Tongue River Railroad, in Forsyth, Montana, in November, 2012.

This letter is in response to our discussion before the hearing about methodology for measuring potential effects on the health and well-being of a Tribe from an environmental change resulting in loss of access to ceremony.

In the case of the Northern Cheyenne, the proposed railroad tracks run adjacent to the reservation, across the river from sacred sites, including Native American traditional healing ceremonies, which cannot take place in a site polluted by the construction of a railway.

A railway would contaminate and desecrate the intrinsic value of the unspoiled natural surroundings necessary for ceremony. Ceremony which takes place at night, is assisted in the early morning by the calls of the birds. Noise, dust and diesel fumes from trains would debase the site, and prevent the connection with sacred place.

Loss of traditional healing resources may be seen as intangible, but value can and should be assigned to the promotion of health and prevention of premature death. Interviewing community members who participate can inform the investigation of the effects on the community's health from contamination of a powerful healing ceremony.

Attached is a review of the literature that I found most helpful and pertinent to measuring environmental and cultural impacts on health in an American Indian population. The abstracts are organized around these topics: Traditional Indian Medicine, Loss of Place, Social Connectedness and Health, Methodology, Human Epidemiology, American Indian Health Status, and finally a review of the literature in Australia on health and Indigenous resource management.

Sincerely,

Kathleen B. Masis M.D.

Attachment

Review of the Literature for Methodologies to assess the potential effects on a Tribe from loss of access to a Native American ceremony

1. Traditional Indian Medicine

J Ethnobiol Ethnomed. 2010 Jun 23;6:18. doi: 10.1186/1746-4269-6-18. **"If you don't believe it, it won't help you": use of bush medicine in treating cancer among Aboriginal people in Western Australia.** Shahid S, Bleam R, Bessarab D, Thompson SC.

The study findings have shown that as part of their healing some Aboriginal Australians use traditional medicine for treating their cancer. Such healing processes and medicines were preferred by some because it helped reconnect them with their heritage, land, culture and the spirits of their ancestors, bringing peace of mind during their illness. Spiritual beliefs and holistic health approaches and practices play an important role in the treatment choices for some patients.

Being healed by an indigenous traditional healer: sacred healing stories of Native Americans. Part II Original Research Article

Complementary Therapies in Clinical Practice, Volume 11, Issue 2, May 2005, Pages 78-86
Roxanne Struthers, Valerie S. Eschiti

Traditional indigenous healing is described in the Western literature as "an ancient holistic approach used today by some Native Americans to resolve health care problems." Indigenous people who sought traditional healing for imbalance and disease were interviewed and their stories told by Struthers and Eschitti (2005). The accounts were derived from a qualitative phenomenological study, *The lived experience of indigenous people healed by indigenous traditional healers*.

The authors say that Native people incorporate indigenous healing practices into their lives for attainment of the highest level of well-being, which includes "potential for decreasing health disparities in this population."

Perm J. 2012 Winter;16(1):19-27. **"Our culture is medicine": perspectives of Native healers on posttrauma recovery among American Indian and Alaska Native patients.**

Bassett D, Tsosie U, Nannauck S.

Department of Psychiatry and Behavioral Sciences, University of Washington, Seattle, WA, USA. dbassett@uw.edu

Historical trauma is highly relevant to any discussion of trauma in Native populations and provides an important explanatory model that is commonly used when talking about high rates of present-day traumatic injury and PTSD among Native populations.²⁰ Briefly, historical trauma originated in the aftermath of the Jewish Holocaust and refers to the survivors and their subsequent generations. Applied to the Native American experience, the term refers to the colonization of indigenous communities and subsequent experiences of subjugation and abuse, including coercive assimilation through boarding schools (the experience of which often included physical, sexual, and emotional abuse). Historical trauma also refers to the theft of land; the forced removal and relocation of families and communities; and cultural genocide, including loss of Native language, cultural practices, social structures, and spiritual beliefs and practices.²⁰

Brave Heart and DeBruyn³⁰ suggested that the first generation of survivors of genocide had PTSD symptoms that might have included depression, hypervigilance, anxiety, and substance abuse. As cultural genocide also took place, Native people were not allowed to practice their traditional rituals of mourning and healing, which included phases of grief that would have provided adjustment to their loss, ceremonial and ritual mourning, and family and community support. Brave Heart and DeBruyn stated that "Disenfranchised grief results in an intensification of normative emotional reactions such as anger, guilt, sadness, and helplessness."³⁰ This unresolved grief is a result of historical trauma that is transmitted down through each Native generation and is cumulative and compounded as more traumatic events occur.

In terms of protective factors, studies of Native patients indicate that cultural identity is an important aspect.^{20,31} In a case study of a combat veteran with PTSD, themes important to Native experiences of trauma included boarding-school abuse, the interruption of cultural identity formation, and lifelong experiences of racism.³¹ Key elements of this patient's recovery were active involvement with his Native culture, which instilled in him a sense of Native pride; preparation for and participation in traditional ceremonies; and having the support of his family and tribal community. Our analysis of the interviews with the healers showed cultural identity to be a primary protective factor. Culture is an ever-evolving process for indigenous people that is based on traditional values and helps to establish an identity and a sense of belonging in the world; describes the origin of a people through an oral tradition of legends, songs, and stories; and defines people's understanding of why things happen and what they can do to make changes.³²

The theme of culture as medicine that Healer 5 explicitly articulated and that the other five healers we interviewed described is one that appears repeatedly in the literature on Native healers. In a study of four Native women healers, the healers talked about indigenous healing occurring within a cultural context of Native traditions, values, and knowledge.²⁷ In a similar study with four Native men healers, the healers described culture as interwoven with healing.³³

Healer 5 described knowing one's language and culture both as a "spiritual support" and as "medicine" for the patient:

In the city, in Western medicine, the best part of their environment is pharmacy. And you're giving that kind of medicine to people who are used to getting their medicine from somewhere else. It's not all there. They need that spiritual support. ... You're talking, our culture is medicine. Our Creator doesn't make mistakes. That's sort of the basic thing I teach people who don't know their culture who want to know "Why should I learn it?" I tell them—I ask them first, "Do you believe in God? Do you believe in the Creator?" Yeah, I do. "You think He makes mistakes or She makes mistakes?" No, He doesn't make mistakes. I go, "He gave you your culture, right? Where do you think that culture came from?" It came from God, okay, so when you don't have it, that culture is medicine to you.... **it was a traditional healing. ... It reached deep into my soul and just made me feel real. ... This is from the old people. They've come back to help, to talk, to be with, to share.**

Indigenous therapeutic interventions usually involve an individual's family and community, and healing occurs within the context of the community as a whole. The healed person is able to then help the community. Thus, curing an individual is important to the community because it strengthens all members.³⁴ In his interviews with traditional healing elders in North America, Mehl-Madrona found that the elders identified the importance of the community in the healing of an individual.³⁵

South Med J. 2008 Jun;101(6):596-8. doi: 10.1097/SMJ.0b013e318172dd2c.

Lakota health and healing. Bucko RA, Iron Cloud S.

Department of Sociology and Anthropology, Creighton University, Omaha, NE, USA.
bucko@creighton.edu

Abstract

This article examines the nature of Lakota health and healing in its traditional form, how the Lakota both adapted to and resisted western medicine, and the state of contemporary healthcare, traditional and western, on the Pine Ridge Reservation and among the Lakota people of South Dakota.

Med Care. 2004 Jul;42(7):670-9.

Use of biomedical services and traditional healing options among American Indians: sociodemographic correlates, spirituality, and ethnic identity. Novins DK, Beals J, Moore LA, Spicer P, Manson SM; AI-SUPERPPF Team.

Indian medicine (TIM) also appears to be warranted.⁸ TIM is a type of traditional medicine (TM) that is based on indigenous knowledge in the Americas. TM is defined by the World Health Organization (WHO) as “includ[ing] diverse health practices, approaches, knowledge and beliefs incorporating plant, animal and/or mineral based medicines, spiritual therapies, manual techniques and exercises, applied singularly or in combination to maintain well-being, as well as to treat, diagnose or prevent illness.”⁹

According to WHO, use of TM is common throughout the world in both developed and developing nations. In developed nations, TM is estimated to be used by 30% to 70% of the population, most often involves the use of complementary and alternative medicine therapies such as acupuncture or massage, and is used in conjunction with allopathic medicine (ie, Western medical approaches or biomedicine).

In developing nations, TM is estimated to be used by 60% to 80% of the population and often serves as the primary or sole source of health care. Up to 90% of the population in some countries relies on TM for primary health care needs. Although biomedicine is largely replacing TM in many developing nations, a need for a complementary approach is warranted. WHO recognizes the importance of TM around the world in providing health care to vulnerable populations because of its accessibility, affordability, and cultural appropriateness.⁹ TIM fits within a larger global context of the use of TM in general as sole, primary, or complementary physical, mental, and spiritual health care in both developing and developed nations.

Med Care. 2000 Dec;38(12):1191-9. **Use of traditional health practices among Native Americans in a primary care setting.** Buchwald D, Beals J, Manson SM.

Source Department of Medicine, University of Washington, Seattle, USA.

Abstract

BACKGROUND:

This study was undertaken to ascertain the extent that traditional health practices are used by urban American Indian/Alaska Native (AI/AN) primary care patients, to identify related patient characteristics, to determine associations with health status and functioning, and to describe attitudes about care received.

METHODS:

This study used a brief self-report survey of 869 adult AI/AN patients randomly sampled over a 14-month period from a comprehensive urban primary care program. Current medications were determined by follow-up medical record review.

RESULTS:

Seventy percent of urban AI/AN patients in primary care often used traditional health practices; use was strongly associated with cultural affiliation. In bivariate analyses, use was significantly associated with male gender, cultural affiliation, poor functional status, alcohol abuse, and trauma and, except for musculoskeletal pain, not with specific medical problems. The multiple logistic regression model for any use versus no use was significant ($P < \text{or} = 0.001$). Being of male gender ($P < \text{or} = 0.001$), having more than a high school education ($P < \text{or} = 0.05$), visiting friends/relatives on a reservation ($P < \text{or} = 0.01$), living the Native way of life ($P < \text{or} = 0.001$) and not the white way ($P < \text{or} = 0.05$), experiencing back pain ($P < \text{or} = 0.01$), and having a physical injury inflicted by a family member ($P < \text{or} = 0.001$) were predictive of use.

CONCLUSIONS:

The results in this clinical setting suggest that health care providers should anticipate use of traditional health practices among urban AI/AN patients. Use was predicted by important demographic, clinical, and cultural characteristics.

2. Loss of Place

Anders, P. 1995 **“Priorities in Aboriginal Health”** in Robinson G. (ed) *Aboriginal Health: Social and Cultural Transitions*. Sept, 29-31. Northern Territory University Darwin. NTU Press, Darwin.

The relationship of the land to the health of a tribal community in New Zealand is emphasized by Anders. He says:

“Our identity as human beings remains tied to our land, to our cultural practices, to our systems of authority and social control, to our intellectual traditions, to our concepts of spirit and to our systems of resource ownership and exchange. Destroy this relationship and you damage—sometimes irrevocably—individual human beings and their health.”

Serra-Barragan, L. **Sense of place and the provision of environmental services.** in R3: Review of Environment, Energy, and Economics. www.feem-web.it/ess/ess10/files/.../SERRA-BARRAGAN_Luis.pdf

Luis Serra-Barragan reviews the literature in his paper "Sense of Place and the Provision of Environmental Services" and finds that "places become the providers of sense-of-self meanings through the significance of its physical attributes, i.e. individuals acquire an identity through their places."

Snyder, R. Williams, D. Peterson, G. n.d. Culture Loss and Sense of Place in Resource Valuation: Economics, Anthropology and Indigenous Cultures. Research paper, Rocky Mountain Research Station, USDA Forest Service. Online text available at wwwlfs.fed.us/rm/value/docs/culture_sense-place

Snyder et al addressed the issue of assigning value to the "losses suffered by indigenous peoples' practicing traditional subsistence lifestyles" in Alaska. They refer to culture loss as "loss of possession, loss of kinship or belonging" which are "inalienable." Local places can be "repositories of memories, relationships and daily routines, meaning and significance." ... "Natural resource valuation cannot be reduced adequately to monetary value."

3. Social Connectedness and Health

Rutledge T et al. 2004 .Social Networks. Psychosom Medicine 2004;66:882-8.

Research in non-Indian settings supports these references specific to indigenous communities. A study funded by the National Heart, Lung, and Blood Institute looked at the effects of social networks on cardiac ischemia in women. Those with intact social networks had lower mortality rates. (Rutledge, 2004)

□ **Long-term survival after acute myocardial infarction is lower in more deprived neighborhoods.** Circulation. 2005 Jun 14;111(23):3063-70. Epub 2005 Jun 6.
Tonne C, Schwartz J, Mittleman M, Melly S, Suh H, Goldberg R.

Nurs Inq. 2006 Mar;13(1):73-9. **Social capital, rural nursing and rural nursing theory.**
Lauder W, Reel S, Farmer J, Griggs H.

Abstract The notion of social capital focuses attention on social connectedness within communities and the ways that this connectedness may affect health and well-being. There are many competing definitions of social capital but most suggest that it involves trust, social networks and reciprocity within communities, not necessarily geographically defined. The usefulness of social capital and related theories that help in understanding the function of nurses in rural communities are explored in this paper.

Soc Sci Med. 2006 Jul;63(1):255-70. Epub 2006 Jan 19. **Social relations or social capital? Individual and community health effects of bonding social capital.** Poortinga W. Welsh School of Architecture, Cardiff University, Cardiff, UK. Poortingaw@cardiff.ac.uk

Abstract

Social capital has become one of the most popular topics in public health research in recent years. However, even after a decade of conceptual and empirical work on this subject, there is still considerable disagreement about whether bonding social capital is a collective resource that benefits communities or societies, or whether its health benefits are associated with people, their personal networks and support. Using data from the 2000 and 2002 Health Survey for England this study found that, in line with earlier research, personal levels of social support contribute to a better self-reported health status. The study also suggests that social capital additionally important for people's health. In both datasets the aggregate social trust variable was significantly related to self-rated health before and after controlling for differences in socio-demographics and/or individual levels of social support. The results were corroborated in the second dataset with an alternative indicator of social capital. These results show that bonding social capital collectively contributes to people's self-rated health over and above the beneficial effects of personal social networks and support.

4. Methodology

Perspect Biol Med. 2003 Summer;46(3 Suppl):S53-64.

The neighborhood context of well-being.

Sampson RJ.

Source Department of Sociology, Harvard University, 675 William James Hall, 33 Kirkland Street, Cambridge, MA 02138, USA. rsampson@wjh.harvard.edu

Health-related problems are strongly associated with the social characteristics of communities and neighborhoods. We need to treat community contexts as important units of analysis in their own right, which in turn calls for new measurement strategies as well as theoretical frameworks that do not simply treat the neighborhood as a "trait" of the individual. Recent findings from the Project on Human Development in Chicago Neighborhoods support this thesis. Two major themes merit special attention: (1) the importance of collective efficacy for understanding health disparities in the modern city; and (2) the salience of spatial dynamics that go beyond the confines of local neighborhoods. Further efforts to explain the causes of variation in collective processes associated with healthy communities may provide innovative opportunities for preventive intervention.

Annu Rev Psychol. 2003;54:427-59. Epub 2002 Jun 10.

Community contexts of human welfare. Shinn M, Toohey SM.

Psychology Department, New York University, New York, New York 10003, USA.
beth.shinn@nyu.edu smt219@nyu.edu

Abstract

This chapter identifies "context minimization error" as the tendency to ignore the impact of enduring neighborhood and community contexts on human behavior. The error has adverse consequences for understanding psychological processes and efforts at social change. The chapter describes a series of theoretical models of how neighborhoods and community settings are associated with various aspects of human welfare and reviews evidence of associations of contexts with health, psychological distress, risky behaviors, psychological attitudes, and child development. It suggests that many psychological processes may play out differently in different contexts and that contextual factors interact with sociocultural characteristics of individuals in predicting outcomes. People, in turn, can shape community contexts. A more sophisticated understanding of the effects of contexts depends on more sophisticated approaches to assessing them.

BMC Med Res Methodol. 2010 May 11;10:41. doi: 10.1186/1471-2288-10-41.

Protocol for a mixed methods study investigating the impact of investment in housing, regeneration and neighbourhood renewal on the health and wellbeing of residents: the GoWell programme.

Egan M, Kearns A, Mason P, Tannahill C, Bond L, Coyle J, Beck S, Crawford F, Hanlon P, Lawson L, McLean J, Petticrew M, Sautkina E, Thomson H, Walsh D; GoWell Team.

Urban regeneration programmes are 'natural experiments.' They are complex interventions that may impact upon social determinants of population health and wellbeing. Measuring the effects of such interventions is notoriously challenging. GoWell compares the health and wellbeing effects of different approaches to regeneration, generates theory on pathways from regeneration to health and explores the attitudes and responses of residents and other stakeholders to neighbourhood change.

Ann Epidemiol. 2005 Nov;15(10):804-10. **Does living in a religiously affiliated neighborhood lower mortality?** Jaffe DH, Eisenbach Z, Neumark YD, Manor O.

Abstract

PURPOSE:

To examine the effects of living in religiously affiliated and unaffiliated neighborhoods on mortality risks above that of individual risk factors, to determine if this effect behaves in a dose-response manner, and to examine the interaction between community wealth and religious affiliation.

METHODS:

Multilevel modeling of data from the Israel Longitudinal Mortality Study was used to assess mortality differentials based on neighborhood religious affiliation. Data were analyzed for 141,683 individuals aged 45 to 89 years and living in 882 statistical areas. Overall, 29,709 deaths were reported during the 9.5-year follow-up period.

RESULTS:

After accounting for individual demographic and socioeconomic (SES) characteristics as well as area-SES, men and women living in religiously affiliated neighborhoods had lower mortality rates than those living in unaffiliated areas (odds ratio(men) = 0.75; 95% CI, 0.67-0.84; odds ratio(women) = 0.86; 95% CI, 0.67-0.96). For men, this relationship behaved in a dose-response manner. Furthermore, the beneficial effects on mortality of living in a religiously affiliated area were consistent across age groups, middle-aged and elderly. Lastly, effect modification of area-SES on area-religion was observed for women only, whereby for women living in higher-SES areas, religiosity had no effect on mortality.

CONCLUSIONS:

The characteristics of one's immediate neighborhood, namely, community wealth and religious affiliation, have valuable health implications that should be included when assessing mortality risks.

Aust N Z J Public Health. 2009 Feb;33(1):25-33. doi: 10.1111/j.1753-6405.2009.00334.x.

Sources of stress in impoverished neighbourhoods: insights into links between neighbourhood environments and health. Warr D, Feldman P, Tacticos T, Kelaher M.

While the characteristics of populations are important determinants of health outcomes, the findings endorse the value of incorporating complementary place-based approaches for addressing mechanisms that contribute to health inequalities in local environments.

J Epidemiol Community Health, 2005 Dec;59(12):1022-8. **A brief conceptual tutorial on multilevel analysis in social epidemiology: interpreting neighbourhood differences and the effect of neighbourhood characteristics on individual health.** Merlo J, Chaix B, Yang M, Lynch J, Råstam L

Study objective: Using a conceptual rather than a mathematical approach, this article proposed a link between multilevel regression analysis (MLRA) and social epidemiological concepts. It has been previously explained that the concept of clustering of individual health status within neighbourhoods is useful for operationalising contextual phenomena in social epidemiology. It has been shown that MLRA permits investigating neighbourhood disparities in health without considering any particular neighbourhood characteristic but only information on the neighbourhood to which each person belongs. This article illustrates how to analyse cross level (neighbourhood–individual) interactions, how to investigate associations between neighbourhood characteristics and individual health, and how to use the concept of clustering when interpreting those associations and geographical differences in health

J Epidemiol Community Health, 2007 Oct;61(10):853-61. **Toward the next research into small area effects on health: a synthesis of multilevel investigations published since July 1998.** Riva M, Gauvin L, Barnett TA.

Source Department of Social and Preventive Medicine, University of Montreal, Downtown Station, Montreal, Quebec, Canada. mylene.riva@umontreal.ca

Abstract

To map out area effects on health research, this study had the following aims: (1) to inventory multilevel investigations of area effects on self rated health, cardiovascular diseases and risk factors, and mortality among adults; (2) to describe and critically discuss methodological approaches employed and results observed; and (3) to formulate selected recommendations for advancing the study of area effects on health. Overall, 86 studies were inventoried. Although several innovative methodological approaches and analytical designs were found, small areas are most often operationalised using administrative and statistical spatial units. Most studies used indicators of area socioeconomic status derived from censuses, and few provided information on the validity and reliability of measures of exposures. A consistent finding was that a significant portion of the variation in health is associated with area context independently of individual characteristics. Area effects on health, although significant in most studies, often depend on the health outcome studied, the measure of area exposure used, and the spatial scale at which associations are examined.

Conclusion:

What seems to emerge from the accumulating evidence on area effects on health is a “specific” research agenda. As argued by other investigators,^{17,133,136} we espouse the view that the adoption of a specific research approach to examine area effects on health—that is, one that would conceptualise, operationalise, and measure associations between specific health outcomes and specific area exposures—across specific spatial area units may yield more informative evidence of area effects. Adopting a specific approach shows the greatest promise for advancing theoretically based pathways, providing a basis for more precise definitions and measures of ecological exposures, and improved delimitations of area contours.

5. Methods of Measuring Health Status: Human Epidemiology

Int J Epidemiol. 1977 Jun;6(2):143-51. **Potential years of life lost between ages 1 and 70: an indicator of premature mortality for health planning.** Romeder JM, McWhinnie JR.

Abstract The indicator of Potential Years of Life Lost between ages 1 and 70 (PYLL) is proposed with the primary objective of ranking major causes of premature mortality. This proposal is based on a review of existing mortality indicators and indices and of the history of the concept of potential years of life lost. The method of calculation along with the corresponding rate and the age-adjusted rate are discussed and presented with applications to Canadian data and interpretation. Several methodological aspects are discussed, particularly the comparison with more sophisticated approaches based on life tables which do not appear to alter the ranking of major causes of premature death. This indicator fits well into the category of Social Indicators and can help health planners define priorities for the prevention of premature deaths. Epidemiological studies could also make use of this indicator of premature mortality. The simplicity of calculation and ease of comprehension should facilitate its use.

BMC Public Health. 2008; 8: 116. Published online 2008 April 10. doi: [10.1186/1471-2458-8-116](https://doi.org/10.1186/1471-2458-8-116)PMCID: PMC2386472

Calculating expected years of life lost for assessing local ethnic disparities in causes of premature death Tomás J Aragón,^{1,2,3} Daphne Y Lichtensztajn,² Brian S Katcher,² Randy Reiter,² and Mitchell H Katz^{2,3}

In spite of these limitations, using *YLLs* to rank the leading causes of premature death provides community residents, community-based organizations, policy makers, public health authorities, and researchers with local, representative, objective, and informative data to guide and inform public health priorities, and to direct and evaluate public health interventions.

This study has the following key implications: First, we provide the methodological details for calculating *YLL* to measure the burden of premature mortality for any geographic area that has death registry data. We provide both the ICD-10 causes of death classifications used for this study [Additional file [2](#)] and the computational program code for calculating age-interval-specific expected years of life lost that can incorporate discounting (used in this study) and age weighting (not used in this study) [Additional file [3](#)]. This code can be executed in a freely available, open source program for statistical computing and graphics [[19](#)]. And second, we demonstrate how these results can be used to rank the leading cause of premature death for major ethnic groups. The rankings can be used to guide, inform, and monitor public health priorities and programs for each group. These analyses can become part of routine public health surveillance for local health jurisdictions, as we have done in San Francisco.

Conclusion

Population health measures based on *YLLs* are readily calculated and useful for measuring, ranking, and monitoring the leading causes of premature death for a local geographic area, and for measuring and monitoring the impact of local efforts to reduce premature mortality in ethnic groups for which there are health disparities.

West J Med. 1998 May; 168(5): 378–399. PMID: PMC130498

Disease and injury in California with projections to the year 2007. Implications for medical education D R Ragland, P A Buffler, A L Reingold, S L Syme, and M L Buffler.

The number of potential years of life lost (PYLL), or years lost due to mortality before age 65, is a more useful indicator of avoidable or preventable mortality.

Mortality by Cause

Table 1 shows the leading causes of death in California during 1993, including the number of deaths, percentage of all deaths, the age-adjusted death rate, and the PYLL. Heart disease accounts for about 31% of all deaths, followed by cancer (23%), and stroke (7%); these three causes of death account for about 61% of all deaths in California. For comparative purposes, the PYLL reflects early mortality. Using this measure, unintentional injury, cancer, and human immunodeficiency virus (HIV) infection are the most important causes of death in the population, accounting for more years of potential life lost than heart disease and stroke and 40% of all PYLL.

TABLE 1.—Number of Deaths, Percentage of All Deaths, Age-Adjusted Mortality Rate, and Potential Years of Life Lost (PYLL) for the 11 Leading Causes of Mortality in California, 1993

Cause	ICD Code	Deaths, No.	All Deaths, %	Age-Adjusted Mortality Rate	PYLL/100,000	Rank by PYLL
Heart disease	.390–398, 402, 404–429	68,603	31	216.1	410	5
Cancer	.140–208	50,751	23	159.9	632	2
Stroke	.430–438	15,195	7	47.9	88	8
COPD	.490–496	10,625	5	33.5	51	10
Pneumonia and influenza	.480–487	10,508	5	33.1	68	9
Unintentional injury	.E800–E949	9,536	4	30.0	756	1
HIV infection	.042–044	6,287	3	19.8	491	3
Homicide	.E960–E969	4,206	2	13.3	457	4
Diabetes mellitus	.250	3,831	2	12.1	46	11
Suicide	.E950–E959	3,818	2	12.0	254	6
Chronic liver disease and cirrhosis	.571	3,681	2	11.6	114	7
Other (residual)	.Residual	33,230	15	104.7	1,292	—
All deaths		220,271	100	693.9	4,659	

COPD = chronic obstructive pulmonary disease, HIV = human immunodeficiency virus

*From the Vital Statistics Section, California Department of Health Services.¹⁵

6. American Indian Health

Public Health Rep. 2010 Jan-Feb; 125(1): 68–78. PMID: PMC2789818

Assessing Health Status, Behavioral Risks, and Health Disparities in American Indians Living on the Northern Plains of the U.S. Jeffrey E Holm, PhD,^a Nancy Vogeltanz-Holm, PhD,^b Dmitri Poltavski, PhD,^b and Leander McDonald, PhD^c

CONCLUSIONS

Health disparities in AI communities have persisted since Europeans arrived in the Americas more than 500 years ago.⁷³ Current health disparities reflect an interaction of socioeconomic circumstances, physical and cultural community environments, personal management of health behaviors and medical concerns, and health-care financing and delivery.⁴ Efforts to reduce disparities in northern plains AI communities will likely continue to fail unless complex causal factors are addressed by integrated programs and policies. Comprehensively targeting the entire community via multiple methods—media campaigns, policies and legislation, school-based programs and curricula, health service provider education, and service delivery reform—will undoubtedly yield cost and health benefits for northern plains AI populations.

Public Health Rep. 1989 May-Jun; 104(3): 279–285. PMID: PMC1579922

Years of potential life lost among a Native American population. M C Mahoney, A M Michalek, K M Cummings, J Hanley, and R L Snyder

Abstract

The determination of years of potential life lost (YPLL) can aid in monitoring changes in premature mortality among various population groups. While premature mortality has been shown to differ among blacks and whites, patterns of YPLL have not been well established among other racial groups. The Seneca Nation of Indians (SNI) is a Native American group residing primarily in western New York State (NYS). A review of SNI necrology records revealed that 55 percent (510 of 924) of the deaths between 1955 and 1984 occurred before 65 years of age. The proportion of premature deaths among males exceeded the proportion in females. SNI males demonstrated an increased risk of premature death (odds ratio = 1.43) relative to SNI females. Both the percentage of premature deaths and the number of YPLL per death were greater among SNI members compared with NYS residents. Almost one-half of all YPLL among the SNI were attributable to accidents and injuries. Heart disease, digestive diseases, and malignant neoplasms also represented important contributors to YPLL for both SNI males and females. This investigation identifies important causes of premature death among a Native American population and underscores the preventable nature of premature loss of life.

Curr Diab Rep. 2004 Jun;4(3):224-9.

Diabetes in Montana's Indians: the epidemiology of diabetes in the Indians of the Northern Plains and Canada. Gohdes D, Oser CS, Harwell TS, Moore KR, McDowall JM, Helgerson SD. Montana Department of Public Health and Human Services, Helena, MT 59620-2951

Abstract

The prevalence of diabetes is two- to threefold higher in American Indians in Montana compared with the non-Indian population. High rates of diabetes have also been described in Canadian aboriginal populations closely related to the tribes in Montana. Diabetes in pregnancy has increased among Indian mothers and high-birth-weight babies are increasingly likely to be born to Indian mothers with diabetes in pregnancy. Over 70% of the incident cases of diabetes in youth less than 20 years of age on the reservations have the clinical characteristics of type 2 diabetes. Cardiovascular disease mortality rates are high among Indians in Montana, and the prevalence of smoking in the Indian populations of Montana and the neighboring tribes in Canada is remarkably high.

Am J Prev Med. 2006 Jun;30(6):493-7.

Cancer incidence in Montana: rates for American Indians exceed those for whites.

Harwell TS, Miller SH, Lemons DL, Helgerson SD, Gohdes D. Montana Department of Public Health and Human Services, Helena, Montana 59620-2951, USA.

Abstract

Age-adjusted 6-year cancer incidence rates were calculated for American-Indian and white men and women in Montana to allow comparison of rates in 1991-1996 to those in 1997-2002. The age-adjusted rates for American-Indian men were significantly higher than those for white men for all cancer sites (755+/-74 [95% confidence interval] per 100,000 vs 544+/-9 per 100,000), lung cancer (167+/-35 per 100,000 vs 83+/-4 per 100,000), and colorectal cancer (115+/-29 per 100,000 vs 61+/-4 per 100,000) from 1997 to 2002. The adjusted rates for American-Indian women were significantly higher than those for white women for all cancer sites (526+/-47 per 100,000 vs 412+/-8 per 100,000) and lung cancer (120+/-24 per 100,000 vs 56+/-3 per 100,000) during this same time period. There was a significant increase in the age-adjusted rates for all cancer sites among white men and women but not for American-Indian men or women between 1991-1996 and 1997-2002.

There is a significant disparity in the cancer incidence rates between American Indians and whites in Montana. Regional or state-level surveillance data will be needed to describe the changing patterns of cancer incidence in many native communities in the United States.

Everett Jones S, Anderson K, Lowry R, Conner H. **Risks to health among American Indian/Alaska Native high school students in the United States.** *Prev Chronic Dis* 2011;8(4) http://www.cdc.gov/pcd/issues/2011/jul/10_0193.htm. Accessed [1/8/13]

Introduction

American Indians and Alaska Natives (AI/ANs) are people who have origins in any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition (1). In the 2000 Census, AI/ANs comprised approximately 1.5% of the US population (2). Approximately 2.5 million people identified only American Indian or Alaska Native as their race, and an additional 1.6 million people reported American Indian and at least 1 other race (2). As of 2000, 33% of the AI/AN population was younger than 18 years old, compared with only 26% of the total US population (3). In the 2005-2006 school year, 644,000 AI/AN youth attended public schools (4).

AI/ANs have higher rates of illness and death than do members of other US racial/ethnic groups (5-8). For example, the prevalence of heart disease and diabetes is higher among AI/AN adults than among adults in any other racial/ethnic group (5,9), and rates of physical inactivity (5,9), obesity (5,9,10), and cigarette smoking (5,9,10) are higher than those among white adults.

National (11-16), regional (17,18), and local (19) data show that AI/AN youth are at greater risk for many health problems than their non-AI/AN peers. Previous studies of disparities in health risk between AI/AN youth and youth of other racial/ethnic groups have been limited by a lack of adequate national data (20,21) and have either examined a limited number of risk behaviors or been based on data from limited groups of AI/AN youth.

7. Literature review of Indigenous natural resource management and health in Australia

Aust N Z J Public Health. 2005 Apr;29(2):117-22. **“Healthy Country, Healthy People? Exploring the health benefits of indigenous natural resource management”**

Burgess CP, Johnston FH, Bowman DM, Whitehead PJ.

Source

Northern Territory General Practice Education, and Flinders University, South Australia.
paul.burgess@menzies.edu.au

Abstract

OBJECTIVE:

Decades of health-related research have produced a large body of knowledge describing alarming rates of morbidity, mortality and social/cultural disruption among Indigenous Australians, but have failed to deliver sustainable interventions to arrest the deepening spiral of ill-health. This paper explores the potential of Indigenous natural resource management (NRM) activities to promote and preserve Indigenous health in remote areas of northern Australia.

METHOD:

A literature review of the health, social science and ecology peer-reviewed journals and secondary literature.

CONCLUSIONS AND IMPLICATIONS:

Effective interventions in Indigenous health will require trans-disciplinary, holistic approaches that explicitly incorporate Indigenous health beliefs and engage with the social and cultural drivers of health. Aboriginal peoples maintain a strong belief that continued association with and caring for ancestral lands is a key determinant of health. Individual engagement with 'country' provides opportunities for physical activity and improved diet as well as boosting individual autonomy and self-esteem. Internationally, such culturally congruent health promotion activities have been successful in programs targeting substance abuse and chronic diseases. NRM is fundamental to the maintenance of biodiversity of northern Australia. Increased support for Indigenous involvement in land and sea NRM programs would also deliver concrete social benefits for communities including opportunities for sustainable and culturally apt regional employment, applied education and economic development. NRM may also reinvigorate societal/cultural constructs, increasing collective esteem and social cohesion.

Comments

Docket #: FD 30186

Attn: Mr. Ken Blodgett

The Tongue River Railroad (TRR) has been a proposal for more than thirty years. No dirt has ever been turned for the project, but it still lives on, now in the hope of generating millions in revenue for the railroad and Arch Coal. With the promise of economic development comes threats to many different people, places and environmental support systems from the coalfields of Montana, through the many cities and towns on the rail routes across Montana and on to the west coast, and then across the ocean to Asia and back. The impacts of this railroad will hit all of us, slowly and increasingly, for a long time. I hope the Surface Transportation Board (STB) will recognize this and evaluate the proposal in that light. The TRR is tied to increased coal export, which means expansion of the ports, and increased coal train traffic on all the lines leading from the Powder River Basin to the west coast. Those impacts must be examined.

I moved to Boise, Idaho about a month ago, but before that was active in Livingston, Montana, a rail town, letting folks know about the west coast coal port expansion proposals that will impact Livingston. The TRR, designed to service a proposed huge new coal mine at Otter Creek and potentially to serve other coal mines as well, will contribute many of the trains that impact Livingston, and it is all part of a push to sell U.S. coal overseas. It makes no sense to me for the US to sell coal cheaply to coal companies that then turn around and sell it to China, where coal power will be used to make products that will be shipped back to the US and sold more cheaply than products made in this country. Meanwhile, the coal will be burned, CO₂ and other pollutants will be produced and we all lose. Global climate change is real and the TRR will contribute to it. It would be a step in the wrong direction. The STB must examine the impacts of the TRR in regards to increasing the generation of green house gasses.

I have heard it suggested that China wants to use relatively cheap coal imported from the US as a bridge fuel until it can develop its own renewable, cleaner sources of energy. If that is the case, it is conceivable we will build infrastructure that will no longer be needed once China completes a transition the US should be working towards as well – the transition away from very dirty coal fired generation to cleaner renewable sources of energy. In any case, the development of the TRR is inextricably tied to coal export and must be examined in that light. I also believe the STB should consider that by building the TRR, the US will be committing to more coal mining and more local and global pollution. Once the infrastructure is built, there will be an obvious push to use it.

Impacts to cities and towns all along the rail route to the west coast will occur from the TRR. Some of the increased train traffic will come through Livingston and Livingston is similar to many if not most towns along the routes to the west coast. The tracks basically bisect the town. There are residential neighborhoods and businesses on either side of the tracks. In Livingston there is only one off-grade crossing. When a train comes through it backs up traffic and causes major delays. What will be the cost to taxpayers of building more off-grade crossings? What are the implications to public health for emergency

vehicle delays, both fire and ambulance? What are the affects of increased noise on public health? What will be the cost to the taxpayer of constructing quiet zones for public well being? What will be the public and private costs of increased wild fires and derailments that are an inevitable part of rail traffic? Not only will these accidents occur, but response time will also be slowed because of the difficulty of reaching a track crossing.

Is the TRR really going to be able to condemn land for its right of way? The TRR wants to make money. Is that a public purpose? Or put another way, is it a public purpose to dig up Montana coal and ship it overseas to China where it will be used to build products that will then be shipped back to the US to out-compete our manufacturing? I hope the STB will examine that issue closely. Is the profit of the TRR Company and Arch Coal sufficient public purpose to grant the company the right of eminent domain? How will the landowner be given just compensation for the condemnation?

Please examine the costs to ranchers whose operations are crossed by the proposed railroad. The TRR will forever change the Tongue River Valley, a quiet and productive agricultural valley that is rich in cultural history as well. Tourism, wildlife and quality of life will be all be diminished. Ranching on places that are divided by the railroad will be more expensive and more fraught with risk. Fields and operations will be cut in two. The business of ranching the impacted lands will be more difficult and expensive essentially forever. Who is liable for the safety of new crossings on a ranch?

I am a member of the public and I feel strongly that it is not in my interest to see this railroad built. Whether the law currently supports my point of view I believe depends on the thoroughness of the environmental review and examination of the proposal. The STB has a huge job ahead of it.

Thank you for this opportunity to comment.

Julia Page
902 Pueblo St.
Boise, ID 83702
jpage422@gmail.com
406-223-9923

Surface Transportation Board

Incoming Correspondence Record



#EI-19898

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Sandra Palm	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186
Attention of: Mr. Ken Blodgett

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

- Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.
- Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.
- Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.
- Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.
- Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.
- Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

*In addition, the proposal should include the cumulative impacts for all rail transportation from existing and proposed coal mining operations as it relates to Montana, Wyoming, Idaho, Washington, and Oregon.

*Full disclosure of proposed and intended amounts of coal extraction in Montana and Wyoming by all companies must be contained in EIS to be able to fully assess transportation impacts, natural resource impacts, and human resource impacts in the affected states of Montana, Wyoming, Idaho, Washington and Oregon.
and Oregon.

The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Respectfully,
Sandra Palm
2623 Lynn Street Bellingham WA 98225
wentletrap8@hotmail.com

Surface Transportation Board

Incoming Correspondence Record



#EI-19899

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Jon Slenk	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Succinctly: the Tongue River Railroad appears to be an abuse of eminent domain, aimed at enriching a corporation and its customers, rather than at improving the lot of US citizens in the area. I urge all involved to deny and halt this ridiculous request.

A short list of all the things which stand to suffer should this abuse of law pass: Public necessity, convenience; Property values; Ecology, wildlife; Flooding; Noise; Taxes; Infrastructure, traffic; Global climate change.

sincerely.

Surface Transportation Board

Incoming Correspondence Record



#EI-19900

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Bill Jimmerson	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Keep in mind that Montana is the "Treasure" state. A few more trains through Bozeman (I live very close to the railroad) will not impact anything as there are adequate ways to keep from getting stuck at the track if you are an emergency vehicle. Plus, there isn't any dust as they coat the coal with a vegetable oil once it is loaded.

As far as Asia purchasing our coal, that is just fine. It adds to our economy which helps our schools and other public programs. Global warming is an issue but new technology has helped reduce the emission of greenhouse gases from coal burning plants.

Listen to the Environmental Groups but do not allow them to be the decision makers for the future of Montana.

Thank you!

Bill Jimmerson

Surface Transportation Board

Incoming Correspondence Record



#EI-19901

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Phyllis Swackhamer	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186
Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

We have entered a New Era. There are enough people now recognizing that our industrialized civilization is destroying the very ecological systems that we depend on for the survival of humanity. The time has come (is way past due) to stop exploiting the Earth for fossil fuels, and create with others a new chapter in mankind's history. Our planet is finite---therefore there can be no logic is continuing to plunder the Earth for more and more and more. Every ecological system on the planet has been stressed already and global climate change is accelerating faster than the worst predictions. Do you believe we can benefit from more droughts, more floods, more hurricanes... Mr. Blodgett it is time to support others in dropping the denial that continues to perpetuate decisions which bring us all closer to collapse.

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas

by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,

Your Name

Address

City, State, Zip

Go here to submit your comments post on the Surface Transportation Board website.

You also can mail your comments to:

Mr. Ken Blodgett

Surface Transportation Board

395 E Street, SW

Washington, D.C. 20423-0001

Surface Transportation Board

Incoming Correspondence Record



#EI-19902

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Stacy Neal	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Mr. Blodgett,

I am writing to you regarding my concerns about the proposed Tongue River Valley rail line for coal transport.

I am concerned about the effects these trains will have on air and water quality. According to BNSF's own website they estimate that each box car loses approximately 500 lbs of coal per trip. Considering that each train is estimated to contain 120-150 cars, that is an incredible amount of toxic material being lost along the route.

For these reasons I request that you include in your EIS, the effects coal dust has on air and water quality.

As I am sure you are aware coal dust is toxic because it contains elements such as mercury, lead, arsenic, lead, cadmium, selenium, nickel, vanadium and copper. "These materials are referred to as toxic metals, or toxic heavy metals because of their negative physiological effects, both chronic and acute on plants, animals and aquatic life and, for the latter, their physical density and atomic weight."

"Radioactive elements such as uranium, thorium and radium [the latter of which decays to radon gas] are also accumulated and concentrated in coal strata, therefore present in coal dust. These are toxic in their own right and toxic via the radioactivity they produce,"

Coal dust also contains significant amounts of sulphur and sulfides whose bio-toxicity increases when exposed to air or water.

The fine particulate nature of coal dust, and the toxic constituents therein are readily inhaled and lodge in the lungs as well as being ingested.

Mr. Blodgett,

On a personal note, I know we have competing interests in our country. I just wonder how it serves us as a Nation to be exporting all of our natural resources? Sending this coal to Asia to be used to manufacture goods that then are sold back to us. Is that what's best for us? I don't believe it is. If we sell off all of our resources what do we have to defend? It's a complicated time, that's for sure. I wish you the best.

Stacy Neal
Everson WA
360.966.0204

Surface Transportation Board

Incoming Correspondence Record



#EI-19903

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Christian Meny	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

The Tongue River Railroad project should be denied. This is due to the fact that, if built, it would create only adverse environmental and social impacts on the people of Montana and the Northwest. These impacts include, but not limited to: imminent domain of property, severed wildlife corridors on the Tongue River, air and water pollution due to coal dust, increased greenhouse gas emissions from idling vehicles at railroad crossings, increased anxiety level for those communities in close proximity to the railroad tracks and climate change impacts such as intensified droughts and floods across the World.

This coal being shipped along the Tongue River serves only the Corporations that extract it. Otherwise the Montanans, Idahoans and those living in Washington State bear the heavy environmental costs. For your children's sake, do not permit this railroad to be built.

Sincerely, Christian Meny

Surface Transportation Board

Incoming Correspondence Record



#EI-19904

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Laura Ackerman	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

The new coal-hauling line in the Tongue River Valley will increase train traffic, noise, diesel emissions, flooding, traffic delays, negative impacts to wildlife, negative health impacts to humans, increase sprawl, fires and spread weeds.

It will also devalue property, infringe on property rights by making farming and ranching unnecessarily expensive and splitting ranches up.

It will also significantly contribute to global warming, and does not serve the public purpose, but rather the pocketbooks of Arch Coal.

I want all the above issues studied in the EIS, not just individually but how they relate to one another.

In additions please use Dr. Tom Powers' (MSU Prof. EM. of Economics) White paper on Coal Exports and Tom Sansillo's work on fossil fuel subsidies in the U.S, as well as the Whatcom Docs (WA ST, Whatcom CT) position paper on coal-exports and health impacts in helping you to study all the impacts mentioned above.

I agree with the letter written to Mr. Ray La Hood, and Mr. Ken Blodgett from the WA Dept. of Ecology Director Ted Sturdevant dated 1-4-2013. I request those concerns in that letter be studied in the EIS.

Surface Transportation Board

Incoming Correspondence Record



#EI-19905

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Mary Jokela	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

This project is NOT for "public convenience and necessity", would serve only Arch Coal, produce elevated particulates, negatively impact property values, wildlife habitat, infrastructure, emergency and other traffic, causing grossly disturbing noise and exacerbated flooding from railroad roadbed construction. Every community along this proposed route should be included in the scoping process.

Surface Transportation Board

Incoming Correspondence Record



#EI-19906

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Mary Jokela	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Please ensure that the EIS fully addresses the adverse environmental impacts in the Spokane area. My daughter and her family live within ¼ mile of the rail system south of I-90 and I am especially concerned about the increase particulates in the air from diesel exhaust due to the dramatic proposed increase in the number of trains heading west through Spokane. As a minimum I urge only the newest diesel engines or only retrofit engines meeting the current diesel engine standards.

Surface Transportation Board

Incoming Correspondence Record



#EI-19907

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Mary Jokela	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Please ensure that the EIS fully addresses the adverse environmental impacts in the Spokane area, particularly derailments. Please address the emergency response time and capabilities of the full-time and volunteer response teams. Also, please address the effect of derailments on our surface waters, our Spokane Valley Rathdrum Prairie Aquifer (Spokane's sole source aquifer), air quality, and our human, flora and fauna environments.

Surface Transportation Board

Incoming Correspondence Record



#EI-19908

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Mary Jokela	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Please ensure that the EIS fully addresses the adverse environmental impacts in the Spokane area: the greatly increased potential danger of vehicle/pedestrian conflicts with the estimated 50 train per day increase over the current west-bound train traffic heading west through Spokane.

Surface Transportation Board

Incoming Correspondence Record



#EI-19909

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Steve Guettermann	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Surface Transportation Board,

Thank you very much for asking for comments on FD 30186, regarding transporting an estimated 1.3 billion tons of coal from and through Montana and the Northwest, for shipment to Asia.

The negative impacts of the Tongue River Railroad shipping proposal far outweigh any possible benefits. The costs to area farmers and ranchers and to the mining area's water quality and quantity alone exceed the profits of this proposal. But this proposal also is a lose-lose for all but a handful of people. It's a lose-lose for Montana's wildlife, people throughout the state, as well as people throughout the Northwest and Asia. In essence, it's not so much that just coal is burned, but the land, itself, and all that depends on it, is being ransomed for short term gain. Of course, as Montana is, for the most part, "downwind" for China, Montanans will bear a tremendous amount of the brunt from burning this coal in terms of reduced air quality, which translates into reduced water quality, impacting fish and wildlife, as well, on which many Montanans depend. What is the sense of exporting this coal and, at the same time, building a pipeline from Alberta, Canada, through part of Montana, to import tar sands oil? To at least temporarily stop this type of "development" until there is a true national energy policy in place that embodies long term common sense rather than short term extraction is paramount to both our health and economic viability.

With that said, please deny the permit to build the Tongue River Railroad line necessary to transport this coal.

Surface Transportation Board

Incoming Correspondence Record



#EI-19910

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Arthur Hathaway	Date of Letter:	01/11/2013
Group:	Coalition of Retired National Park Service Employees		

Submitter's Comments

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

1. Wildlife: The Tongue River Valley is home to large elk, deer and upland bird populations and the industrial degradation of the valley would seriously impact the ability for these animals to survive.
2. Environmental Impacts: Railroads have a history of causing fires, spreading weeds, impeding migratory animals and splitting ranch lands and farm lands which makes these businesses more expensive to operate.
3. Flooding and water pollution: The railroad bed will act as an earthen dam and contribute to existing local flooding and water pollution in and around Miles City.
4. Power of eminent domain and condemnation authority: The proposed railroad is not for public convenience or necessary. It serves only one small railroad and enriches one large coal company.
5. Climate Change: On a larger scale, when this coal is burned in China and other Asian countries, it will emit huge quantities of carbon dioxide gas which will increase global warming in the United States and around world. leading to evermore widespread destruction of property and loss of life.
6. First Nation Peoples: Exploitation of the environment as well as native people and their cultures for the sake of financial gain is immoral. It is possible to have both a thriving economy and environmental ethics without threatening the existence of life on our planet.

Sincerely yours,

Arthur C. Hathaway

Surface Transportation Board



Incoming Correspondence Record

#EI-19911

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Stacia Miller	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Dear Sir:

I am opposed to the proposed Tongue River Railroad Company's application due to the risks it poses to humans and nature.

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Climate change impacts: The Tongue River Railroad will allow coal that should stay in the ground to be excavated, transported, shipped and finally burned in Asia. Transporting the polluter overseas does not eliminate the global cost. The proposal will fuel intolerable, decades-long increases in carbon dioxide emissions.

Public health: In addition to the climate change impacts, transporting this coal to Asia puts our health at risk as smoke plumes and dangerous particulates are blown to our shores. Thus it is not only Chinese people's health put at risk by this proposal but that of thousands and thousands of American residents along the west coast.

There are additional health risks that must be analyzed, including potential respiratory problems resulting from the mining and transportation of the coal. Traffic problems could yield dangerous results for surrounding communities all along the proposed train line.

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.

Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.

I strongly encourage a thorough and objective review of all possible impacts from this proposal, particularly those to the environment & public health.

Such an assessment will surely demonstrate how this proposal is flawed and should be rejected.

Yours sincerely,
Stacia Miller

Surface Transportation Board

Incoming Correspondence Record



#EI-19913

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Rosemarie Bisiar	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186
Attention of: Mr. Ken Blodgett

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.

Finally, it is absolutely immoral for us to even be thinking of shipping coal to China or even extracting coal for that matter in light of the current climate change crisis we are experiencing.

Rosemarie Bisiar

Surface Transportation Board

Incoming Correspondence Record



#EI-19914

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Art Hayes, Jr.	Date of Letter:	01/11/2013
Group:	Tongue River Water Users' Ass'n		

Submitter's Comments

Please accept the attached supplemental comments regarding the proposed Tongue River Railroad EIS and proposed new route.

We appreciate the opportunity to comment.

Image Attachment(s)

[1-11-2013 TONGUE RIVER WATER USERS ASSn comments.pdf](#)



[1-11-2013 TONGUE RIVER WATER USERS ASSn comments.pdf](#)

***TONGUE RIVER WATER USERS' ASSOCIATION
P.O. BOX 578
BIRNEY, MONTANA 59012***

January 11, 2013

Ken Blodgett
Surface Transportation Board
395 E. Street S.W.
Washington, D.C. 20423- 0001
Attention: Environmental filing, Docket No. FD 30186.
<http://www.stb.dot.gov>

VIA ELECTRONIC FILING ONLY

Re: Docket No. FD 30186: Supplement to Tongue River Water Users' Association's December 3, 2012 Tongue River Railroad EIS scoping comments

Dear Mr. Blodgett:

On behalf of the Tongue River Water Users' Association, please accept these comments as a supplement to our December 3, 2012 scoping comments submitted for the proposed Tongue River Railroad (TRR) Environmental Impact Statement (EIS). We stand by our previous comments wherein we expressed our concurrence with the Surface Transportation Board's (Board) decision that a fresh environmental analysis for the TRR proposal must be conducted, rather than supplementing the stale analysis from the 1980s. We further stand by, and incorporate by reference, our December 3, 2012 comments regarding the impacts that must be analyzed in the new EIS for the proposed TRR.

However, in view of the TRR Supplemental Application that was submitted to the Board on about December 17, 2012, and the entirely new railroad route that is proposed therein, we request that not only a new EIS be conducted, but that an entirely new application and accompanying EIS be required. We have reviewed the Petition to Revoke the Supplemental Application that was filed on behalf of

Northern Plains Resource Council and Rocker Six Cattle Company on about January 7, 2013. We concur in that petition.

The new proposed 42-mile route from Otter Creek to Colstrip, Montana, which was disclosed for the first time in the TRR's supplemental application on December 17, 2012, is intrinsically different from the application and proposal that was before the Board under Docket No. FD 30186. We ask that the board nullify the current application proceedings, and order commencement of new proceedings to review the TRR 42-mile proposed route from Otter Creek to Colstrip, and the environmental impacts that will stem from that proposed route. While the route disclosed in the December 17, 2012 supplemental application is considerably shorter than the previously proposed route, we believe the impacts will be much greater, with far-reaching consequences.

We hereby expressly incorporate by reference Northern Plains' and Rocker Six Cattle Company's Petition to Revoke and all attachments thereto.

Thank you for this opportunity to comment.

Sincerely,

/s/ Art Hayes, Jr.

Art Hayes, Jr.

President, Tongue River Water Users' Association

c: Tongue River Water Users' Association Board of Directors

Surface Transportation Board

Incoming Correspondence Record



#EI-19915

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	David Hopkinson	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

My name is David Hopkinson. I live in Bellingham, Washington, with my wife, Judy. Both of us are retired. We love Bellingham.

Having lived in Kent, Ohio, where the railroad line bifurcated the town, we are concerned that this beautiful place will become something similar.

The town of Kent was built adjacent to the railroad for convenience. As the town grew, the fact that the tracks divided the town became destructive to quality of life, to the health of residents, and to all of the business located in the downtown area. I fully agree with every part of the comment of Debbie Milburn, of Helena, Montana, dated January 7, 2013. Her remarks hold true for everybody who lives close to the rail lines upon which coal will be shipped to the West Coast for export.

I also believe that the federal government must look systemically at the effect of all these proposals on rail communities in considering impacts to the environment, human health, traffic, economies, etc. Without a programmatic, area-wide EIS that models all possible rail expansion, regulators have no basis on which to identify indirect impacts or measure cumulative impacts which include reasonably foreseeable future activities. We should stop addressing proposed expansions in the Powder River Basin in a piecemeal fashion, and conduct an area-wide rail PEIS so that all potentially impacted populations can be given proper notice of how they may be impacted.

People like Debbie - that would be us, as well - have no way to know how to address potential impacts on their family, their property, and their environment without a systematic determination of how much coal may be extracted from the Otter Creek Mine at peak operations for shipment to terminals on the Columbia River or elsewhere on the west coast of North America. Her situation is the same as all residents of rail communities from the Powder River Basin to the West Coast. Thank you.

David Hopkinson
1446 Franklin B
Bellingham, Washington 98225
360-4417639

Surface Transportation Board 
Incoming Correspondence Record

#EI-19916

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Jasmine Zimmer-Stucky	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.
Please study the overall impact of the use of this railroad for coal export including the mining, transport, and burning.

Surface Transportation Board



Incoming Correspondence Record

#EI-19917

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Joyce George	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Docket No. FD 30186

Attention: Mr. Ken Blodgett

Dear Mr. Blodgett:

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity," and the Tongue River Railroad Company should not get the power of eminent domain and condemnation for a railroad that does not serve the public interest. This railroad would serve only one huge coal company, Arch Coal, and its customers in China and other Asian countries. None of the coal would benefit U.S. utility customers or the U.S. public interest.

Impacts on property values: The project would devalue property and infringe on property rights. The proposed railroad would cause fires, spread weeds, devalue property (especially riverfront property), make ranching and farming more difficult and expensive, split ranch land in half and separate fields from the river, and could shift the liability for accidents and livestock losses at train crossings to landowners.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it would serve would seriously degrade this excellent outdoor resource.

Flooding: The railroad bed would act as an earthen dam and could worsen the flooding problems that can occur in the area in winter with ice jams.

Noise: The loud trains would ruin the quiet enjoyment of nearby recreation areas.

Infrastructure and traffic: Taxes will go up for residents of communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially, causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic would require expensive overpasses and safety crossing, which are paid for primarily by local taxpayers.

The Surface Transportation Board should determine what safety and railroad traffic improvements would be needed if 40 million tons or more of coal are shipped from the proposed Otter Creek mine, along the proposed railroad, and through Montana and on to west coast ports -- and how much, if any of these costs would and should be borne by taxpayers, and how much by the railroad and its overseas customers.

The Tongue River Railroad would allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in carbon dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Sincerely,

Joyce Georg
40820 O Rd
Paonia, CO 81428

Surface Transportation Board

Incoming Correspondence Record



#EI-19918

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Gary Vodehnal	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

I am concerned about the increased train traffic in my community and the effects it might have on noise and air pollution, and increased wait for emergency vehicles. I also am very concerned about the impacts of burning increased amounts of coal in asia and the effect on global warming. Thank you, Gary

Surface Transportation Board

Incoming Correspondence Record

#EI-19919

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Jim Popper	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

There are better ways of getting Coal to China. Destroying our countryside is NOT one of them.

Surface Transportation Board

Incoming Correspondence Record



#EI-19920

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Patricia Holm	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board



Incoming Correspondence Record

#EI-19921

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Beth Flake	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.

Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.

Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.

Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants. The coal dust spills out of the trains into rivers and streams damaging air and water quality and adding to the mercury and arsenic pollution as well as damaging fisheries.

Please make sure the environmental impact statement includes all of these important issues.

Surface Transportation Board



Incoming Correspondence Record

#EI-19922

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Elspeth Tanguay-Koo	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

The environmental impact statement for the proposed Tongue River Railroad should analyze the following:

Public convenience and necessity: This proposed railroad is not for the "public convenience and necessity" which is what is required in order for a body to get the power of eminent domain and condemnation authority. This railroad would serve only one coal company giant, Arch Coal, which intends to sell the coal to China and other Asian countries.

Impacts on property values: The project would devalue property and infringes on property rights. This railroad will cause fires, spread weeds, devalue property (especially riverfront property), will make ranching and farming more difficult and expensive, will split ranch land in half and separate fields from the river and will shift the liability of train crossings to the landowner.

Wildlife: The Tongue River Valley is rich in wildlife habitat and home to outstanding elk and mule deer populations as well as upland birds. Industrializing this valley with a railroad and the coal strip mine it serves will seriously degrade this excellent sportsman resource.

Flooding: The railroad bed will act as an earthen dam and potentially worsen the flooding problems now experienced in Miles City in the winter with ice jams.

Noise: The loud trains will ruin the quiet enjoyment of nearby recreation areas near Miles City.

Infrastructure and traffic: Taxes will go up for residents communities along the rail lines as the coal heads to coastal ports for shipment. This railroad will increase coal train traffic substantially causing traffic delays, noise, and diesel pollution. The only way to live with this increased traffic will require expensive over passes and safety crossing which are paid for primarily by local taxpayers.

The Tongue River Railroad will allow coal that should stay in the ground to be burned in dirty Chinese plants and will fuel intolerable, decades-long increases in Carbon Dioxide emissions. The greenhouse gas costs of Otter Creek coal go far beyond just burning the coal. It must be mined, hauled by trains fueled by diesel to West Coast terminals, shipped overseas by ships fueled by diesel, and then hauled in China to the plants.

Surface Transportation Board 
Incoming Correspondence Record

#EI-19923

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Stacy Neal	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

I would like the EIS to include the monetary cost of building out this rail line. I would also like you to include the cost in terms of loss in property value, degradation of air and water quality. I would also like you to include the cost of derailment and mitigation of all crossings. Who will bear this cost and how much will it cost...it should be projected out for the life of this railroad line.

Thank you

Stacy Neal

Surface Transportation Board

Incoming Correspondence Record

#EI-19924

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Kim Feringer	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

In your EIS I request that you include the effects that mining, hauling and burning this coal will have on climate change. It's clear that our weather is increasing in it's severity and violence and this should be considered.

Thank you very much for your time.

Kim Feringer

Surface Transportation Board

Incoming Correspondence Record



#EI-19925

Correspondence Information

Docket #:	FD 30186 0	Date Received:	01/11/2013
Name of Sender:	Kendall Mackey	Date of Letter:	01/11/2013
Group:			

Submitter's Comments

I am concerned with the way in which the Surface Transportation Board has handled the scoping process under NEPA. The TRRC should not be able to submit an alternative plan after the public hearings concluded. This undermines landowners who have not been able to speak out against a new route because it was not made available to them during the appropriate time. This is just unfair and wrong. The folks in Colstrip deserve an opportunity to voice their concerns.

The EIS must include analysis on the climate change impacts of mining, transporting and burning coal from the Otter Creek area. Otter Creek is potentially the largest new mine in the lower 48 and the STB is obligated to look at all impacts this project and the TRR would have on local communities, wildlife, and climate change. I also believe that the investigation proposed by Murkowski and Wyden into the "fair market value" of coal needs to weigh in on the discussion and analysis of the Otter Creek mine.