

**SURFACE TRANSPORTATION BOARD***Washington, DC 20423**Office of Environmental Analysis*

May 1, 2013

Carrie La Seur
Baumstark Braaten
2501 Montana Avenue, Suite 4
Billings, MT 59101

Re: Docket No. FD 30186, Tongue River Railroad Company, Inc.—Rail
Construction and Operation—in Custer, Powder River and Rosebud Counties,
Mont.; Land Access Response

Dear Ms. La Seur:

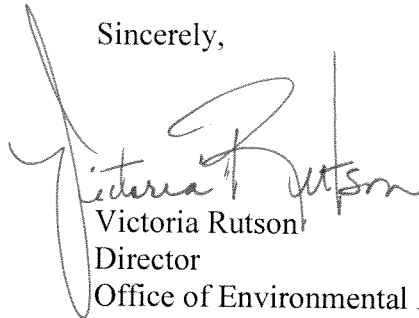
Thank you for speaking with me last Friday about the letter dated April 11, 2013, that you submitted on behalf of your clients Kurt Baumgartner, Henry and Kitte Coffin, Joe and Helen Curran, Joseph W. Hanna Trust, Highland Rim Properties Inc., Rocker Six Cattle Company, Trusler Inc., Dick and Kay Wells, and Hugh and Ann Wells (collectively, the Landowners) regarding land access for environmental surveys conducted by the Surface Transportation Board's Office of Environmental Analysis (OEA) in connection with the proposed Tongue River Railroad project. Your letter explained that the Landowners would be willing to allow OEA, along with its consultants, to enter their property to perform environmental surveys if OEA agrees to certain conditions in advance. The conditions include agreement by OEA to conduct environmental and cultural surveys over the course of at least three years to account for recent fires in the project area and to extend the survey period by one year for each year in which natural disaster and/or drought conditions exist, up to a total potential survey period of five years, should natural disaster or drought conditions occur.

On behalf of OEA, I appreciate the offer to negotiate and continue to hope that we will be able to come to mutually acceptable terms of entry. As we discussed over the phone, it would be premature for OEA to agree to a three to five year survey period at this time. As part of its environmental review of the project, OEA is committed to collecting the best environmental data possible to meet the requirements of the National Environmental Policy Act, and it is currently too early in the process to judge the adequacy of the data. Because we are in the early stages of field work, currently we do not have information that indicates that the surveys would take multiple years to be considered sufficient.

Please let me know if there is anything else we can do to negotiate acceptable land access agreements with the Landowners. Access to the Landowners' properties for survey work would allow OEA to conduct a thorough analysis of the environmental issues and provide the Board members with the best information possible when making their decision on whether to approve

or deny the project. If you have any questions or would like to discuss any aspect of OEA's land access request further, please do not hesitate to call me at 202-245-0295 or email me at rutsonv@stb.dot.gov. I appreciate the opportunity to speak with you last week and look forward to working with you in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is stylized with a large, sweeping "V" and a cursive "Rutson".

Victoria Rutson
Director
Office of Environmental Analysis