



EXECUTIVE BRANCH OF THE APSÁALOOKE NATION

P.O. BOX 159, 43 HERITAGE RD.
CROW AGENCY, MONTANA 59022
406-679-6567

Frank Whiteclay, Chairman
Lawrence DeCrane, Vice Chairman
Levi Black Eagle, Secretary
Channis D. Whiteman, Vice Secretary

306572

May 5, 2023

ENTERED
Office of Proceedings
May 5, 2023
Part of
Public Record

VIA E-FILING

Ms. Mai T. Dinh
Director, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: STB Docket No. NOR 42178, Navajo Transitional Energy Company, LLC - Ex Parte Petition for Emergency Service Order

Dear Ms. Dinh,

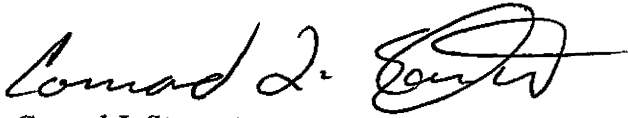
The Crow Tribe ("Crow" or "Tribe") is federally recognized Indian tribe located in south-central Montana. The Friendship Treaty of 1825 between the Tribe and the United States recognizes our rights to trade. An 1889 Act of Congress ("Act") granted the Big Horn Southern Railroad Company (now BNSF) a right-of-way through a part of our Reservation. The Act explicitly provided that the "operation of such railroad shall be conducted with due regard for the rights of the [Crow] Indians."

The Crow Tribe is aware of the service proceedings that Navajo Transitional Energy Company LLC ("NTEC") initiated at the Board regarding BNSF's transportation of coal for export through Westshore Terminals. We understand that in NOR 42178, NTEC v. BNSF – Ex Parte Application for Section 11123 Emergency Service Order, NTEC has asked the Board to order BNSF to move a set volume of traffic for NTEC beginning May 1, 2023. All of NTEC's export coal will transit through our Reservation. In fact, substantially all coal mined and exported from the Powder River Basin originates from and transits through our ancestral land to Westshore Terminals.

The Crow Tribe has been seeking rail service to export our coal resources. We have been seeking to replace the income and economic benefit lost to the Tribe due to the decline in domestic coal sales which have been reduced by approximately 5 million tons since 2014. In July 2022, we wrote to BNSF to request service to export Crow coal from Montana to Westshore Terminals. In response we were advised that BNSF was not able to commit to service for our export needs until 2Q 2023 at the earliest. However, we have been meeting with BNSF very regularly since then, including in-person in Fort Worth and at Crow Agency, to prepare for our exports to commence soon.

I write to express our deep concern that an Emergency Service Order entered by the Board could significantly impact our plans to begin exporting coal as early as 2Q 2023 as well as our ability to trade in the export coal market. As such, I urge the Board to carefully consider such competitive impacts in evaluating NTEC's request for an Emergency Service Order and to take no action that would limit our ability to export Crow coal as early as Q2 2023 and into the future.

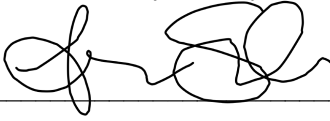
Sincerely,

A handwritten signature in black ink, appearing to read "Conrad J. Stewart". The signature is fluid and cursive, with a large, stylized initial "C" and a long, sweeping horizontal stroke at the end.

Conrad J. Stewart
Energy Director

CERTIFICATE OF SERVICE

I certify on May 5, 2023, I served copies of this letter on all parties of record in this proceeding.

A handwritten signature in black ink, appearing to read 'A. Sowden', is written over a horizontal line.

Amanda Sowden