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BEFORE THE
SURFACE TRANSPORTATION BOARD

SURFACE TRANSPORTATION BOARD FINANCE DOCKET NO. 30186

TONGUE RIVER RAILROAD COMPANY, INC. – RAIL CONSTRUCTION
AND OPERATION – IN CUSTER, POWDER RIVER
AND ROSEBUD COUNTIES, MT

NORTHERN PLAINS RESOURCE COUNCIL'S
RESPONSE TO TONGUE RIVER RAILROAD COMPANY, INC.'S
SUPPLEMENT TO PETITION TO HOLD PROCEEDING IN ABEYANCE

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Pending before the Board in this matter, now soon to enter its fourth decade, are a Petition by the Tongue River Railroad Company (TRRC) to hold its application for a permit to construct a new railroad to service the proposed Otter Creek Mine and a Petition by Northern Plains Resource Council and Rocker Six Cattle Company to dismiss TRRC's application altogether. The *only* purpose for the railroad is to haul Otter Creek coal. On March 10, 2016 Arch Coal, a 1/3 owner of TRRC and the developer of the Otter Creek mine, announced that it was suspending all further efforts to develop the Otter Creek mine "due to capital constraints, near-term weakness in coal markets and an extended and uncertain permitting outlook." Exhibit A, Arch Coal Announcement. Arch Coal is bankrupt and has abandoned its effort to open the Otter Creek mine—the only mine that would have been served by the Tongue River Railroad—as part of its bankruptcy reorganization efforts. Now that the Otter Creek mine project is dead for the foreseeable future, there is *no* basis for the Board to authorize the project or hold this proceeding in abeyance. Holding the petition in abeyance—for years or decades more—perpetuates the flimflam scheme that has threatened landowners with condemnation of their farms and ranches for 30 years. Consistent with Congress's instruction, the Board should "provide for the expeditious handling and resolution" of this matter by denying the Petition to Hold in Abeyance, and dismissing TRRC's application with prejudice. See 49 U.S.C. § 10101(15).

TRRC has had every opportunity to establish the viability of its project. The Board cannot ignore the fact that the project, which has been around in one form or another since the early 1980s, has become a dramatic waste of taxpayer's dollars. The Board has devoted enormous amounts of its own resources to no avail. The public has

devoted thousands of hours and enormous financial resources to oppose this project on the very grounds that TRRC has for years denied, namely, that there is no market for this coal. Arch Coal, and by extension TRRC, now agrees with Northern Plains' long held position that "given current conditions, Arch can no longer devote the time, capital and resources required to develop a coal mine on the Otter Creek reserve block." Exhibit A.

The public convenience and necessity demand termination of this proceeding, rather than holding it in abeyance. Northern Plains, on behalf of its numerous members who own land and farm and ranch along various proposed routes for TRRC, as well as Rocker Six Cattle Company, which would have several miles of its ranch sliced by the Colstrip Alternative under consideration, have repeatedly noted the burden that this proceeding has had on their everyday lives. Because a Certificate from the STB would give the TRRC condemnation powers under Montana state law, these landowners have been in limbo for years in terms of making basic decisions about developing water resources, creating new pastures, constructing improvements and so forth. On January 6, 2016, another group of landowners filed a set of Verified Statements explaining how the proposed TRRC places a huge strain on their property rights. See Verified Statements Filed by Colstrip Landowners dated January 6, 2016, Document 239838. These Verified Statements provide further unrebutted proof of the adverse impacts caused by holding this proceeding in abeyance as TRRC requests.

TRRC's Supplement filed March 10, 2016 urges the Board to look favorably on its request to hold the proceeding in abeyance. TRRC states that "TRRC understands that Otter Creek Coal intends to suspend, at least for now, its efforts to secure from MDEQ the Otter Creek Mine permit for various reasons, including near-term weakness in the coal

market.” TRRC’s justification is either disingenuous or delusional. The “various reasons” that Arch Coal cannot open Otter Creek include the fact that it is bankrupt and has no capital to open a half billion dollar mine. Arch’s state land leases will expire because Arch cannot meet its financial due diligence requirement under the leases. That situation is not going to change for years. TRRC’s reference to “near-term weakness” is an understatement. In addition to Arch, Patriot Coal, Walter Energy, and Alpha Natural Resources have also filed for bankruptcy. According to Bloomberg news, “over the past five years, the industry has lost 94 percent of its market value, from \$68.6 billion to \$4.02 billion.” <http://www.bloomberg.com/news/articles/2016-01-21/the-coal-miner-on-everybody-s-list-as-next-bankruptcy-victim>. The U.S. coal market is undergoing major restructuring as natural gas replaces coal domestically and the once-vaunted Asian export market has evaporated. See <http://www.sightline.org/2016/01/12/five-key-facts-about-collapsing-coal-exports/>. For TRRC to intimate that the suspension of the Otter Creek mine permit is just a bump in the road deserving of its request for abeyance does not comport with reality. Indeed, even pro-coal politicians like Montana U.S. Senator Steve Daines know that Otter Creek is dead, calling it a “devastating loss for Montana’s economy.”

As stated in Northern Plains’ previous replies in opposition to the Petition to Hold Proceeding in Abeyance, and its own Motion to Dismiss, the TRRC cannot meet the public convenience and necessity standard that Congress imposed on new rail construction. Arch’s bankruptcy and now its suspension of Otter Creek prove that point. The burden on land owners from holding this matter in abeyance (with no time limits as TRRC requests) is real. It is time for the STB to put this 30+ yearlong administrative and legal odyssey to rest.

March 14, 2016

Respectfully submitted,



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Arch Coal Suspends Permitting Efforts for Otter Creek Reserves

March 10, 2016 12:00 PM ET

Emphasizes focus on core assets

ST. LOUIS, March 10, 2016 – Arch Coal, Inc. today announced that it is suspending efforts to secure a mining permit for the Otter Creek coal reserves near Ashland in southeastern Montana, due to capital constraints, near-term weakness in coal markets and an extended and uncertain permitting outlook.

Arch secured lease rights to approximately 8,300 acres of state-owned minerals in the Otter Creek area in 2010. Since that time, Arch has engaged state regulators through the permitting process in order to obtain the approval to mine. That process has taken longer than anticipated, and further deterioration in coal markets has led to the decision to suspend the permitting effort.

The Powder River Basin remains an important coal supply region for domestic and international power generators. However, given current conditions, Arch can no longer devote the time, capital and resources required to develop a coal mine on the Otter Creek reserve block. Arch remains committed to navigating a challenging market environment, executing upon its prudent capital allocation strategy and preserving liquidity. This step will allow Arch to further intensify its focus on operating safe, responsible and low-cost mines.

U.S.-based Arch Coal, Inc. is one of the world's top coal producers for the global steel and power generation industries, reliably serving customers worldwide. Its network of large-scale, low-cost mining complexes is the most diversified in the United States, spanning every major coal basin in the nation. For more information, visit www.archcoal.com.

Forward-Looking Statements: This press release contains "forward-looking statements" – that is, statements related to future, not past, events. In this context, forward-looking statements often address our expected future business and financial performance, and often contain words such as "expects," "anticipates," "intends," "plans," "believes," "seeks," or "will." Forward-looking statements by their nature address matters that are, to different degrees, uncertain. For us, particular uncertainties arise from changes in the demand for our coal by the domestic electric generation industry; from legislation and regulations relating to the Clean Air Act and other environmental initiatives; from operational, geological, permit, labor and weather-related factors; from fluctuations in the amount of cash we generate from operations; from future integration of acquired businesses; and from numerous other matters of national, regional and global scale, including those of a political, economic, business, competitive or regulatory nature. These uncertainties may cause our actual future results to be materially different than those expressed in our forward-looking statements. We do not undertake to update our forward-looking statements, whether as a result of new information, future events or otherwise, except as may be required by law. For a description of some of the risks and uncertainties that may affect our future results, you should see the risk factors described from time to time in the reports we file with the Securities and Exchange Commission.

CERTIFICATE OF SERVICE

I certify that the foregoing has been served by U.S. mail on all parties of record this 15th day of February, 2016.

A handwritten signature in black ink, appearing to read "Ken Rumelt", written in a cursive style.

Ken Rumelt
Attorney for Northern Plains Resources Council