

result of construction workers moving into the region; increase in Taxable Value for each of the alternatives; any additional analysis conducted by BLM.

B. Develop any appropriate mitigation.

#### 11. Recreation

The SEIS will evaluate impacts to the Tongue River State Recreation Area, and develop any appropriate mitigation.

#### 12. Aesthetics

The SEIS will:

A. Evaluate the visibility of the project from the Tongue River State Recreation Area.

B. Evaluate the visibility of the project from county roads in the area.

C. Evaluate the visibility of the project and resulting impacts to aesthetics to local residents, Native Americans, hunters, recreational users, sightseers, etc.

D. Develop any appropriate mitigation.

#### 13. Environmental Justice

The SEIS will include analysis as required of potential environmental justice effects from construction and operation of the Western Alignment, particularly focused on impacts to Native Americans, including the Northern Cheyenne, and develop any appropriate mitigation. Pursuant to guidance provided by the Council on Environmental Quality, the preparation of the SEIS will include public outreach to ensure appropriate coordination with affected low-income and minority populations. The public outreach will ensure that affected communities have adequate opportunities for public participation and comment on the Draft SEIS.

### Section II

#### *Tongue River I and Tongue River II Tongue River I*

*Tongue River I* is TRRC's original application for construction and operation of 89 miles of railroad between Miles City, Montana, and two termini in Ashland, Montana, which was approved by the Board's predecessor agency in 1986.

The SEIS will:

A. Include a wetland analysis for all wetlands and waters of the U.S. including creek and river crossings because there was no requirement that one be done when the EIS in *Tongue River I* was prepared.

B. Update Biological Assessment information based on consultation with the U.S. Fish and Wildlife Service.

C. In consultation with the Montana State Historic Preservation Office, the

Advisory Council on Historic Preservation, BLM, MT DNRC, the Corps, and TRRC, finalize and implement an appropriate Programmatic Agreement which will apply to the entire line from Miles City to Decker, Montana.

D. As requested by MT DNRC, the Northern Cheyenne, and the Northern Plains Resource Council, provide a limited additional analysis of water quality to include a discussion of the designation of Otter Creek, and the upper and lower Tongue River as impaired water bodies by the state of Montana.

E. Evaluate effects on BLM property in the areas of wildlife habitat; vegetation; riparian/wetlands; livestock grazing; soil, water, and air; cultural resources; recreation; socioeconomic; access; wilderness; and, environmental justice.

F. Include an analysis of potential impacts to the sturgeon chub, and the sicklefin chub, and include mitigation to avoid construction during spawning/incubation periods.

G. Include additional analysis related to the proposed changes in the alignment that may result in potential impacts to the Miles City Fish Hatchery. The analysis will also consider changes to the hatchery, specifically the increase in the number of hatchery ponds and the initiation of a new recovery program for the pallid sturgeon.

#### *Tongue River II*

TRRC sought in *Tongue River II* to extend the rail line approved in *Tongue River I* another 41 miles from Ashland to Decker, Montana. In 1996, the Board approved *Tongue River II* via the Four Mile Creek Alternative.

The SEIS will:

A. Based on consultation with the Corps, update the existing wetland delineation and functional analysis information for all creek and river crossings to the extent necessary in connection with the Corps' permitting process.

B. Based on consultation with the U.S. Fish and Wildlife Service, update biological assessment information to the extent deemed necessary.

C. In consultation with the Montana State Historic Preservation Office, the Advisory Council on Historic Preservation, BLM, MT DNRC, the Corps, and TRRC finalize an appropriate Programmatic Agreement, which will apply to the entire line from Miles City to Decker, Montana.

D. As requested by the MT DNRC, the Northern Cheyenne, and the Northern Plains Resource Council, provide a limited analysis of water quality to

include a discussion of the designation of Hanging Woman Creek, and the upper and lower Tongue River as impaired water bodies by the state of Montana.

E. Include additional analysis, as required, of potential environmental justice effects from construction and operation of *Tongue River II* on *Tongue River III* and the Four Mile Creek Alternative, particularly focused on impacts to Native Americans, including the Northern Cheyenne.

### Section III

#### *Cumulative Effects*

Cumulative effects of the construction and operation of the entire line from Miles City to Decker, MT will be discussed in the SEIS. This cumulative impacts discussion will update the previous information contained in *Tongue River I* and *Tongue River II* to include Custer Forest timber sales projections, as well as a discussion of reasonably foreseeable developments, including BLM's recently approved management plan relating to the development of coal bed methane wells, as well as expanded coal mine development in Wyoming, new power plants construction in Wyoming and Montana, and the recently approved Dakota, Minnesota and Eastern rail line. In addition, more general information will be provided regarding future coal mine development in the Ashland, MT area and the air quality effects of the use of low sulfur coal in power production. Impacts to Native Americans will also be addressed.

By the Board, Victoria Rutson, Chief,  
Section of Environmental Analysis.

**Vernon A. Williams,**

*Secretary.*

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### DEPARTMENT OF TRANSPORTATION

#### Surface Transportation Board

[STB Finance Docket No. 34388]

#### Union Pacific Railroad Company— Trackage Rights Exemption—Omaha Public Power District

Pursuant to a trackage rights agreement dated July 25, 2003,<sup>1</sup> between Union Pacific Railroad Company (UP)

<sup>1</sup> A redacted version of the trackage rights agreement between UP and OPPD was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. A protective order was served on August 14, 2003.