APPENDIX B

Land Access

Contents

Acronyms and Abbreviations

APE	area of potential effect
Board	Surface Transportation Board
MDT	Montana Department of Transportation
OEA	Office of Environmental Analysis

Appendix B
Land Access

B.1 Introduction

This appendix describes how the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) gained access to private and public properties to conduct environmental surveys. OEA developed the protocol for contacting and coordinating with landowners using U.S. Environmental Protection Agency guidelines (2000).

OEA conducted field surveys for wetland resources, wildlife resources, fish resources, cultural resources, visual resources, and noise. OEA communicated with Montana Department of Transportation (MDT) in March and April 2013 regarding visual surveys from MDT routes and received permission for such activities. In 2013, OEA was granted access by 132 landowners, was denied access by 90 landowners, and did not receive any response from 182 landowners. As a result, OEA gained access to 280,165 acres or approximately 46 percent of the total area requested (613,807 acres). OEA did not receive access to 333,642 acres or approximately 54 percent of the total area requested.

OEA conducted an additional season of field surveys for cultural resources in 2014 because some landowners, who had not provided access in 2013, offered OEA access in 2014. OEA subsequently sent letters to all landowners contacted in 2013 using the same protocol in an effort to gain access to land for these additional cultural resources surveys. In 2014, OEA received access to lands for cultural resources surveys by 160 landowners, was denied access by 81 landowners, and did not receive any response from 163 landowners. As a result, OEA gained access to 335,569 acres or approximately 55 percent of the total area requested for purposes of cultural resources surveys. OEA did not receive access to 278,311 acres or approximately 45 percent of the total area requested. Because the additional access was granted specifically for cultural resources surveys, OEA focused on surveying properties within the cultural resources study area. OEA received access to approximately 51 percent of the archaeological and tribal resources area of potential effect (APE) and to approximately 50 percent of the built resources APE.

B.2 Landowner Identification

OEA used tax parcel information from Montana Cadastral Framework data (Montana State Library 2013) to identify landowners in the project vicinity. These data consist of tax parcels defined by the Department of Revenue and based primarily on the U.S. Department of Interior, Bureau of Land Management's Geographic Coordinate Database, which is a computed spatial representation of the Public Land Survey System. OEA identified

approximately 400 property owners to contact, including businesses, individuals, ranches, various organizations (e.g., schools, the voluntary fire department, and lands that were put into trusts), and federal, state, and local agencies.

B.3 Landowner Communication

B.3.1 Mailings

In 2013, OEA contacted each property owner via two mailings. On February 6, 2013, OEA sent the first mailing (Attachment A) to landowners within 2 miles of the centerline of each build alternative. The letter provided a brief summary of the proposed rail line and alerted landowners that a second letter would explain the types of surveys OEA proposed to conduct and would provide a land access permission form.

On February 27, 2013, OEA sent the second land access request letter, which included a land access permission form (Attachment B). This letter provided a project summary, an explanation of the types of environmental surveys that OEA was proposing to conduct, and a timeframe for each survey. The second letter also included a landowner permission form with parcel identification numbers and legal descriptions. The landowner permission form requested that landowners include any special conditions or considerations for accessing their property. For landowner convenience, the second mailing also contained a self-addressed, prestamped return envelope.

For the cultural resources field surveys in 2014, OEA sent two variations of land access request letters on March 20, 2014. OEA sent the first mailing (Attachment C) to landowners who had granted access in 2013. This letter thanked the landowners and provided information about the additional 2014 cultural resources surveys. OEA sent the second mailing (Attachment D) to landowners who had denied access for the 2013 field survey season, in the hopes that they would grant access for the 2014 field survey season. This letter included a landowner permission form with parcel identification numbers and legal descriptions. For landowner convenience, OEA included a self-addressed, pre-stamped return envelope.

B.3.2 Follow-Up Phone Calls

OEA followed up with phone calls to landowners who had not replied to the letters. Phone numbers for some landowners were not available through tax parcel data, and in some cases, the number obtained was disconnected. For these landowners, OEA obtained phone numbers or addresses by conducting a White Pages search, the online phone record data search service, or a Google® search. If OEA was unable to find a phone number for a landowner and if OEA did not receive a permission form, OEA determined that the landowner was unresponsive.

OEA attempted a minimum of three and a maximum of six phone calls before the landowner was determined to be unresponsive. To the extent possible, OEA made these phone calls over a range of days and times: weekdays, weekday evenings (after 6:00 p.m. Mountain Standard Time), and weekends. OEA also called over several weeks to ensure the greatest opportunity for reaching the landowner. OEA called public agencies and businesses during normal business hours. OEA kept a detailed phone log of all phone calls, including a summary of discussions. The template for logging discussions is included as Attachment E.

On April 4, 2014, OEA began a new series of follow-up phones calls to landowners who own property in the cultural resources study area who had not replied to the March 20, 2014 letters. OEA followed the same 2013 protocol described above for the 2014 follow-up phone calls.

B.4 Landowner Response

On June 10, 2013, OEA concluded the phone call campaign for the 2013 field survey season. At the end of this process, OEA had received access to 132 properties, was denied access to 90 properties, and was unable to reach 182 landowners. OEA made contact with 55 percent of landowners in the project area; approximately 22 percent of landowners denied access and 33 percent of landowners granted access.

On June 30, 2014, OEA concluded the phone call campaign for the 2014 field survey season. At the end of this process, OEA had received access to approximately 51 percent of the archaeological and tribal resources study area and approximately 50 percent of the built resources study area.

Numerous landowners requested that OEA comply with specific land access conditions such as avoidance of private access roads when conditions were muddy or provision of a 72-hour notification before accessing the property. If compliance with landowners' specific conditions was not possible, OEA considered access to that land denied.

B.5 Field Survey Access

OEA conducted field surveys only where access from landowners was granted. Actual study areas varied for each resource for which field surveys were conducted (water resources, biological resources, cultural resources, visual resources, noise and vibration). Each study area was determined based on the expertise of the specialists conducting the field survey in consultation with local, state, and federal agencies with an interest in that particular resource area. The following subsections describe the study areas for each resource and the corresponding property access obtained by OEA.

B.5.1 Water Resources

B.5.1.1 Wetlands

The study area for wetlands is defined as the right-of-way for each build alternative plus 400 feet of buffer on either side of the right-of-way. The wetlands study area is roughly 34,858 acres. The purpose of the buffer is to account for impacts on wetlands that are outside of the right-of-way. The wetland study area also includes the few areas where the proposed road relocations would extend.

Although the wetlands study area was 34,858 acres, OEA was only permitted access to 12,820 acres (approximately 37 percent) of the study area.

Of these 12,820 acres, OEA surveyed 9,207 acres (approximately 72 percent of the acres with permitted access). OEA did not access 3,613 acres (approximately 28 percent of the acres with permitted access) for the following reasons.

- Isolated parcels were surrounded by inaccessible parcels with no public roads for access (1,259 acres or approximately 10 percent of permitted access area).
- Parcels were inaccessible due to an active coal seam fire (645 acres or approximately 5 percent of permitted access area).
- A sufficient representative sample had been collected per the prescribed wetland assessment method that OEA developed in coordination with the U.S. Army Corps of Engineers, and there was no need to access these areas to collect additional data (1,709 acres or approximately 13 percent of permitted access area).

For these 3,613 acres, OEA relied on the preliminary mapping phase and used field results from surveyed wetlands to infer potential wetlands in the study area where ground reconnaissance surveys were not conducted.

B.5.2 Biological Resources

B.5.2.1 Wildlife Resources

OEA defined four study areas for wildlife, each specific to a different wildlife group. Each study area included the right-of-way of each build alternative plus the area within 0.5 mile, 1 mile, 2 miles, or 4 miles from the edge of the right-of-way. OEA surveyed smaller species, such as amphibians and reptiles, out to 0.5 mile from the edge of the right-of-way and medium-sized mammals and bird species out to 1 mile. OEA surveyed larger species, such as big game and raptors, out to 2 miles. OEA surveyed known sharp-tailed grouse (*Tympanuchus phasianellus*) leks (i.e., specific locations where males congregate to compete for females) out to 4 miles. OEA based all study areas on established agency protocols and modified them with the assistance of federal and state entities to provide the best information on local wildlife populations in a specific area while accounting for wildlife movement and

home ranges. The largest study area is the 4-mile study area for sharp-tailed grouse (881,732 acres); all other study areas are contained within this study area.

OEA used aerial and ground survey methods to cover the entire wildlife study area in 2013. Specifically, OEA conducted aerial surveys of the entire 4-mile study area (881,732 acres) and ground surveys of the 2-mile study area (485,150 acres) where OEA was able to obtain permission to access the area from landowners. OEA was permitted to access 206,446 acres (approximately 43 percent) of the 2-mile study area. Of these 206,446 acres, OEA surveyed 162,632 acres (approximately 79 percent of the acres with permitted access). OEA did not access 43,814 acres (approximately 21 percent of acres with permitted access) for the following reasons.

- Isolated parcels were surrounded by inaccessible parcels with no public roads for access (18,725 acres, or approximately 9 percent of the permitted access area). These areas were primarily public lands, including state lands and Bureau of Land Management-administered lands.
- Parcels were temporarily inaccessible because of poor road conditions, resulting from spring and summer flooding (2,542 acres, or approximately 1 percent of the permitted access area).
- Parcels were temporarily inaccessible because of an active coal seam fire (7 acres, or less than 0.01 percent of the permitted access area).
- A sufficient representative sample had been collected per the wildlife study plan, and OEA saw no need to access the remaining areas to collect additional data (22,547 acres, or approximately 11 percent of the permitted access area). No unique habitat features exist in these areas, and existing habitats are similar to surrounding areas that were surveyed in 2013.

At the end of the 2013 baseline survey period, OEA met with representatives from the U.S. Fish and Wildlife Service, Bureau of Land Management, and Montana Fish, Wildlife & Parks to review all data collected. No gaps in data were identified during the meeting. The parties agreed that enough data were collected to perform the wildlife analysis in this Draft Environmental Impact Statement and that no additional wildlife surveys were warranted.

B.5.2.2 Fish Resources

OEA defined the study area for fish resources as all fish-bearing rivers or streams within 2 miles of the centerline of the right-of-way (hereafter referred to as fish-bearing streams). Habitat survey locations were selected from fish-bearing streams in the 2-mile study area based on their proximity to the right-of-way and potential for exposure to impacts from the proposed rail line. Montana Fish, Wildlife & Parks determined that the river and streams within 985 feet (300 meters) of any build alternative are the most susceptible to construction and operation impacts (Schmitz pers. comm.). The intent of the habitat surveys was to collect data where segments of fish-bearing streams would intersect a build alternative (i.e.,

985 feet upstream and downstream of the crossing) or come within 985 feet of a build alternative (i.e., flowing parallel or adjacent to a build alternative). Where access to parcels was prohibited at stream intersections or where streams would be within 985 feet of a build alternative, OEA surveyed those streams at the next-closest accessible parcel to obtain a representative sample of habitat conditions.

A total of 150 public and privately owned properties abut fish-bearing streams in the study area. OEA was granted access to 50 of these properties, which are located throughout the study area and provide generally good access to the Tongue River and Moon Creek. OEA surveyed 38 sites that were distributed across 25 properties. These sites were selected because they are within 985 feet of a build alternative and representative of the rivers and streams that are likely to be affected.

OEA surveyed four streams in the study area: the Tongue River, Otter Creek, Moon Creek, and Canyon Creek. Of the 261 miles of stream length in the 2-mile study area, 26.2 miles were within 985 feet of a build alternative. OEA surveyed 12.3 miles of the total 26.2 miles. The surveyed locations provided a representative characterization of the quantity and quality of river and stream habitat available to fish in locations that could be affected by the build alternatives. OEA did not need to access all 50 accessible properties to describe fish habitat in the study area adequately.

B.5.3 Cultural Resources

The study area for cultural resources is defined as the area(s) that would be affected by the build alternatives (40 Code of Federal Regulations Part 1502.15). For cultural resources, this study area is the same as the APE defined in Section 106 of the National Historic Preservation Act. Hereafter, APE is used to reference this study area.

OEA defined two APEs for cultural resources identification: one for tribal and archaeological resources and one for built resources. For tribal and archaeological resources, the APE is the right-of-way for each build alternative plus a 200-foot-wide buffer zone on either side of the right-of-way edge. OEA determined the APE for built resources (historic buildings, structures, objects, and districts) to be the right-of-way with a maximum 1,500-foot buffer measured from the outer edges of both sides of the proposed right-of-way.

OEA conducted its initial field surveys in 2013 and then conducted an additional season of field surveys in 2014, because some landowners provided access to land for cultural resources surveys that had not been available in 2013.

The archaeological and tribal resource APE for both 2013 and 2014 was 23,431 acres. OEA was granted access to 11,995 acres (approximately 51 percent) and surveyed 8,650 acres (approximately 72 percent of the acres with permitted access) but did not access 3,345 acres (approximately 28 percent of the acres with permitted access). Isolated parcels, for example, were not surveyed because they were surrounded by inaccessible parcels with no public roads for access (1,348 acres or approximately 11 percent of permitted access area). OEA

made a reasonable and good faith effort to gain access to the proposed right-of-way to conduct cultural resources surveys in the APE for all build alternatives.

The built resource APE for 2013 and 2014 was 96,116 acres. OEA was granted access to 48,274 acres (approximately 50 percent) and surveyed 46,578 acres (approximately 96 percent of the acres with permitted access). OEA did not access 1,696 acres (approximately 4 percent of the acres with permitted access) because these acres were on isolated parcels surrounded by inaccessible parcels with no public roads for access.

B.5.4 Visual Resources

OEA defined the study area for visual resources as the project viewshed. A viewshed is the area that is visible from a particular location (e.g., an overlook) or sequence of locations (e.g., a roadway or trail) (Federal Highway Administration 1988:26–27). A viewshed includes the foreground zone (up to 0.5 mile from the viewer), the middleground zone (0.5 mile to 3 to 5 miles from the viewer), and the background zone (from 3 to 5 miles to infinity) (Litton 1968:3). Generally, the study area covers a 30-mile area surrounding the build alternatives.

OEA identified key observation points in a 2-mile radius around the build alternatives where landscape features could be visually affected. OEA focused the survey on areas where the public could access build alternatives. Public roadways and public use areas provided the greatest visual access from which most of the build alternatives would be visible. Where possible, OEA also surveyed key observation points on private lands, focusing on access from public and private paved, unpaved, and two-track roads where most public and private viewers would see the build alternatives. These roadways also provided comparative or surrogate information on similar, off-track views accessible by horse, all-terrain vehicle, or on foot. OEA also surveyed locations near and adjacent (where access was granted) to structures.

B.5.5 Noise and Vibration

OEA defined the study area for noise and vibration as the area within 2 miles of the right-of-way for each build alternative. This study area encompasses all potential noise-sensitive receptors. OEA measured ambient sound levels at 15 locations near receptors throughout the study area. OEA took measurements for 24 hours at each location between July 30, 2013 and August 4, 2013. OEA conducted ambient sound monitoring in locations where land access permission from landowners was obtained. Subsequent statistical analysis of the monitoring data shows that sampling was more than adequate to establish long term ambient noise levels in the study area. The 15 representative locations consisted of 12 residences, two schools, and one church.

B.6 References

Federal Highway Administration. 1988. *Visual Impact Assessment for Highway Projects.* (FHWA-HI-88-054.) U.S. Department of Transportation.

Litton, R. Burton, Jr. 1968. *Forest Landscape Description and Inventories – A Basis for Land Planning and Design*. U.S. Department of Agriculture Forest Service Research Paper PSW-49. Berkeley, CA: Pacific Southwest Forest and Range Experiment Station.

Montana State Library. 2013. *Montana Cadastral Online Mapping Application*. Maintained by the Montana State Library Geographic Information Services. Available: http://geoinfo.montanastatelibrary.org/data/msdi/cadastral/. Accessed: 2013.

U.S. Environmental Protection Agency. 2000. *Landowner Contact Guidelines to Obtain Site Access.* April 17. Available: http://www.epa.gov/nheerl/arm/documents/access/olsen_site_access_guide.pdf. Accessed: March 17, 2014.

B.6.1 Personal Communications

Schmitz, Brad. 2013. Montana Fish, Wildlife & Parks. April 8, 2013—telephone conversation.

Attachment A: First Land Access Request

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

February 6, 2013

Name of Landowner
Address

Dear [Include the relevant names, if possible]:

I am writing to you with an update of the environmental analysis currently underway by the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) regarding the proposed Tongue River rail project. By way of background, on October 22, 2012, OEA published a Notice of Intent to prepare an Environmental Impact Statement (EIS) for the Tongue River Railroad's (TRR) proposal to construct and operate a new rail line from two mine sites near Ashland, Montana, to an existing Burlington Northern Santa Fe (BNSF) rail line near Miles City, for the purpose of transporting coal.

OEA began the "scoping" process by publishing the Notice of Intent to prepare the EIS. Through this process, OEA asked the public to assist in identifying the environmental issues that should be analyzed in the EIS. OEA also asked the public to assist in in identifying alternatives to TRR's then-preferred alignment, the 83-mile rail line that would largely follow the Tongue River north from Ashland to Miles City. During the scoping process, which concluded on January 11, 2013, OEA held ten public meetings in Montana and received more than 2,500 oral and written comments. On December 17, 2012, the Board received a supplemental filing from TRR identifying its new preferred alignment as the Colstrip alternative, a 42-mile line from the two mine sites near Ashland, to an existing BNSF rail line at Colstrip. Finally, during scoping, some commenters also suggested that the EIS analyze a rail alignment that would run south of Ashland toward Decker, Montana.

OEA is currently developing the Final Scope of Study that will list the environmental issue areas and alternative rail routes that the EIS will address. Following issuance of the Final Scope of Study, we will be asking you for permission to access your property so that we may conduct surveys to find out what sensitive environmental resources, including cultural and historic resources, may be affected by TRR's proposal. These surveys will be conducted by OEA's environmental consultants, ICF International, and will not involve TRR.

In a forthcoming letter we will ask you for permission to access your property and explain what surveys we need to conduct on your land, how the surveys would be conducted, what would be done to protect your land from any affects during the survey work, and how long the surveys would take to complete. We will include contact information so that you can speak

with a person who can answer your questions and give you the information that you need to help make your decision.

My staff and I, as well as our consultants, realize that entering your land is a privilege. If we are fortunate enough to receive access from you, we will respect your rights as a landowner at all times. We will consider any special conditions that you wish to impose concerning access to your property. If you wish, you or your representative may accompany the field crew to observe the survey activities.

Thank you for your consideration. I deeply appreciate your time and trouble during what can be a difficult process. Your participation will allow OEA to conduct a thorough analysis of the environmental issues, which will provide the Board members with the best information possible when making their decision on whether or not to approve the project. If you have any questions before we contact you again, please do not hesitate to call Chris Moelter of ICF International, our independent third-party contractor for the EIS, at 503-525-6145.

Sincerely,

Victoria Rutson
Director
Office of Environmental Analysis

Attachment B: Second Land Access Request

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

February 27, 2013

Property Owner's Name
Street Address
Town, MT ZIP

Re: Tongue River Rail Project – Land Access Request

Dear [Property Owner Name(s)]:

As I promised in my letter to you on February 6, 2013, I am following up to provide you with more details on the environmental survey work that my office (the Surface Transportation Board's Office of Environmental Analysis or OEA) may ask your permission to conduct on your property.

To provide you with some background, OEA is currently working with our independent third-party environmental consultant, ICF International (ICF) to identify and assess potential environmental consequences of Tongue River Railroad's proposal to construct and operate a rail line to transport coal from the Ashland area of Montana. This review is required of agencies under the National Environmental Policy Act (NEPA). NEPA ensures that agencies take a hard look at the potential environmental effects of a proposal before making a decision on that proposal. As you know, we are preparing a full Environmental Impact Statement (EIS) for Tongue River Railroad's proposed rail line construction and operation.

As part of our environmental review under NEPA, we must gather environmental information and data that will allow us to compare the potential environmental effects of possible rail alignments and the "no action" alternative. Some of this information may be obtained from available federal and state maps, databases, and literature. However, the best method for OEA to gather and analyze environmental data is to conduct on-the-ground environmental surveys. This allows OEA to provide the Board with the best information possible for the Board to make its decision on whether or not to approve the project. This information should also help stakeholders, including agencies, Tribes, land owners, environmental organizations, and the members of the public, review and comment on the EIS.

As I mentioned in my February 6, 2013 letter to you, my staff and I, as well as our environmental consultants at ICF, realize that entering your land is a privilege. If we are fortunate enough to receive access from you, we would respect your rights as a landowner at all times. We would consider any special conditions that you wish to impose concerning access to

your property. If you wish, you, your representative, and anyone else you would like to include, may accompany field crews and observe survey activities.

Timing of Environmental Surveys

Environmental surveys would generally be conducted from late March to the middle of October. Typical timeframes for each set of surveys are detailed below. The timeframes provide a range of months in which different fieldwork surveys, typically lasting only a few days, would likely take place. Variables such as weather conditions, data availability, and modeling may change the timeframes. If granted access to your land, we will coordinate directly with you in the event of such a change. Some survey activities are time-sensitive and need to be conducted at specific times of the year. Other surveys are not time-sensitive and can be conducted any time of the year. For these reasons, environmental resource specialists may need access to your property on multiple occasions. If you allow access to your property for environmental surveys, OEA will work directly with you to determine the best time to conduct surveys. OEA appreciates any access you can provide even if it does not cover the full timeframe when surveys could be conducted.

Environmental Survey Details

Our survey teams consist of biologists, hydrologist, archaeologists, historians, noise specialists, and other environmental resource specialists. **Tongue River Railroad is not and will not be involved in our environmental survey work.** If you allow us to access your property, our work would consist primarily of observation with the possibility of minor ground disturbance (such as a small soil probe). Small analytical equipment (such as noise monitors roughly the size of a shoe box) may need to be set up for short periods of time. No materials would be removed from your property, and fenced properties would remain secure during and after the survey. No attempt would be made to access property during muddy conditions to minimize damage to roads and property. Disturbance to livestock would be minimized by driving slowly in and around livestock and by strictly adhering to all speed limits through properties.

A site survey on the property may include a number of activities, which are described below. We may not need to conduct all of the surveys on your property—for example, if suitable habitat for a specific species that we must survey is not present. If you grant access to your property, we will provide you with advanced notification of the surveys that we would like to conduct on your property. We would provide you with additional details regarding how specific surveys would be conducted, such as the time of day the survey would take place, the number of field staff required to conduct the survey, and the duration of the survey. And we would, of course, comply with your specific instructions and conditions of access.

Survey Details for Natural Resources (Vegetation, Habitat, Wildlife, Hydrology, Surface Water, and Wetland Resources) –

- Documentation of vegetation, habitat, topography, wetlands, streams, and wildlife. This may involve taking notes, filling out data forms, taking Global Positioning System (GPS) points, and taking pictures. Some minor trimming of riparian vegetation (vegetation

located in the bank area of a watercourse) may be needed along streams to measure the Ordinary High Water Mark or top of the stream bank. No removal of vegetation, removal of crops, or other damage would occur on the property.

- Small hand-held shovel probes may be taken to assess soil conditions as part of the wetland documentation. Typical soil probes would be approximately 12-16 inches deep and up to 12-inches wide. All soils would be placed back into the hole, tamped down, and returned to original condition. Environmental resource specialists often work in open range and pastures areas where livestock are present and understand the importance of never leaving a hole unattended and ensuring it is completely filled upon vacating the area.
- Environmental resource specialists may be floating the Tongue River and collecting data (e.g., stream width, stream depth, substrate, bank conditions, and riparian vegetation), taking GPS points, and taking pictures. To conduct this activity, existing roads/trails would be used to access the Tongue River to launch or take-out a raft.
- The approximate window for these fieldwork activities would be from end of March through the beginning of September. During this time several site visits may be made, typically spanning anywhere from one to several days.

Survey Details for Paleontological, Archeological, Cultural and Historic Properties Resources –

- Archaeologists, possibly accompanied by Native American representatives, may conduct ground surveys. This would include 2-6 archaeological surveyors walking transects spaced 5-10 meters apart, observing the ground surface for any indications of archaeological resources or cultural material including prehistoric artifacts or evidence of historical trash or other resources. This may involve note taking, photography, taking GPS points, minimal use of a hand-held trowel to probe the top soil, and measurement of surface deposits.
- Historians and architectural historians would identify buildings and structures that generally are over 50 years of age. This may involve taking notes, filling out data forms, taking GPS points, and taking photographs.
- The approximate window for these fieldwork activities would be from end of April through the middle of October. During this time several site visits may be made, typically spanning anywhere from one to several days.

Survey Details for Noise and Vibration –

- A small, battery powered noise monitor (the size of a shoebox) may be positioned at a representative location on the property to automatically collect ambient noise level data. This data would be used to characterize existing acoustic conditions. During the noise monitoring time period, a technician would briefly visit the site to observe and document ambient noise sources.
- The approximate window for these fieldwork activities would be from the beginning of April through the end of August. During this time several site visits may be made, typically spanning anywhere from one to several days.

In some instances, the preliminary environmental survey analysis (in-office analysis) may indicate that certain surveys are not necessary on your land. In addition, and depending on the preliminary environmental survey analysis, only select environmental surveys listed above may

need to be conducted on your property. It should also be noted that access to your land may only be necessary to access another landowner's parcel where environmental surveys may be needed. This would require the environmental resource specialist to drive or walk across your property without conducting any environmental surveys on your property.

Land Access Permission

If we are fortunate enough to receive your permission to conduct environmental surveys, **we will respect your rights as a landowner and will abide by any conditions you wish to include**. We welcome you, your representative, and anyone else you would like to include, to accompany field crews and to observe any survey activities.

OEA is happy to discuss any concerns you may have regarding the timing, methods, and personnel for environmental surveys. We recognize that environmental surveys may have the potential to interfere with the operations of working properties and are committed to working with individual landowners to accommodate requests to protect your property during surveys. We invite you to call if you have any concerns or questions and would be happy to work with you to address each of your concerns individually.

Please complete, sign, and return the enclosed access permission form stating whether you agree to allow OEA to access your property to perform environmental surveys or if you do not wish OEA to access your property. If you do not return the access permission form below, we will follow up with a phone call before assuming that we do not have access to your land. The enclosed access permission form also includes space to include any specific concerns, instructions, or conditions that you would like to include as part of the land access agreement. You can call or email at any time with any additional restrictions, conditions, or questions. OEA kindly requests your response as soon as possible because certain surveys need to commence in late March. Please use the self-addressed stamped envelope provided to return your access permission form. If you have any questions about this letter, the surveys being conducted, or the access permission, please contact Chris Moelter at 503-525-6145.

Thank you for your time and consideration.

Sincerely,

Victoria Rutson
Director
Office of Environmental Analysis

Enclosure: Access Permission Form

Attachment C: 2014 Letter to 2013 Owners Granting Access

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

March [ ], 2014

[Name of Landowner]
[Address]

Dear [Landowner]:

The 2013 field survey season is done and I am writing to you for two purposes. First, to thank you for granting us property access for the 2013 field survey season and second, to let you know we would like to access your property again for select cultural resources surveys beginning this May. Like last year, we will consider the special conditions that you provided in your land access permission form as well as any new special conditions you wish to impose.

The Surface Transportation Board Office of Environmental Analysis (OEA) is happy to discuss any concerns you may have regarding the timing, methods, and personnel required for the cultural resources surveys. We recognize that our surveys may have the potential to interfere with the operations of working properties and are committed to working with individual landowners to accommodate requests to protect your property during surveys. We invite you to call if you have any concerns or questions and would be happy to work with you to address each of your concerns individually. If you wish, you or your representative may accompany the field crew to observe the survey activities.

At a recent meeting with Tribes and groups interested in historic and cultural resources that may be present in the project area, we were asked to conduct additional survey work for these resources as long as tribal members are included, as they were for the 2013 cultural resources surveys. Therefore, OEA plans to return to the field to conduct additional cultural resources surveys. Survey details are as follows:

- OEA archaeologists, accompanied by Tribal representatives, would conduct ground surveys. This would include 4 archaeological and 4 tribal surveyors walking transects spaced 5 to10 meters apart, observing the ground surface for any indications of archaeological resources or cultural materials including prehistoric artifacts or evidence of historical refuse or other resources. This may involve taking notes, taking photographs, taking global positioning system (GPS) points, and measuring surface

deposits. There would be no ground disturbance and all resources would be left as they were found.

- Archaeological survey personnel may use 4 two-person all-terrain vehicles (ATVs) to access difficult to reach portions of the study area. The ATVs will only be used as means to transport archeological and tribal surveyors to the survey area; all field surveys will take place on-foot.
- Historians and architectural historians would identify buildings and structures that generally are over 50 years of age. This may involve taking notes, filling out data forms, taking GPS points, and taking photographs.
- The fieldwork activities are scheduled to begin in early May. During this time several site visits may be made, typically spanning anywhere from one to several days.

I continue to appreciate your time and trouble during what can be a difficult process. Your participation allows OEA to conduct a thorough analysis of the environmental and historic resource issues, which will in turn provide the Board members with the best information possible when making their decision on whether or not to approve the proposal. If you have any questions before we contact you again, please do not hesitate to call Chris Moelter of ICF International, our independent third-party contractor for the EIS, at 503-525-6145.

Sincerely,

Victoria Rutson
Director
Office of Environmental Analysis

Attachment D: 2014 Letter to 2013 Owners Not Granting Access

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

March [ ], 2014

[Name of Landowner]
[Address]

Dear [Landowner]:

I am writing to you concerning field surveys conducted by the Surface Transportation Board Office of Environmental Analysis (OEA) for the Environmental Impact Statement for the Tongue River Railroad. We realize that you declined us property access for the 2013 field survey season, but we are reaching out again in the hopes that we may be allowed to access your property for select cultural resources surveys beginning this May. If you decide to grant us permission to access your land, you have my assurance that we will respect your rights as a landowner and will consider any special conditions to access you wish to impose. Additionally, we are available to discuss any concerns you may have regarding the timing, methods, and personnel required for cultural resources surveys. We recognize that our surveys may have the potential to interfere with the operations of working properties and are committed to working with individual landowners to accommodate requests to protect your property during surveys. We welcome you, your representative, and anyone else you would like to include, to accompany field crews and to observe any survey activities.

At a recent meeting with Tribes and groups interested in historic and cultural resources, we were asked to conduct additional cultural resource survey work as long as tribal members are included, as they were in 2013, for each cultural resource survey. OEA would like to return to the field soon to conduct additional cultural resources surveys. Survey details are as follows:

- OEA archaeologists, accompanied by Tribal representatives, would conduct ground surveys. This would include a total of 4 archaeological and 4 tribal surveyors walking transects spaced 5 to 10 meters apart, observing the ground surface for any indications of archaeological resources or cultural material including prehistoric artifacts or evidence of historical refuse or other resources. This may involve taking notes, taking photographs, taking global positioning system (GPS) points, and measuring surface deposits. There would be no ground disturbance and all resources would be left as they were found.
- Archaeological survey personnel may use 4 two-person all-terrain vehicles (ATV) to access difficult to reach portions of the study area. The ATVs will only be used as means

to transport archeological and tribal surveyors to the survey area; all field surveys will take place on-foot.

- Historians and architectural historians would identify buildings and structures that generally are over 50 years of age. This may involve taking notes, filling out data forms, taking GPS points, and taking photographs.
- The approximate fieldwork activities would begin in early May. During this time several site visits may be made, typically spanning anywhere from one to several days.

Please complete, sign, and return the enclosed access permission form stating whether you agree to allow OEA to access your property to perform cultural resources surveys or if you do not wish to allow OEA to access your property. The enclosed access permission form also has space to include any specific concerns, instructions, or conditions that you would like to include as part of the land access agreement. Please use the self-addressed stamped envelope provided to return your access permission form. If you do not return the access permission form below, we will assume that we do not have access to your land. You can call or email at any time with any additional restrictions, conditions, or questions. OEA kindly requests your response as soon as possible because cultural resources surveys will begin this May.

My staff and I, as well as our consultants, realize that entering your land is a privilege. If we are fortunate enough to receive access from you, we will respect your rights as a landowner at all times. I deeply appreciate your time and trouble during what can be a difficult process. Your participation will allow OEA to conduct a thorough analysis of the environmental and historic resource issues, which will in turn provide the Board members with the best information possible when making their decision on whether or not to approve the proposal. If you have any questions about the surveys being conducted or the access permission, please do not hesitate to call Chris Moelter of ICF International, our independent third-party contractor for the EIS, at 503-525-6145.

Sincerely,

Victoria Rutson
Director
Office of Environmental Analysis

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

Access Permission Form

The Surface Transportation Board (Board) Office of Environmental Analysis (OEA) requests permission to access the following property(ies) to conduct cultural resources surveys for the EIS for the Tongue River Railroad.

Landowner Name:

Land Tax Property ID Number:		Legal Description:	

____ **YES**, I grant OEA and its independent third-party environmental contractor permission to access my land for the purpose of cultural resources surveys.

____ **NO**, I refuse permission to access my land for cultural resources surveys.

_____

Owner's Signature **Date**

INFORMATION FORM

Owner name (Print): _____

Owner phone number: _____Best time to call: _____

I. SPECIAL INSTRUCTIONS:

Please provide any conditions that you would like to include in the land access agreement, such as notification prior to access (24 hours, 48 hours, etc.), gate instructions, livestock precautions, etc. You may attach a separate sheet with instructions, if preferred.

II. TENANT/LESSEE/CARETAKER CONTACT INFORMATION (if applicable)

Name: _____

Address: _____

Phone number: _____Best time to call: _____

PLEASE RETURN USING THE SELF-ADDRESSED STAMPED ENVELOPE

Attachment E: Call Log Template

TONGUE RIVER RAILROAD EIS
(FD 30186)

SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS

RECORD OF COMMUNICATION BETWEEN OEA's THIRD PARTY CONSULTANTS AND [INSERT PARTY NAME HERE]

Date:

Approximate Time:

Communication Type:

Location:

Name/Organization:

Subject:

Participants:

Name	Organization	Participation Method (phone, in-person)

Notes:

Follow-up Required: