

FOR IMMEDIATE RELEASE: April 26, 2016

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Federal board dismisses permit for coal-hauling Tongue River Railroad

The Surface Transportation Board today dismissed Tongue River Railroad Company's (TRRC) application to build the proposed coal-hauling Tongue River Railroad. The railroad would have used the power of federal eminent domain to condemn family farm and ranch land in southeastern Montana in order to haul coal from Arch Coal's proposed Otter Creek mine to Asian export markets.

"For 30 years we have said that the Tongue River Railroad is a project in search of a purpose," said Clint McRae, a Northern Plains member whose Rosebud Creek ranch would have been cut in two by the proposed rail line. "It has always been based on speculation, not need. The Surface Transportation Board has made the right decision to dismiss this project."

McRae also points out that, in its decision, "the Board has given the railroad ample opportunity to prove any justification for the use of federal eminent domain to condemn private land."

The Surface Transportation Board's ruling comes in response to filings from both Northern Plains and TRRC, which is jointly owned by Arch Coal, Burlington Northern Santa Fe Railway, and candy billionaire Forrest Mars Jr. Last November, TRRC asked the Board to put a hold on their application indefinitely.

Northern Plains requested in December that the Board dismiss TRRC's application, pointing out that TRRC's real reason for requesting a stay is to put off a decision in a weak coal market. Since that time, Arch has voluntarily entered Chapter 11 bankruptcy, later declared that it is no longer pursuing a permit for the Otter Creek Mine, and revealed that it lost the lease to half the Otter Creek coal months ago.

"It's a historic day when a federal agency recognizes there's no foreseeable future for coal," said Ken Rumelt, an attorney at the Environmental and Natural Resources Law Clinic at the Vermont Law School, who represented Northern Plains before the Board.

"It's a great day for southeastern Montana landowners," said Mark Fix, who ranches on the Tongue River, and whose operation was threatened by several variations of the railroad. "The threat of eminent domain has been hanging over my head ever since I bought my ranch. It's a huge relief to know I can get back to raising cattle and wheat without the threat of condemnation hanging over my head."

The Surface Transportation Board decision can be found here:

<http://www.stb.dot.gov/Decisions/readingroom.nsf/WEBUNID/03CBCE78A2C47C8485257FA00053D50A?OpenDocument>