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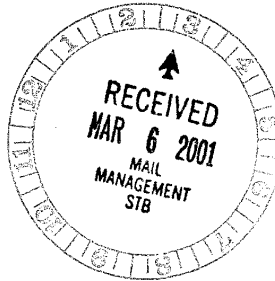
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March 6, 2001

Office of the Secretary
Case Control Unit
STB Finance Docket No. 33407
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Attention: Victoria Rutson

Re: Finance Docket No. 33407 - Dakota, Minnesota, & Eastern
Railroad Corporation
POWDER RIVER BASIN EXPANSION PROJECT

Dear Ms. Rutson:

Enclosed for filing are an original and ten (10) copies of the Comments for the Environmental Impact Statement of the City of Skyline, Minnesota.

If you have any questions, please call give me a call at 202-408-6933.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'R.H. Streeter'.

Richard H. Streeter

Enclosures

cc: U.S. Army Corps. Of Engineers, St. Paul District
Ken White, Mayor of City of Skyline
Willard O. Vetter, Former Mayor of City of Skyline

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Indianapolis

Fort Wayne

South Bend

Elkhart

Chicago

Washington, D.C.

ORIGINAL

**Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423**

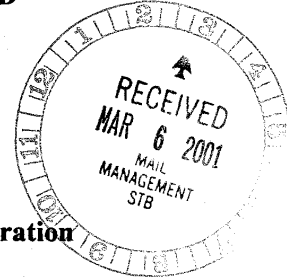
FINANCE DOCKET No. 33407

Dakota, Minnesota & Eastern Railroad Corporation

**Construction Into the Powder River Basin
POWDER RIVER BASIN EXPANSION PROJECT**

**COMMENTS OF THE
CITY OF SKYLINE, MINNESOTA**

**With Respect to the
DRAFT ENVIRONMENTAL IMPACT STATEMENT**



**Richard H. Streeter
BARNES & THORNBURG
1401 Eye Street, N.W., Suite 500
Washington, D.C. 20005
(202) 408-6933**

Dated: March 6, 2001

Comes now the City of Skyline, Minnesota, by and through the undersigned counsel, and files its Comments in response to the Draft Environmental Impact Statement ("DEIS") prepared by the Surface Transportation Board's Section of Environmental Analysis ("SEA"). The City of Skyline, which is situated atop a 250-foot bluff overlooking the scenic Blue Earth River, is located to the south and west of the City of Mankato, Minnesota. Although the City of Skyline would be adversely impacted if the Surface Transportation Board ("Board") were to somehow approve what has been designated as "Alternative M-2," the City of Skyline is never mentioned at any time in the various volumes which comprise the DEIS. Moreover, the narrative at Chapter 2 of the DEIS appears to suggest that there is no way that the City of Skyline would be impacted. As described at pages 2-55 and 2-56 of the DEIS, it would appear that the Southern Route, or Alternative M-2, takes the following course:

As shown in Figure 2-17, "Mankato Alternative Routes", the southern Mankato route, Alternative M-2, would extend from DM&E's existing rail line approximately 1.25 miles east of Eagle Lake on the east side of Sect. 17, T108N, R25W in Blue Earth County. It would curve to the south and cross U.S. Highway 14/State Route 60. Alternative M-2 would extend across the northwest corner of Sec. 20 and parallel a pipeline right-of-way southwest, passing approximately 200 feet north of the Le Sueur River. It would continue southwest, crossing State Route 22 in the northern portion of Sec. 33, T108N, R26W. Alternative M-2 would turn west through the middle of Sections 32 and 31. It would curve south in Sec. 36, T108N, R27W and parallel the south side the U.S. Highway 14 south bypass of Mankato. Alternative M-2 would parallel the highway north along State Route 66. Alternative M-2 would cross U.S. Highway 14 Bypass and the Blue Earth River, passing over the highway bridge at the river crossing. It would extend north, along the west slope of the river, approximately half-way up the slope, above several homes and County Road 33 at the base of the slope. This alternative would continue north across a draw west of the river and through a small residential area in western LeHillier. It would follow the east slope of the draw, turning slightly westward. Alternative M-2 would pass under the frontage road and State Route 60, and the existing UP rail line north of State Route 60. Alternative M-2 would join with the

existing DM&E rail line approximately 0.6 mile west of where the existing DM&E and UP rail lines merge.

The foregoing description bears no relationship to the dotted line on Figure 2-17, which allegedly depicts Alternative M-2. Simply put, the route reflected on Figure 2-17 does not track the narrative that appears at 2-55 and 2-56.

Attention is invited to the map, entitled "Estimated Plan & Profile with Cross Sections Of DM&E Railroad, Mankato South Route," which was prepared by the Blue Earth County Highway Department and is reproduced in Volume 2 of the "Blue Earth County's Comments on Draft EIS." As reflected by that map, which plainly and clearly reflects the relevant highways, Alternative M-2 would extend in a southwesterly direction from a point east of Eagle Lake until it encounters the northern side of CSAH 90. It would then run parallel to CSAH 90 until it reaches a point *east* of the Blue Earth River. The line would then turn to the north, *along the east side of the Blue Earth River*, where it would encounter the 250 foot tall bluff upon which the City of Skyline is situated. The line would cross the Blue Earth River north of the Skyline bluff in order to reconnect with the existing line of the DM&E.

The disparity between what the SEA has described and what the map of the Blue Earth County Highway depicts cannot be explained. Given the discrepancy between the narrative at pages 2-55 and 2-56 of the DEIS and the highway system that is laid out by the Blue Earth County Highway Department, it is readily apparent that the environmental assessment did *not* include a site visit as suggested at ES-2.

Moreover, contrary to the self-serving comments at ES-14 and ES-72 that SEA consulted with "affected communities," no one connected with SEA ever met with any official of the City of

Skyline. That "oversight" can perhaps be explained by the SEA's erroneous assumption that Alternative M-2 extended north, along the west slope of the Blue Earth River. However, insofar as the proposed line were to extend along the east side of the Blue Earth River, that assumption proves that the environmental assessment is fatally flawed. Even if the SEA had properly considered the impact of placing the line on the west side of the Blue Earth River, it obviously failed to consider the impact of placing the line on the east side of the Blue Earth River where it would destabilize the bluff upon which the City of Skyline is located. Given that obvious deficiency, coupled with the obvious failure to properly describe the route that would be followed *if* the DM&E were to consider building the southern route, even if authorized, it is submitted that the SEA's finding that the M-2 Alternative is the environmentally preferred action alternative is unsubstantiated by competent evidence or analysis. At a minimum, the DEIS with regard to the Mankato alternatives must be redone.

In redoing the DEIS, the SEA should precisely define the route that Alternative M-2 is to follow. Although the need for precision may not be fully appreciated, it must be stressed that the proposed location of the line is of paramount importance to the City of Skyline and the 350 individuals who live there. In the first place, construction of the line on the east side of the Blue Earth River will result in the destruction of as many as eight houses which are located along the top of the bluff overlooking the river valley. This impact was not taken into consideration in issuing the DEIS.

Based on the incorrect assumption that the line would be constructed on the west side of the Blue Earth River, the DEIS concludes (6-36) that "[d]ue to its location, Alternative M-2 would have far fewer impacts to human resources (such as noise and safety) than Alternative M-3, except that Alternative M-2 would require removal or relocation of two residences." Being that it is likely that construction on the east side of the Blue Earth River would initially impact as many as eight

residences in the City of Skyline, the SEA has plainly underestimated the "impact to human resources."¹

Equally, if not more important, there is evidence of an existing, dormant landslide feature at the bluff which is likely to have a substantial impact on the residents and the railroad, both during construction and afterwards. In order to provide the SEA with an understanding of the problems that are likely to result if a railroad line were to be constructed at some point along the face of the bluff, the City of Skyline has retained James C. Rudd, who is a geotechnical engineer with 24 years of experience in geotechnical evaluation and design, to highlight some of the more significant potential problems. Mr. Rudd specializes in slope stability analyses, landslide repair design, earth dam design, soft ground engineering, retaining wall design, and ground water evaluations. Based on his experience in these areas of critical importance to the stability of the Skyline bluff, Mr. Rudd has offered the following Opinions and Conclusions, which contained in Attachment B:

¹ Even here there appears to be a great deal of confusion. Contrary to the conclusion that appears at 6-36, the following, inconsistent statement is made at page 3.3-6:

Construction of Alternative M-2 could potentially require the acquisition and removal of eight houses to accommodate the proposed rail line right-of-way.

Moreover, in a letter dated February 21, 2001, addressed to Christopher and Ruth A. Faye, the Board's Project Manager claims that two of the eight houses cited at page 3.3-6 "would be in the Skyline area." See Attachment A. In order to pinpoint their location, a U.S.G.S. topographic map was enclosed which identifies the two houses. However, one of the houses, which is located near the Blue Earth River to the north of the base of the Skyline Bluff, is not within the City of Skyline. While the other house is one that would be destroyed if the line were to be constructed, the fact of the matter is that the February 21 letter indicates that an additional seven houses should be added to the list of homes that may be destroyed if Alternative M-2 were to be approved.

- Construction of a railroad line between the Blue Earth River and the Skyline bluff will require a significant excavation at the toe of the bluff.
- If there is indeed a dormant landslide feature at the bluff (as indicated by the attached aerial photographs), then the excavation at the toe of the slope would likely activate the landslide. The measures necessary to stabilize a landslide could be severe, resulting in the need to remove additional houses located at the top of the bluff.
- The stability of the slope will also be adversely affected by the loss of a large number of trees. Because the deep root system of trees takes many years to develop, erosion and slumping of the slope could occur until adequate deep rooted vegetation is re-established.
- There is the likelihood of ground water springs emerging on the cut slope face which also could be a source of erosion and slumping problems.
- Because of the risk factors for slope failure and erosion (*i.e.*: existing landslide feature, removal of trees, emerging springs), a comprehensive geotechnical investigation would be necessary in order to determine what measures would be required to prevent a landslide problem both during and after construction of the railroad.
- It is probable that either a very flat slope would be needed for stability (3 to 1 or flatter), or that an expensive structural stabilization system would be needed.

For a graphic illustration of the impact that construction of the railroad would have on the face of the Skyline bluff, attention is invited to the submission prepared by Blue Earth County, Minnesota with assistance from SRF Consulting Group, Inc. As reflected by Figure B-2, which was prepared based on the questionable assumption that only a thirty foot cut would need to be made into the Skyline bluff, construction of the railroad on the east side of the Blue Earth River will have an immediate, harmful impact on the bluff and several houses located at the top thereof. It should be noted that the artist's depiction is based on a 2 to 1 cut. As Mr. Rudd has preliminarily indicated,

based on his experience in the area, the actual cuts could be at least 3 to 1. In this regard, attention is also invited to Appendix D, Plan, Profile and Cross Sections Prepared by Blue Earth County to accompany its Comments on the Draft EIS. As reflected by the cross sections depicting the cuts and fills that are to be made beginning at 88 + 00 through 108 + 00, a 3.00:1 ratio is assumed, thereby corroborating Mr. Rudd's preliminary analysis. As is explained at page 5 of the Blue Earth County Comments:

Little field reconnaissance or engineering was involved in developing Alternative M-2. In an effort to more clearly understand the feasibility and impacts of Alternative M-2, Blue Earth County took the initiative to prepare a set of plans, profiles and cross-sections using standard railroad design parameters in consultation with Ray Gigear, DM&E. A complete plan set is provided in Volume 2, Appendix D of Blue Earth County's comments on the DEIS. These design materials were provided to DM&E for review and were found to be a reasonable concept plan. Mr. Gigear's only comment on the plans that 2:1 side slopes may be used to reduce large cut and fill sections, rather than the 3:1 side slopes shown in the DEIS. However, geotechnical boring analyses prepared for Blue Earth County, as well as their construction experience in this area, show that 3:1 side slopes are necessary for the stability in these soil and moisture conditions.

When the flattening is accomplished consistent with that ratio, several additional houses will be lost.

Attention is further invited to a letter, dated March 1, 2001, addressed to Linda J. Morgan from Kelly Coleman, a former resident of the City of Skyline who is an Environmental Engineer. See Attachment C. In his letter, Mr. Coleman also corroborates Mr. Rudd's preliminary analysis with regard to the geology and hydrology, as well as the soil stability, or lack thereof. As Mr. Coleman has pointed out:

- Much of the soil comprising this bluff is clay loam till. In addition, the high water table in the area has produced a phenomenon known as "perched aquifers" that come to the surface as free-flowing springs along the sides of Skyline Hill.

- These perched aquifers are a part of the local Surficial Aquifer System that communicates with the deeper Cambrian-Ordovician Aquifer System. Skyline's city water is supplied by wells that penetrate this deeper aquifer. The cut and fill operations envisioned by DM&E for the western slopes of Skyline may affect this complicated aquifer system and have an impact on the city's water supply.
- Furthermore, Mankato Township's independent expert review of this route suggests that the M-2 rail bed will cut into the Jordan Sandstone at a number of locations. Since the Jordan Sandstone is the geologic matrix for the area's deep aquifers, surface spills at these locations would provide the potential for groundwater contamination. Such hydrology issues need to be carefully evaluated in a revised EIS.

As Mr. Coleman has also observed:

- The clay loam soil of Skyline Hill is unstable, prone to slides, and lacks the geologic strength necessary to support a railroad. The potential instability of an altered Skyline Hill could be exacerbated by a half-century of septic tank use that has saturated the hill's upper soil layers. Furthermore, the extensive cut and fill operations proposed for Skyline's western slopes, combined with the constant vibration from the resulting rail line, may precipitate soil subsidence and landslides putting additional homes at risk.

Given the fact that the SEA's report focused on the west side of the river, it is obvious that it has not focused on any of the environmental concerns voiced by Messrs. Rudd and Coleman, as well as those of Blue Earth County with respect to the impact of cutting into the Skyline Bluff in order to lay track.

Nor has consideration been given to the impact of the fills that would intrude on the Blue Earth River and the Indian Creek Flood Control Diversion Channel. At page 6-37 of the DEIS, it is stated that:

Following consultation with the U.S. Army Corps of Engineers (COE), SEA determined that significant impacts to the flood control projects in Lehillier and Mankato could result from construction and operation of Alternative M-3.

No mention is made of any consultations concerning the impact of Alternative M-2. That is not surprising in that Alternative M-2, as described in the narrative that appears at 2-55 and 2-56, would not likely have any adverse impact on the flood control projects which were allegedly discussed with COE. That is not the case with respect to Alternative M-2. Attention is once again invited to the Blue Earth County Comments on Draft EIS, dated February 2001. As Figure B-2 of the Planview of Skyline Area also shows, Alternative M-2 would intrude with an 80-foot fill over a COE flood control structure, namely the Indian Creek Flood Control Diversion Channel. Obviously, the environmental impact on this structure will have to be carefully considered as it would have an impact on the City of Mankato, which is its owner even though it is physically located outside the City limits of Mankato.²

At a minimum, questions must be resolved concerning how the flood control channel would be maintained at its present location and elevation. It may be that a tunnel (e.g., a concrete box culvert) would have to be built underneath the rail bed in order to allow drainage to continue to the river. Because water is likely to ebb and flow through such a tunnel, it may be that these water movements over time could potentially undermine the stability of the rail bed above it. That in itself could pose a significant environmental hazard if a derailment were to occur involving the transportation of hazardous materials. This is a matter that has not been, but should be, carefully considered and evaluated.

² It is noted that the City of Mankato has raised concerns about the impact of this encroachment. See Comments filed by the City of Mankato, dated February 2, 2001 at p. 7. As those comments reflect, this is a matter that the Corps of Engineers will have to review. As of this date, no review of this aspect of the proposal has occurred.

In addition, to date there has been no need to consider the impact of the fill that would be dumped into the Blue Earth River in order to construct the line. It appears that the fill will result in the rerouting of the river at the point where the Indian Creek Flood Control Diversion Channel as the width of the river would be reduced by perhaps fifty percent. Although the potential impact will have to be carefully studied, it may be suggested that because the fill occurs at a bend in the river, a narrower channel would cause water to run faster, thereby increasing the potential for erosion of the new bank which would have been created with fill material. Once again, over time the integrity of the rail bed could be compromised, thus enhancing the potential for track misalignments and subsequent derailments.

Nor has there been any effort made to quantify the impact of the additional noise, vibrations and air pollution on the residents of the City of Skyline. As noted in Mr. Coleman's letter, on December 20, 2000, the U.S. Environmental Protection Agency ("EPA") issued its final rule on Mobile Source Air Toxics. In that ruling, EPA found that diesel exhaust—comprised of diesel particulate matter and diesel exhaust organic gases—is a likely human carcinogen. Furthermore, as Mr. Coleman has also noted, "EPA concluded that exposure of the general public to typical environmental levels of diesel exhaust will likely pose a human lung cancer hazard."

Until now, the threat of diesel exhaust was insignificant insofar as the Skyline's residents are concerned. By locating the railroad a short distance below the crest of the Skyline Bluff, that situation would undoubtedly change as the entire City would be located within the zone of significant impact. Trains moving up the relatively steep grade that is being proposed will produce significant amounts of exhaust which, given the prevailing wind from west to east will be carried over the top of the bluff and deposited on the residents. When combined with the fugitive coal dust, a

considerable hazard to human health may be created. Because this concern did not surface when the rail line was originally proposed on the west side of the Blue Earth River, no attempt was made to address the impact on the Skyline residents. That impact would have to be addressed in a revised EIS if M-2 remains a viable alternative.

In fairness to SEA, it must be noted that the DM&E has also been derelict with regard to the environmental impact of constructing the line through the Skyline Bluff. In this respect, note is taken of a meeting of Local Officials and the DM&E Railroad held on January 19, 2001, which was a little more than a month ago. As reflected by the minutes of that meeting,³ Mr. McCoy, who appeared on behalf of Blue Earth County, observed that the County had done more work on the engineering aspect of the proposal than the DM&E has. As reported in the minutes, Mr. Gigear, DM&E's chief engineer, "agreed with Mr. McCoy and Mr. Schieffer admitted that they have not done a lot of work on that aspect of the project, primarily because they don't want to build the southern route."⁴ Later, Messrs Schieffer and Gigear confirmed to Mr. Willard O. Vetter, the former Mayor of the City of Skyline, and Ken White, the current Mayor, that approximately 2% of the engineering had been done with respect to the southern alternative.⁵ As reflected by Mr. White's contemporaneous notes of that meeting, "Mr. Gigear essentially acknowledged that the southern bypass engineering consisted of looking at the topographical maps and drawing a rough line."⁶

³ For the text of the Minutes of the January 19, 2001 meeting, see Reference 12 to the submission dated February 2, 2001, that was filed by the City of Mankato, Minnesota.

⁴ *Id.* at 3.

⁵ *Affidavit* Williard O. Vetter (Attachment D)

⁶ Memo to File dated 1/19/01 from Ken White (Attachment E).

Plainly, if DM&E has not done the engineering, it is not in a position to assess the environmental impact of the line that was casually drawn on a map in order to concoct an alternative route for purposes of its application. Without question, given the questions that have been raised by Mr. Rudd, Mr. Coleman and Blue Earth County officials concerning the instability of the Skyline Bluff, it would appear that DM&E's professed intention to use a 2.0: 1 grade for the slopes must be subjected to close scrutiny. Obviously, if a 3.0: 1 or higher ratio is required, the cost of cutting and filling will be substantially higher than the "guesstimates" that are of record.

Furthermore, those comments serve to reinforce the substance of Mr. Schieffer's observations in his letter, dated June 9, 1999, to Elaine K. Kaiser, Chief, Section of Environmental Analysis.⁷ As he advised SEA:

the existing UP corridor appears superior from an environmental impact standpoint, and is currently the alignment upon which the planning is being based. Accordingly, Applicant proposes that (a) M3 be redesignated as the "Proposed Action", M2 be redesignated as the Southern Alternative, and (c) M4 be eliminated from further consideration because it is not a reasonable alternative.⁸

Mr. Schieffer also states at page 16 of that letter that the "preferred route set forth in the application proposed an alignment which ran south of the city [of Mankato](M2)." He also states that the "southern route alternative (M2) appears to remain a reasonable alternative from an engineering standpoint." However, it is plainly evident, based on the concessions made during the course of the January 19, 2001 meeting, that no engineering studies have ever been done that would legitimately

⁷ The letter is found at "http://www.dmerail.com/6_9_99filing/kaiserletter.htm."

⁸ *Id.* at 2.

propel the Southern Alternative into the role of the "environmentally preferable alternative."⁹ As a result, the SEA's conclusions with respect to Alternative M-2 must be rejected on the grounds that they are insupportable.

Rather than prolong this document, the City of Skyline hereby adopts and incorporates by reference the Comments on the DEIS filed by Blue Earth County and the Mankato Township, Mankato, Minnesota. As the SEA will discover, these bodies unanimously agree that Alternative M-2 raises significant, adverse environmental impacts with respect to the Skyline Bluff, the Blue Earth River, the City of Skyline, the Township of Mankato and the entire rural area through which the line has been drawn. While Alternative M-3 has its own share of environmental problems, there is no avoiding the simple fact that both UP and DM&E already traverse the City of Mankato. Moreover, as Mr. Schieffer notified SEA at page 16 of his June 9, 1999 letter:

Based on more detailed analysis and engineering conducted since the original application was [prepared,] we have concluded that restoring a former double track mainline where one previously existed could actually improve existing conditions – which are problematic.

As a result, there is no valid reason to shift adverse environmental impacts from the industrial areas within the City of Mankato that are dependent on rail service to rural areas that will not be well served by having to endure the environmental damage associated with the construction and operation of a new line of railroad. Therefore, the Board is urged to take Mr. Schieffer up on his request that the alignment through the City of Mankato be treated as a proposed action in lieu of M-2.

Finally, because Alternative M-2 is no longer wanted by either the DM&E or the citizens who will be adversely impacted, there is no reason for the Board to give any serious consideration to that

⁹ DEIS, Conclusions, at 6-37.

alternative. Simply stated, it was never a viable alternative in the past. Nor will it be a viable alternative in the future. As Mr. Schieffer has been heard to say, he has no intention to use the southern bypass and the only way he would build that route is "if someone put a gun to my head."

Conclusion

For all the above-stated reasons, and as summarized below, the City of Skyline is inalterably opposed to Alternative M2. First, the City of Skyline was denied due process as a result of being precluded from participation at any earlier stage of the inquiry due to the lack of any notice that Alternative M-2 would be located at the base of the Skyline Bluff. Second, because of the belated switch in the proposed location of the track from the west side to the east side of the Blue Earth River (for which the City received no prior notice), the state of the record is too confusing and deficient for the City of Skyline to offer any suggestions with respect to mitigation of the multiple adverse environmental impacts that accompany that switch. Third, the City of Skyline hereby states its opposition to the mitigation proposal that several miles of trestle be constructed between the Skyline Bluff and the Blue Earth River. Such proposal would accomplish nothing in terms of air quality, while simultaneously destroying the scenic beauty of the river.

Respectfully submitted,



Richard H. Streeter
BARNES & THORNBURG
1401 Eye Street, N.W., Suite 500
Washington, D.C. 20005
(202) 408-6933

Dated: March 6, 2001

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

February 21, 2001

Christopher and Ruth A. Faye
241 W. Skyline Court
Mankato, MN 56001-1924

Re: Finance Docket No. 33407; Dakota, Minnesota & Eastern Railroad
Powder River Basin Expansion Project; Response to Questions

Dear Mr. and Mrs. Faye:

Thank you for your letter dated January 12, 2001, regarding the proposed Dakota, Minnesota & Eastern Railroad (DM&E) Powder River Basin Expansion Project and the Surface Transportation Board's environmental analysis of this proposal. I would like to first provide you with some background information, then address the questions you raise in your letter.

On February 20, 1998, DM&E filed an application with the Board, seeking authority to construct and operate new rail facilities in Wyoming, South Dakota, and Minnesota, including a new rail line in the Mankato, MN, area. DM&E explained that the new rail construction it was proposing would permit DM&E to bypass a 9.88-mile line segment owned by the Union Pacific and used by DM&E under a limited trackage rights agreement. See Application for Construction and Operation Authority, Volume 1, page 3 (February 20, 1998). In its application, DM&E proposed three routes the Mankato area, one of which would loop around the south side of Mankato. This southern alternative, identified by DM&E as its preferred route and referred to as Alternative M-2 in the Draft Environmental Impact Statement (EIS), was depicted in a map appended to the application on the west side of the Blue Earth River slightly west of the Skyline area.

Subsequent to filing its application, DM&E continued its engineering evaluation of this alignment. Prior to the Board's Section of Environmental Analysis (SEA) issuing the Draft EIS analyzing the potential environmental impacts of DM&E's proposal, DM&E submitted maps to the Board for inclusion in the Draft EIS indicating it had refined its southern alternative around Mankato, realigning the route in the Skyline area. DM&E moved the proposed rail line approximately 2,000 feet to the east of the location originally depicted in its application. With the exception of this relocation of the alignment to the east side of the Blue Earth River, the majority of the M-2 alignment remained the same from DM&E's application to the Draft EIS.

Copy Fax to Richard Streeter 202 289 1330

The Board's responsibility under the National Environmental Policy Act is to analyze the potential environmental impacts of an applicant railroad's proposal, and all reasonable alternative to that proposal, including the no build, or no action, alternative. Because an alternative is analyzed in the Draft EIS does not mean that the Board will ultimately approve construction of that alternative, or indeed, of the project as a whole. We would not meet our legal responsibilities, however, if we did not analyze the railroad's proposals and alternative to those proposals.

As noted on page 3.3-6 of the Draft EIS, SEA stated that the alignment proposed by DM&E for Alternative M-2 could require the removal of eight homes. The exact number would depend on the final design and engineering of the alignment, thus fewer homes may actually need to be removed. Two of these homes would be in the Skyline area. We have included copies of a U.S.G.S. topographic map and an aerial photograph indicating the two homes that would require removal if this alternative is approved by the Board and constructed by DM&E.

Your second question, regarding any distance between a railroad right-of-way and a home that legally dictates the home be removed, there are no Federal standards that would require the removal of homes or businesses outside of a rail line right-of-way. While individual railroads may have internal policies concerning the proximity of homes and other structures to the edges of their rights-of-way, there are no laws that would require them to remove a home or building located outside their actual right-of-way.

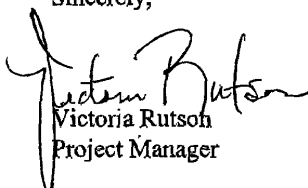
Concerning the issue of condemnation, that authority is granted to DM&E and other railroads and utilities by the State of Minnesota. Again, railroads' internal policies may differ in how they negotiate for property acquisition, but they are empowered to use eminent domain as regulated by the State.

I understand that some residents of Skyline, including Mayor White and former Mayor Vetter, have met with the DM&E railroad to articulate the community's concerns. I also believe that the community anticipates submitting comments with suggested measures to mitigate potential environmental impacts should the M-2 proposal be approved by the Board.

I hope my letter provides some assistance to you. I have placed your letter and my response in the environmental docket for this proceeding. If you have questions, please feel free

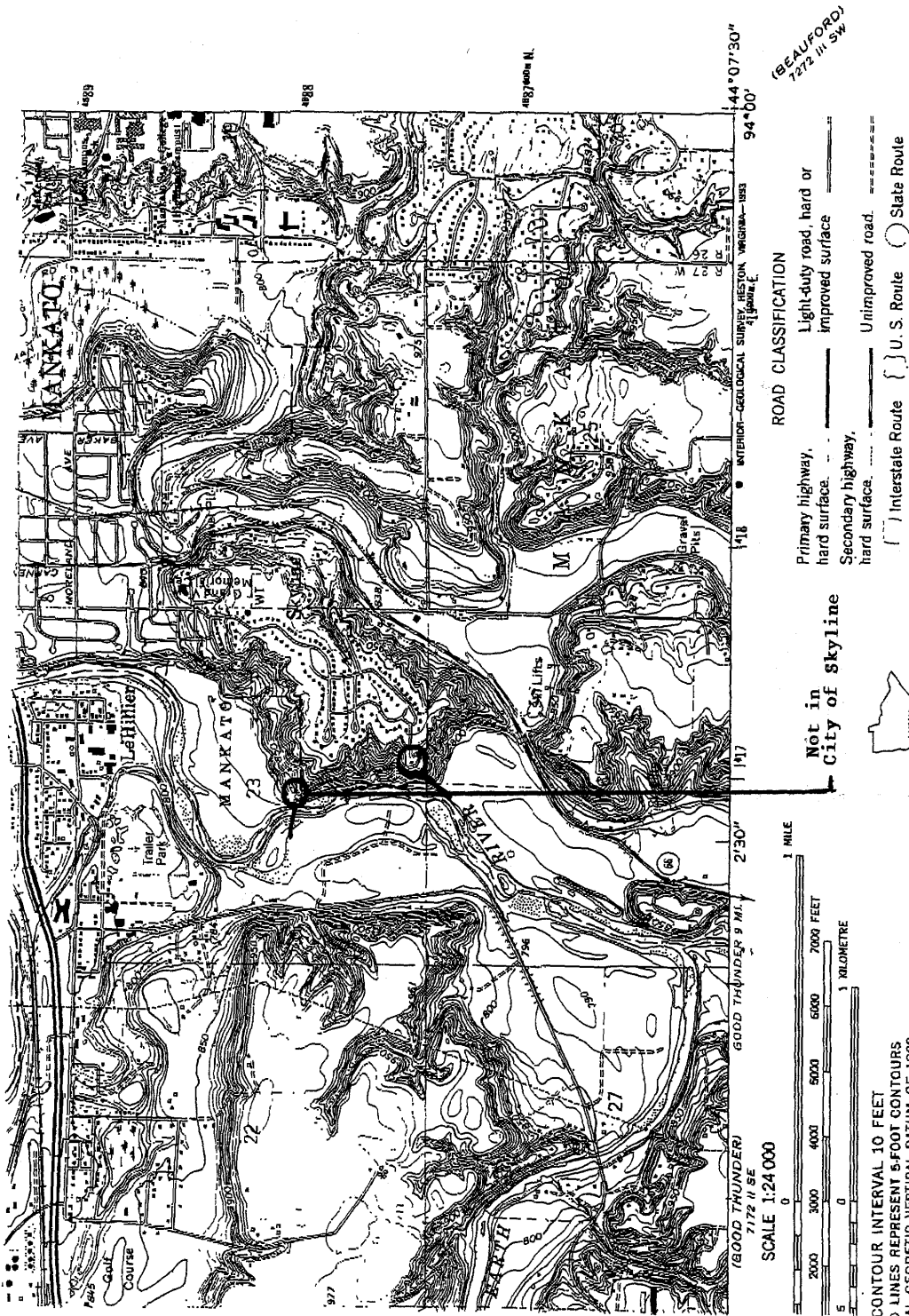
to call me at (202) 565-1545 or the Board's environmental hotline established for the DM&E proposal at 1-800-404-3044. I appreciate your participation in the environmental review process and look forward to receiving your comments.

Sincerely,



Victoria Rutson
Project Manager

Enclosures



MAR- 4-01 SUN 19:27 FAYE

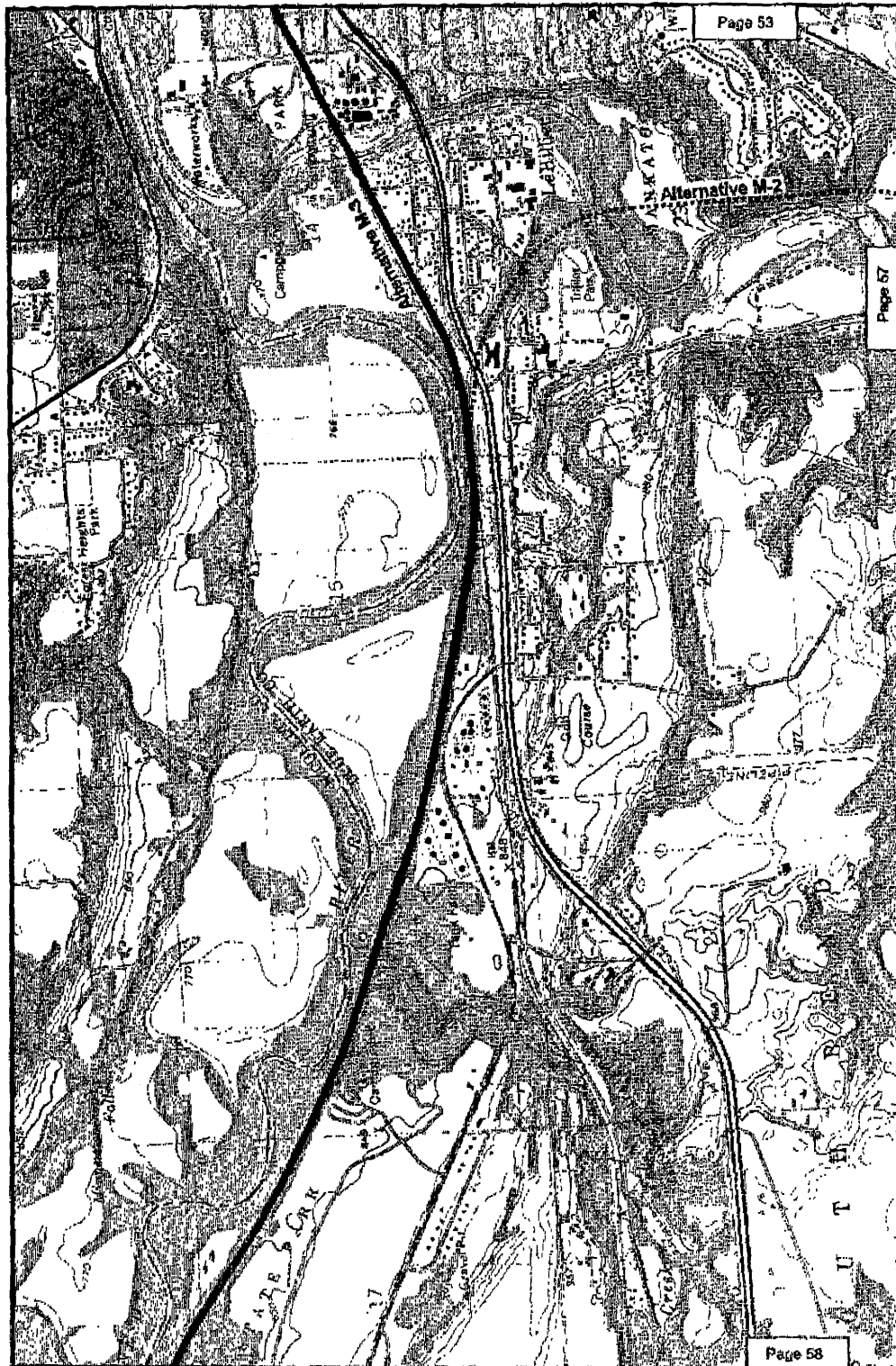
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P.05



DM&E's preferred alignment (M-2)
from MAP appended to Feb. 20, 1998 application

From Volume 5, Book of Maps, Draft EIS issued 9/27/00



Map 54
POWDER RIVER BASIN EXPANSION PROJECT
EXISTING DM&E RAIL LINE
BLUE EARTH COUNTY, MN
MANKATO WEST QUAD

Existing Rail Line
Bypass Proposal

2000 Feet



2. The second part of the document focuses on the role of the management team in overseeing the organization's performance. It states that the management team should regularly review the progress of various projects and departments to ensure they are on track. The text also highlights the need for effective communication between the management team and the staff to foster a collaborative work environment.

3. The third part of the document addresses the financial aspects of the organization. It discusses the importance of budgeting and financial planning to ensure the organization's long-term sustainability. The text also mentions that regular financial audits are necessary to verify the accuracy of the financial records and to identify any potential areas of concern.

4. The fourth part of the document deals with the human resources aspect of the organization. It emphasizes the need for a well-defined recruitment and selection process to attract and hire the best talent. The text also discusses the importance of providing ongoing training and development opportunities for the staff to enhance their skills and knowledge.

5. The fifth part of the document covers the legal and regulatory requirements that the organization must comply with. It mentions that the organization should stay updated with the latest laws and regulations to avoid any legal issues. The text also states that the organization should implement robust internal controls to ensure compliance with all applicable laws and regulations.

7. The seventh part of the document addresses the issue of risk management. It emphasizes the need for the organization to identify and assess potential risks and to develop effective strategies to mitigate them. The text also mentions that the organization should have a clear risk management framework in place to guide its decision-making process.

9. The ninth part of the document covers the topic of employee compensation and benefits. It emphasizes the need for the organization to offer competitive salaries and benefits to attract and retain top talent. The text also mentions that the organization should have a clear policy regarding compensation and benefits to ensure fairness and transparency.

AMERICAN
ENGINEERING
TESTING, INC.

CONSULTANTS
• GEOTECHNICAL
• MATERIALS
• ENVIRONMENTAL

March 5, 2001

Barnes & Thornburg
1401 Eye Street NW, Suite 500
Washington, D.C. 20005

Attn: Richard H. Streeter

RE: Comments on the M-2 Alternative for the
Powder River Basin Expansion Project DEIS
Finance Docket No. 33407-Dakota, Minnesota & Eastern Railroad Corporation
AET File No. 01-00645

Dear Mr. Streeter:

This report presents my engineering opinions regarding potential slope stability effects for a portion of the M-2 Alternative alignment, where the alignment passes through the City of Skyline.

Background

I was retained by the City of Skyline to provide an engineering opinion regarding the potential impacts of the M-2 Alternative on the large bluff located along the east side of the Blue Earth River.

I was selected for this work because of my experience working on landslide repair projects in the Mankato area. I have been practicing in the profession of geotechnical engineering consulting since 1977. A resume of my credentials is attached.

Relevant Facts

1. The City of Skyline is situated on an approximately 200 feet high bluff along the east side of the Blue Earth River, south of Mankato, Minnesota. See Figure 1.
2. The probable alignment of the M-2 Alternative is along the east side of the river, and will run between the river and the toe of this 200 feet high bluff. The alignment is illustrated and described in the Blue Earth County Comments on the DEIS, dated February 8, 2001.
3. Earthwork crosssections in the Blue Earth County Comments show that a significant cut slope would be required at the bluff. The inclination of the cut slope is not defined in the DEIS.

"AN AFFIRMATIVE ACTION EMPLOYER"

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4. The cut slope will require removal of most of the trees and vegetative cover on the existing bluff.
5. A well log for a nearby municipal well for the City of Skyline shows that the geologic profile consists of 261 feet of brown glacial drift deposits overlying shale and limestone bedrock. These glacial drift deposits are common in the Mankato area. A copy of the well log is attached. Based on my experience in other areas of Mankato, the glacial drift typically consists of a clay matrix with layers of sand randomly located throughout the formation. The sand layers typically transmit ground water, and result in springs where the sand layer outcrops on a slope.
6. Aerial photos of the Skyline bluff show evidence of a large landslide feature along nearly the entire length of the bluff. See Figure 2.

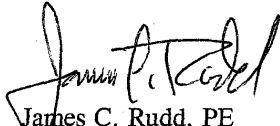
Opinions and Conclusions

- A. Construction of a railroad line between the Blue Earth River and the Skyline bluff will require a significant excavation at the toe of the bluff.
- B. If there is indeed a dormant landslide feature at the bluff (as indicated by aerial photos), then the excavation at the toe of the slope would likely activate the landslide. The measures necessary to stabilize a landslide could be severe, resulting in the need to remove a number of houses located at the top of the bluff.
- C. The stability of the slope will also be adversely affected by the loss of a large number of trees. The deep root system of trees takes many years to develop. Erosion and slumping of the slope could occur until adequate deep rooted vegetation is re-established.
- D. The likelihood of ground water springs emerging on the cut slope face also could be a source of erosion and slumping problems.
- E. Because of the risk factors for slope failure and erosion (ie: existing landslide feature, removal of trees, emerging springs), a comprehensive geotechnical investigation would be necessary in order to determine what measures would be required to prevent a landslide problem both during and after construction of the railroad. It is probable that either a very flat slope would be needed for stability (3 to 1 or flatter), or that an expensive structural stabilization system would be needed.

Barnes & Thornberg
March 5, 2001
Page 3

If you questions regarding this report, call me at 651-659-1367.

Sincerely,

A handwritten signature in black ink, appearing to read "James C. Rudd". The signature is stylized with a large, looped "J" and a cursive "R".

James C. Rudd, PE
Minnesota Registration No. 13996

Attachments:

Resume for James Rudd

Figure 1: Location of Skyline Bluff

Figure 2: Location of Apparent Landslide Feature on Aerial Photographs

Well Log for Unique Well No. 00147952

James C. Rudd, PE

Principal Engineer ■ American Engineering Testing, Inc.

Education

San Diego State University; M.S. Civil Engineering, 1977
University of Minnesota; B.S. Mechanical Engineering, 1971

Registration

Professional Engineer: Minnesota, North Dakota, South Dakota, Wisconsin

Employment

AMERICAN ENGINEERING TESTING, INC. - Principal Engineer, May 1993 - Present

Responsibilities include project management, proposal preparation, technical studies, geotechnical design, managing geotechnical investigations, preparation of engineering reports, forensic engineering and expert testimony. Specialize in slope stability analyses, landslide repair design, earth dam design, soft ground engineering, retaining wall design, and ground water evaluations.

Woodward-Clyde Consultants, Minneapolis - Senior Project Engineer, 1991 - May 1993

Twin City Testing Corp., St. Paul - Chief Geotechnical Engineer, 1989-1991

SEH, Inc., St. Paul - Geotechnical Department Manager, 1988-1989

Twin City Testing Corp., St. Paul - Manager, Geotechnical Engineering Dept., 1985-1988

HTPO Consultants, Eden Prairie, MN - Geotechnical/Civil Engineer, 1983-1985

Soil Exploration Company, St. Paul, MN - Geotechnical Engineer, 1978 - 1983

Professional Memberships

Minnesota Geotechnical Society

Representative Project Experience

Expert Witness

Welfl Construction vs. Banner Associates; South Dakota
Cooley vs. United States of America; Minnesota
Progress Land Co. vs. City of Farmington; Minnesota
Roers Construction vs. USA; Fargo, ND
DeSoto vs. Port Authority; St. Paul, MN

Landslides and Slope Stability (*See attachment for more detailed information*)

Repair of TH242 Road Embankment Failure; Coon Rapids, MN
Landslide Repair at Residential Property; Woodbury, MN
Artstone Park Landslide Repair; New Ulm, MN
Landslide Repair at Residential Property; North Mankato, MN
Landslide Repair, Putnam St.; Mankato, MN
Landslide Repair along River; Red Lake Falls, MN
Landslide Repair, CP Rail Line, Valley City, North Dakota

Dams and Water Resources

Lake Menno Dam; Menno, SD
Dead Colt Creek Dam; Lisbon, ND

Stang Lake Dam; Detroit Lakes, MN
Chaska Flood Control Project, Stages 3 and 4; Chaska, MN
Lake Vermillion Spillway Replacement; South Dakota
Flood Wall Design; Breckenridge, MN
Levee Design; Wahpeton, ND
Lake Henry Dam; Scotland, SD
Lazarus Creek Dam; Canby, MN
Stormwater Detention Dams; Woodbury, MN
Charlestown 34 Stormwater Detention Dam; Redwood County, MN
Norman 16 Stormwater Detention Dam; Yellow Medicine County, MN
Sodus 5 Stormwater Detention Dams; Lyon County, MN
North Hero 35 Stormwater Detention Dam; Redwood County, MN

Environmental Remediation

Coal Gasification Site Clean-up; Rochester, MN
Flying Cloud Sanitary Landfill Closure; Eden Prairie, MN

Soft Ground Engineering

CSAH 40 Reconstruction; Clearwater County, MN
Surcharge Design for Industrial Building; Chaska, MN
Lightweight Road Embankment; Coon Rapids, MN
Wick Drain design- Snelling Lake Dike Construction, St. Paul, MN

Roadways and Infrastructure

TH 41 Reconstruction; Chaska, MN
River Street Sewer Interceptor; Delano, MN
TH 52 Reconstruction; Rochester, MN

Retaining Structures

Reinforced Embankment Design, Health East Clinic, St. Paul MN
Reinforced Embankment Design, Glenwood Avenue; Mankato, MN
Sheetpile Wall Design, Division Street; Mankato, MN
Reinforced Embankment Design, Raintree Road; Mankato, MN
Boulder Retaining Wall Design; Burnsville, MN

Groundwater Studies

Evaluation of Sudden Water Table Rise, Highland Parkway; St. Paul, MN
Evaluation of Building Settlements due to Construction Dewatering; Chaska, MN

James C. Rudd, PE

Jim is a principal geotechnical engineer with AET, and has 24 years of experience in geotechnical evaluation and design. Jim's project experience includes significant experience in the areas of earth structure design (including dams, dikes and steep-sided embankments). He also has extensive experience in the area of slope stability evaluations and landslide remediation design.

Education

San Diego State University; M.S. Civil Engineering, 1977
University of Minnesota; B.S. Mechanical Engineering, 1971

Registration

Professional Engineer: Minnesota, North Dakota, South Dakota, Wisconsin

Project Experience

Artstone Park Landslide Repair; New Ulm, MN

Provided design of a reinforced embankment to repair a landslide. The landslide occurred during construction of a 30 foot high cut slope as part of a baseball park development. The landslide was due to unstable shale bedrock deposits. The final repair solution included geogrid reinforced embankment and internal chimney drain system.

Landslide Repair, Putnam St.; Mankato, MN

Provided design for repair of a 100 foot high slope that failed. Work also included a geotechnical investigation to determine cause of the failure. The final repair solution included geogrid reinforced embankment and internal drain system.

Repair of TH242 Road Embankment Failure; Coon Rapids, MN

Project engineer for determining cause of embankment failure on newly constructed roadway embankment for State Highway Department. Designed geotechnical investigation and field instrumentation program to determine cause of problem. Provided design recommendations to repair failure.

Baffled Chute Spillway, Chaska Flood Control Project, Chaska, MN

Project engineer responsible for geotechnical analysis on the project. The project consisted of design of a 100 feet wide by 40 feet high reinforced concrete spillway. The spillway was the discharge point for a flood control channel into the Minnesota River. The foundation soil conditions were marginal, consisting of soft fine alluvium and lime sludge deposits. Geotechnical work included soil borings, soil laboratory testing, and preparation of geotechnical design details for construction of the spillway. Geotechnical work included slope stability analysis settlement analysis, and review of earthwork specifications and geotechnical design drawings.

Lake Menno Dam, Menno, SD

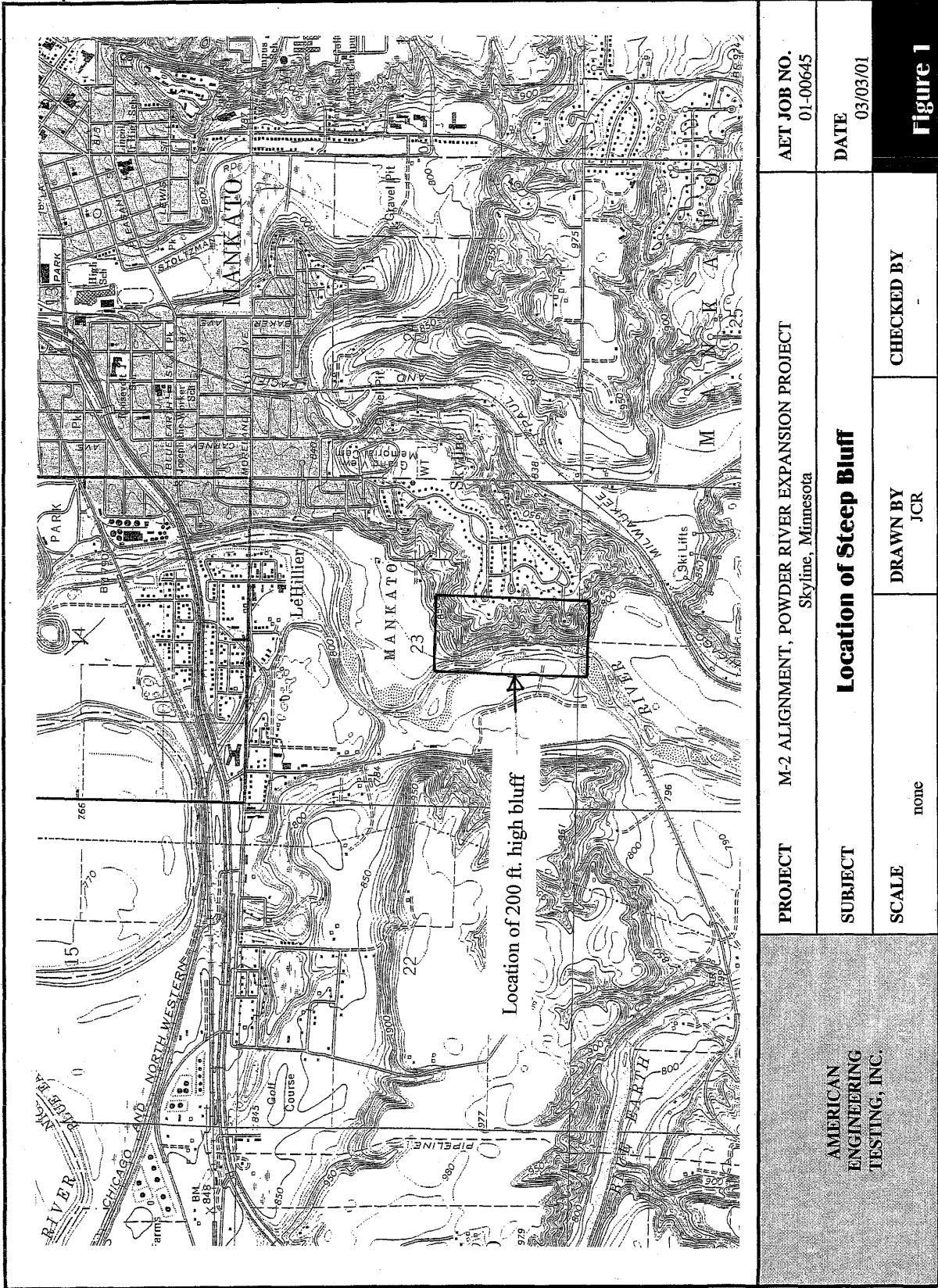
Project engineer responsible for geotechnical analysis and design of the project. The project consisted of design and construction of a 50 foot high earth dam. Geotechnical work included soil borings, soil laboratory testing, and preparation of geotechnical design details for construction of the embankment and seepage control. Design elements included evaluation of settlements, correction of compressible soils, design of internal drainage structures, and review of earthwork specifications and geotechnical design drawings.

Spillway Repairs, East Vermillion Dam, South Dakota

Geotechnical project engineer responsible for geotechnical analysis for the project. The project consisted of design and construction of a replacement spillway for a concrete chute spillway which failed during 1993. The spillway is 150 feet wide and is the principal spillway for the East Vermillion Dam, which is a 44 feet high earthen dam. Geotechnical work included soil borings, soil laboratory testing, and preparation of geotechnical design details for construction of a replacement spillway. Geotechnical work included seepage analysis, and development of design recommendations for an approach seepage cutoff, underslab drainage system, correction of heavily eroded subgrade, and review of earthwork specifications and geotechnical design drawings.

Stang Lake Dam, Fergus Fall, MN

Project Engineer responsible for geotechnical analysis for the project. The project consisted of design and construction of a 23 feet high by 400 foot long earth dam located at the outlet of Stang Lake. The purpose of the dam was to restore a 300 acre drained lake. The dam included a concrete principal spillway structure. The work was done for the U.S. Fish and Wildlife Service. Geotechnical work included soil borings, laboratory testing, slope stability analyses, settlement analysis, and seepage analysis. Design features included a cement-bentonite slurry wall for control of seepage.





Note: Landslide feature is visible when viewing pairs of aerial photographs with stereo glasses. The location of landslide scarp is highlighted above on a copy of the aerial photograph.

AMERICAN ENGINEERING TESTING, INC.	PROJECT	M-2 ALIGNMENT, POWDER RIVER EXPANSION PROJECT Skyline, Minnesota		AET JOB NO.	01-00645
	SUBJECT	Location of Apparent Landslide		DATE	03/03/01
	SCALE	none	DRAWN BY JCR	CHECKED BY	-
	Figure 2				

Unique No. 00147952		MINNESOTA DEPARTMENT OF HEALTH WELL AND BORING RECORD Minnesota Statutes Chapter 1031		Update Date 1997/07/09	
County Name Blue Earth				Entry Date 1997/08/17	
Township Name	Township Range Dir	Section Subsection	Well Depth	Depth Completed	Date Well Completed
	108 27 W	23 DACADD	501 ft.	501 ft.	1977/08/15
Well Name SKYLINE			Drilling Method Cable Tool		
Contact's Name SKYLINE			Drilling Fluid		
MANKATO MN 56001			Well Hydrofractured? ☐ Yes ☐ No		
Contact's Name			From ft. to ft.		
MANKATO MN 56001			Use Community Supply (municipal)		
GEOLOGICAL MATERIAL COLOR HARDNESS FROM TO			Casing Drive Shoes? ☒ Yes ☐ N Hole Diameter		
DRIFT BROW 0 261			Casing Diameter Weight(lbs/ft)		
SHALE, LIME ROCK GRAY 261 480			12 in. to 263 ft		
JORDON SANDSTONE WHITE 480 501			8 in. to 297 ft		
			Screen N Open Hole From 263 ft. to 501 ft.		
			Make Type		
			Static Water Level 220 ft. from Land surface Date 1977/08/1		
			PUMPING LEVEL (below land surface)		
			ft. after hrs. pumping g.p.m.		
			Well Head Completion		
			Pitless adapter mfr Model		
			Casing Protection ☐ 12 in. above grade		
			☐ At-grade (Environmental Wells and Borings ONLY)		
			Grouting Information Well grouted? ☒ Yes ☐ No		
			Material From To (ft.) Amount(yds/bags)		
			G 0 297 5 Y		
			Nearest Known Source of Contamination		
			ft. direction type		
			Well disinfected upon completion? ☐ Yes ☐ No		
			Pump ☐ Not Installed Date Installed Y		
			Mfr name FLOWAY		
			Model 6JKL HP 25 Volts 220		
			Drop Pipe Length 275 ft. Capacity 150 g.p.m.		
			Type S		
			Any not in use and not sealed well(s) on property? ☐ Yes ☐ No		
			Was a variance granted from the MDH for this Well? ☐ Yes ☐ No		
			Well CONTRACTOR CERTIFICATION Lic. Or Reg. No. 27022		
			License Business Name McCarthy Well Co.		
			Name of Driller		

USGS Quad: Mankato West Elevation 985
Aquifer: MTPL Alt Id:

Report Copy

March 1, 2001

The Honorable Linda J. Morgan, Chairman
Office of the Secretary
Case Control Unit
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

**Re: Comments on the Powder River Basin Expansion Project DEIS (STB Finance
Docket No. 33407) regarding the M-2 Alternative for the Mankato area.**

Dear Chairman Morgan:

Greetings from Minnesota! I have been following the Dakota, Minnesota & Eastern (DM&E) Powder River Basin Expansion Project with interest and decided to write to you with my observations.

Background

To begin with, I was born in Mankato and grew up there. During that time I spent many years living in West Mankato and Skyline, so I know the Southern Bypass area extremely well. In the summers, when I visit Mankato, I still enjoy riding my mountain bike on the Red Jacket Trail out to the Rapidan Dam on the Blue Earth River. Also, my parents are now retired residents of Skyline, as are many of their good friends, accordingly, I am concerned about the proposed Southern Bypass route's affect on the City of Skyline.

Incorporated in the 1950s, the City of Skyline is a small residential community atop a ²⁵⁰~~300~~-foot bluff overlooking the Blue Earth River west of Mankato. With 124 homes and approximately 350 residents, it is a charming, friendly, and peaceful place that is home to several parks, a playground, a tennis court, an old-fashion water tower, and a fire station. It is the kind of place that attracts both young families and retired people because of its proximity to Mankato and its tranquility.

That peace and tranquility will come to an end if the Southern Bypass is adopted. Consequently, I urge the Board to reject the M-2 Alternative, and instead adopt the M-1 No-Action Alternative for the Mankato area. Specific comments on your Draft EIS (DEIS) are as follows:

Southern Bypass Comments

NEPA Issues

Adoption of the Southern Bypass alternative would simply shift the burden of the DM&E rail line from Mankato's existing 131-year old rail corridor (M-3 Alternative) to different

communities and populations in rural Blue Earth County where it would cause significantly greater environmental degradation, resource loss, economic loss, and loss of safety.

As the Board is well aware, the National Environmental Policy Act of 1969 (NEPA) is concerned with major federal actions that have the potential to significantly affect the quality of the "physical" or "natural" environment. EIS alternatives required by NEPA need to be both reasonable and feasible. Furthermore, alternatives that result in similar or greater environmental harm need not be considered at all (*Sierra Club v. Morton*, 1975).

Of the three alternatives being considered for the Mankato area, it is clear that the Southern Bypass will have the most adverse environmental impact. Blue Earth County's February 13, 2001 filing with the Board raises detailed questions and concerns about the M-2 Alternative which will not be repeated here. Nevertheless, a summary of this route's detrimental consequences includes the following: (1) loss of 265 acres of prime farmland, (2) loss of 68 acres of woodlands, (3) loss of 24 acres of wetlands, (4) loss of 24 acres of residential land, (5) damage to 42 farms, (6) loss of safety on 18 county roadways, (7) loss of 12 homes, (8) loss of the Mount Kato Ski area, (9) disruption of the Hillcrest Nursing Home, (10) damage to LeHillier, an economic justice community, (11) loss of the scenic beauty of the Blue Earth River valley, and (12) loss of rural peace and tranquility for 918 residents living in the proposed M-2 corridor.

These environmental losses far outweigh the impacts of the M-3 Alternative. Hence, adoption of the Southern Bypass alternative would seem inconsistent with a great deal of NEPA case law established in the federal courts since 1975.

Alignment Discrepancies

Information provided in the DEIS on the M-2 Alternative does not satisfy the requirements set forth by the Board in its April 20, 1999 order on bypasses. To wit, the alignment described in Volumes I and II is wrong. The impacts and considerations discussed appear to be for an alignment that is about a half mile from the actual proposed location. Volumes I and II detail an alignment west of the Blue Earth River paralleling County Highway 33. While Volume V's maps detail a significantly different Skyline and LeHillier alignment running east of the Blue Earth River. Such serious flaws make much of the DEIS's discussion of the M-2 Alternative's western end impacts irrelevant and pointless.

Gross errors like these indicate a lack of attention to detail, and have no place in an EIS of this magnitude. Consequently, the DEIS should be revised so it accurately reflects environmental impacts of the true alignment on Skyline, LeHillier, and Mankato Township.

Reissued DEIS

Due to the confusing and inaccurate nature of the DEIS's Southern Bypass analysis, the Board should require the Section of Environmental Analysis (SEA) to revise and reissue a DEIS for the M-2 Alternative. A 30-day comment period should be allowed for this second DEIS so that the public record for the correct alignment is clear.

Skyline Comments

Lack of Notice

The most disturbing aspect of this EIS process has been the complete lack of notice given to the City of Skyline. On pages ES-14 and ES-72 of the DEIS's Executive Summary, it states that the SEA "consulted with" and "worked with affected communities" during the public scoping process. With respect to the City of Skyline, these statements are false.

Consequently, it was not until mid-November, 2000 that the Mayor and City Council of Skyline became aware that the South Bypass route included their city. Moreover, the first public notice of this situation actually appeared in the *Mankato Free Press* on November 21, 2000.

Both the DM&E and the SEA were negligent in their duty to inform affected municipalities during the public scoping process in 1998. As a result of that negligence, the City of Skyline has been given only three months in the dead of winter to respond, while the City of Mankato has had three years to prepare its response.

Geology & Hydrology

The City of Skyline sits upon a ²⁵⁰~~300~~-foot bluff between the Blue Earth River and Trunk Highway 66. Much of the soil comprising this bluff is clay loam ^{fill}~~fill~~. In addition, the high water table in the area has produced a phenomenon known as "perched aquifers" that come to the surface as free-flowing springs along the sides of Skyline Hill.

These perched aquifers are a part of the local Surficial Aquifer System that communicates with the deeper Cambrian-Ordovician Aquifer System. Skyline's city water is supplied by wells that penetrate this deeper aquifer. The cut and fill operations envisioned by DM&E for the western slopes of Skyline may affect this complicated aquifer system and have an impact on the city's water supply.

Furthermore, Mankato Township's independent expert review of this route suggests that the M-2 rail bed will cut into the Jordan Sandstone at a number of locations. Since the Jordan Sandstone is the geologic matrix for the area's deep aquifers, surface spills at these locations would provide the potential for groundwater contamination. Such hydrology issues need to be carefully evaluated in a revised EIS.

Soil Stability

The clay loam soil of Skyline Hill is unstable, prone to slides, and lacks the geologic strength necessary to support a railroad. The potential instability of an altered Skyline Hill could be exacerbated by a half-century of septic tank use that has saturated the hill's upper soil layers. Furthermore, the extensive cut and fill operations proposed for Skyline's western slopes, combined with the constant vibration from the resulting rail line, may precipitate soil subsidence and landslides putting additional homes at risk.

The ties, tracks, and trestles envisioned for the Skyline area may be subject to settling due to this soil instability. Depending upon severity, such settling could cause rail misalignment and lead to derailments. Derailments of trains transporting hazardous materials (e.g., acids, solvents, or gases) could be catastrophic for area residents, groundwater, and the Blue Earth River. Consequently, a revised EIS needs to critically evaluate the geotechnical feasibility and potential consequences of the proposed excavation and construction.

Carney Cave

Skyline Hill contains a large limestone cavern known as Carney Cave, named after local businessman George H. Carney and his West Mankato cement plant. In the 1920s, Carney's son, Harry E. Carney, developed a new type of bricklayer's cement comprised of lime that was mined from the Carney Cave.

The entrance to this cave was sealed with concrete years ago to prevent children from getting lost. Nevertheless, living eyewitnesses report that it was "twenty feet high, as big as a city block, and filled with stalactites and stalagmites." Furthermore, founding members of the Skyline Cooperative report that a number of the original homes did not have basements excavated for fear of rupturing the roof of this cave.

Long-time Skyline residents are understandably apprehensive about the impact of constant coal train vibration on Carney Cave. Due to the lack of notice, and the winter snows, the City of Skyline has not been able to locate this cavern. Because the M-2 alignment could potentially affect this unusual subterranean feature, a revised EIS needs to determine its location, and ascertain the geotechnical impact of the proposed excavation, construction, and subsequent rail traffic.

Noise Impacts

Appendix D of the DEIS states that the area of "significant project impacts" extends 2,230 feet on either side of the rail line (page D-5). With the most recent proposed alignment, the entire City of Skyline will fall within this zone. Therefore, a revised EIS needs to consider noise impacts on the whole city.

In particular, changes in ambient noise levels need to be evaluated since background noise in rural areas is considerably lower than in urban areas. Consequently, sensitive receptors in rural areas, like Skyline, will be affected to a proportionately greater degree than will sensitive receptors in urban areas that are already exposed to rail corridor noises.

Air Quality Impacts

As the Board knows, on December 20, 2000 the U.S. Environmental Protection Agency (EPA) issued its final rule on Mobile Source Air Toxics (MSATs). In that ruling, EPA found that diesel exhaust--comprised of diesel particulate matter and diesel exhaust organic gases (DPM + DEOG)--is a likely human carcinogen. Furthermore, EPA concluded that exposure of the

general public to typical environmental levels of diesel exhaust will likely pose a human lung cancer hazard.

Such findings are of concern to Skyline's residents since the entire City falls within the zone of significant impact. This is particularly relevant for Skyline because trains in its vicinity will be moving uphill, under heavy load, and, as a result, their diesel engines will produce more exhaust than when traveling on level grades. Thus, health affects of diesel exhaust, and fugitive coal dust, on Skyline's 350 residents need to be addressed in a revised EIS.

Children's Safety

Woodland Avenue provides the only road access to the City of Skyline, and therefore, the proposed track alignment would not cross any of Skyline's streets. Nevertheless, as Chapter 1 of the DEIS notes, the DM&E has a poor safety record. And, as Federal Railroad Administration (FRA) long-term statistics show, the DM&E's safety record since its 1986 founding has been among the railroad industry's worst.

Because the DM&E is such an accident-prone carrier, the people of Skyline are understandably concerned about safety. This issue is particularly important due to the number of Skyline children who enjoy playing in the woods. (I speak from personal experience on this topic; when I was young, we used to spend a great deal of time in the woods along Skyline's slopes!) Therefore, a revised EIS needs to address the safety of Skyline's youngest residents.

Aesthetic Impacts

The residents of the western side of Skyline who do not lose their homes will experience a loss of their scenic views of the Blue Earth River valley. Such impacts should be considered in a revised EIS.

Economic Impacts

Coal trains thundering through Skyline every 39 minutes in perpetuity will have detrimental socioeconomic impacts. Besides losing a substantial portion of its tax base, Skyline will become an undesirable place to live, its quality-of-life will decline, and its real estate values will drop. Many Skyline residents are retired, on fixed incomes, and, therefore, their ability to relocate is limited. A revised EIS needs to consider such significant economic impacts.

Skyline Summary

The evidence presented in the DEIS for the Southern Bypass route is flawed, superficial, and does not support the M-2 Alternative. It does not address any impacts on the City of Skyline. Indeed, the City of Skyline is never even mentioned in the DEIS.

A revised EIS needs to take a serious look at the adverse affects of the Southern Bypass route on this little community. If done properly, I believe that the Final EIS (FEIS) will show that the M-2 Alternative will have a devastating impact on the City of Skyline.

Project Comments

Railroads helped build this country, and they remain an efficient component of a multi-modal transportation system. Nevertheless, a primary rationale for the proposed project seems weak. As the Board found in its December 10th, 1998 decision, it may be true that DM&E will be able to provide cheaper coal to some Midwestern utilities. However, DM&E's argument about clean air benefits seems equivocal. Also, the question of simply upgrading DM&E's existing line was not addressed by the DEIS. My thoughts on these two issues are as follows:

Clean Air Benefits

As the Board knows, Phase II of Title IV of the Clean Air Act Amendments of 1990 (CAAA) capped annual sulfur dioxide (SO₂) emissions at 8.9 million tons on January 1, 2000. Today this cap is being met without the DM&E's help through the CAAA's pioneering emissions trading program, fuel switching, and the addition of flue gas scrubbers.

For the DM&E to assert that its Powder River Basin (PRB) project will improve air quality by reducing SO₂ emissions is not credible because utilities are required to meet the CAAA SO₂ cap regardless of fuel type used. A tightening of the cap by Congress is the only way this country will see further reductions in SO₂ emissions.

Furthermore, PRB coal has a much lower heat value than do eastern coals. According to the U.S. Department of Energy's Energy Information Administration (EIA), PRB coals typically have heat values of 8,500 BTUs per pound, while Central Appalachia's low sulfur coals average 12,500 BTUs per pound. And, higher sulfur coals from the Illinois Basin, and Northern and Southern Appalachia have heat values in the range of 11,000 to 13,000 BTUs per pound.

Utilities switching from higher BTU eastern coal to lower BTU PRB coal will, therefore, need to burn fifty percent more coal to generate the same amount of electricity. As a result, such power plants will emit proportionately more nitrous oxides (NO_x), particulate matter (PM), and mercury (Hg) into the atmosphere. These pollutants are not capped the way SO₂ emissions are, so air quality will suffer in the Midwest if more PRB coal is burned.

As the Board understands, such pollutants have their own problems. Nitrous oxides are precursors to tropospheric ozone and acid rain. Particulate matter is a respiratory irritant estimated to cause 60,000 premature deaths annually. While gaseous mercury emitted from coal-fired power plants accounts for approximately one third of all toxic mercury deposited in forests and aquatic habitats. Here in Minnesota, ninety-five percent of our lakes have fish consumption advisories that limit the recommended consumption levels of fish due to the risk of mercury poisoning.

By substituting lower cost, lower emissions coal, Midwestern utilities could avoid buying scrubbers or emission allowances. However, by doing so they would simply be transferring their Clean Air Act compliance costs to communities along the Southern Minnesota rail corridor by forcing them to endure new environmental degradation.

Consequently, for the DM&E to state that compliance with the Clean Air Act is a primary justification for their project is misleading. A revised EIS needs to address this issue if it is to help the Board ascertain whether or not this project provides any real air quality benefit at all.

Project Alternatives

Many other states with agricultural economies enjoy efficient regional rail service that does not require coal trains to foot the bill. Why should Minnesota be any different?

Since the Civil War days of the Winona & St. Peter Railroad, there have been regional railroads serving Southern Minnesota. Today, more than 130 years later, the DM&E is providing much the same service as its predecessors. Therefore, the need for regional rail service is not in question. What is in question is whether the best way to improve that service is by building a coal pipeline.

DEIS Chapter 2 on Alternatives does not address the alternative of simply upgrading DM&E's current system. Upgrading DM&E's rails and crossings within existing rights-of-way would serve to accomplish many of the goals addressed in DEIS Chapter 1 on Purpose and Needs. Upgraded tracks and crossings in the most heavily used corridor segments would provide Southern Minnesota with a safer, more reliable, and more efficient rail service without most of the adverse consequences resulting from the Wyoming expansion.

The federal Railroad Rehabilitation and Improvement Financing (RRIF) fund provides support for such undertakings. Was this ever considered? A revised EIS should examine the costs and benefits of such an upgrade, and seek to establish whether it would be reasonable and feasible.

Conclusions

Stakeholder Opinions

A review of the public record available on the Board's website provides excellent insight into the opinions of stakeholders. Those public meeting transcripts and thousands of letters indicate that the DM&E and its customers support this project, while the vast majority of affected residents in the towns, cities, and counties of Southern Minnesota oppose it. Thus, the situation is clear; the DM&E and its customers are trying to ram this railroad down the throats of the people of Southern Minnesota, and the people are gagging on it!

Costs and Benefits

In my opinion, the M-2 Southern Bypass Alternative should not be adopted because it will:

- Merely shift the rail burden from an urban corridor to a rural area
- Violate the Board's long-standing preference for existing corridors
- Destroy the peace and tranquility of the Blue Earth River valley
- Prevent the City of Mankato from continuing to expand southward
- Have a disastrous affect on the City of Skyline

If the Powder River Basin Expansion Project is approved, I believe that:

- Its environmental costs will outweigh its benefits to society
- Its primary beneficiaries will be DM&E's investors and private customers
- Acid rain will not decrease due to the federal SO₂ emissions cap
- Air pollution will increase due to more NO_x, PM, and Hg emissions
- The safety of the residents along the route will be put in jeopardy
- The quality-of-life of the residents in the corridor will suffer greatly

Summary

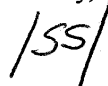
In light of the fact that the PRB coal mines are already being adequately served by two capable Class I carriers, that the purported benefits of this project are marginal, and that the environmental consequences are significant, I honestly believe that the most prudent choice for Blue Earth County is the M-1 No-Action Alternative. Any other decision would serve to permanently punish the people of the Mankato area who reap no benefit from this project.

To reiterate, upon completion of the FEIS, I hope the Board will concur and find that the Powder River Basin Expansion Project is environmentally unsound; that it would harm, rather than serve the public interest, and that it therefore does not warrant approval.

In closing I wish to thank you, SEA Chief Elaine Kaiser, Environmental Project Director Victoria Rutson, Vice Chairman William Clyburn, Jr., and Commissioner Wayne Burkes for your hard work and dedication to this complex project, it is genuinely appreciated.

Good luck with the remainder of this challenging endeavor.

Sincerely,



Kelly P. Coleman
7300 Bristol Village Drive
Bloomington, MN 55438-2589

pc:	Honorable Mark Dayton, Washington, D.C.	Dr. Brendan G. Coleman, Skyline, MN
	Honorable Gil Gutknecht, Washington, D.C.	Dr. Joseph F. Eckert, Skyline, MN
	Honorable Thomas McLaughlin, Mankato, MN	Mr. Christopher Faye, Skyline, MN
	Honorable Paul Wellstone, Washington, D.C.	Dr. John D. Krenz, Skyline, MN
	Honorable Kenneth White, Skyline, MN	Dr. William F. Nelson, Skyline, MN
		Mr. George W. Sugden, Skyline, MN
		Mr. Willard O. Vetter, Skyline, MN

KELLY COLEMAN

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V-mail: 952-983-0949

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Bloomington, MN 55438-2589

OBJECTIVE

Environmental Engineer for a world-class corporation requiring technical acumen, analytical and conceptual skills, and business savvy.

SUMMARY

- * Skilled at analyzing and solving environmental assessment and management problems.
- * Knowledge and understanding of EPA's and Minnesota's environmental regulations.
- * Adept at planning, coordinating, and following through on projects.
- * Excellent communication, writing, and research skills.
- * Accomplished at serving in technical liaison roles.
- * A positive leader and effective team member.

EXPERIENCE

Project Management

- * Managed environmental testing, risk assessment, and waste characterization for thousands of 3M's raw materials and chemicals. Identified TSCA and RCRA hazards.
- * Successfully completed an industrial chemistry research project for the Dow Chemical Company. Evaluated potential for environmentally friendly chemicals and processes.

Environmental Science and Assessment

- * Assessed ecotoxicity & waste disposal issues for a new aqueous fire fighting foam. Helped Denver-based MTN-Ecos get AFFF through testing to production stage.
- * Served as key environmental science contact for a 3M UF landfill waste foam problem. Worked with research, management, and California regulators to secure agency permit.

Regulatory Compliance

- * Spearheaded resolution of a 3M RCRA waste composition problem. Brought together technical, legal, and management team to solve it. Saved company over \$4,000,000.
- * Developed hazard assessments of chemical wastes for the Shell Oil Company. Furnished key evidence for litigation & clean-up phases at a major Superfund site.

EMPLOYMENT

1998-present	Project Manager, Sopheon/Teltech, Minneapolis
1994-1997	Consulting Scientist, Denver and Minneapolis
1990-1993	Environmental Scientist, Pace/Rust, Minneapolis
1990-1990	Graduate Research Assistant, University of Minnesota
1986-1988	Analytical Chemist, University of Colorado
1983-1986	Graduate Research Assistant, Colorado School of Mines
1983-1985	Residence Hall Director & Student Housing President, CSM
1980-1982	Analytical Chemist, Mt. Sinai--Chicago/MCG--Georgia

EDUCATION

2001	Ph.D.	Candidate / University of Minnesota	(Public Health / Toxicology)
1992	M.S.	University of Minnesota	(Environmental Engineering)
1987	M.S.	Colorado School of Mines	(Geochemistry)
1979	B.A.	Gustavus Adolphus College, <i>cum laude</i>	(Chemistry)

AFFIDAVIT

TO WHOM IT MAY CONCERN:

SUBJECT:

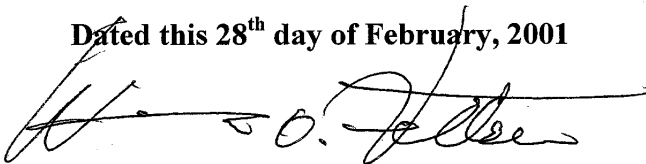
Meeting of January 19, 2001 at the office of Blue Earth County Administrator, Blue Earth County Court House in Mankato, Minnesota, as arranged by Mr. Kevin Schieffer, President DM& E Railroad.

Meeting Attendees: For Blue Earth County—Dennis McCoy, Administrator, For City of Mankato—Pat Hentges, City Manager, Jeff Kagermeier, Mayor, and Paul Vogel, For City of Skyline—Ken White, Mayor, Willard O. Vetter, Consultant and Immediate Past Mayor, For the DM&E Railroad—Kevin Schieffer, President, and Ray Cigear, Project Engineer.

I have this date reviewed a summary of subject meeting prepared by Mayor Ken White. I am in agreement with his summary.

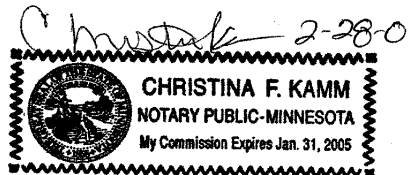
Additionally, I did ask Mr. Schieffer how much engineering work they had accomplished after three year of involvement with this project. He indicated "approximately 2 percent." He then asked Mr. Cigear if he concurred with this. Mr. Cigear then indicated his concurrence.

Dated this 28th day of February, 2001



Willard O. Vetter

117 So. Skyline Dr
City of Skyline
Mankato, Mn. 56001



MEMO TO FILE

FROM: KEN

DATE: 1/19/01

RE: MEETING WITH DM&E OFFICIALS

I met with representatives of the City of Mankato, Blue Earth County and the DM&E Railroad. Willard Vetter, former Mayor, also attended on behalf of Skyline. The DM&E was represented by Ray Gigear and Kevin Schieffer.

Mr. Vetter explained the concerns in Skyline about the lack of notice and the likelihood that seven homes would be removed as a result of the proposed southern bypass. Mr. Schieffer suggested that the DM&E was willing to work with the City of Skyline, especially in terms of the removal of homes and mitigation efforts.

In carrying on discussions with Pat Hentges, the city manager for Mankato, Mr. Schieffer acknowledged that he did not intend to build on the southern bypass. He felt quite strongly that it was in DM&E's best interest to proceed with a route through Mankato, the M-3 route, versus the southern bypass or M-2 route. He stated that the expense of maintenance would roughly equal the trackage rights fees they pay to Union Pacific and that they can avoid much of the capital expense. They would, of course, lose some operating independence. He even went so far as to suggest that DM&E does not have sufficient engineering information about the southern bypass to know if it was possible to use that route. He would, instead, make the necessary arrangements with the Union Pacific for continued use of their track rights, including simply continuing to operate under the existing contract. Under that Agreement, the unit coal trains would have priority and, in his view, it would not be long before Union Pacific would build a second line of its own, one for its use and one primarily for DM&E.

Mr. Gigear, DM&E's chief engineer, agreed that little or no engineering work had gone into the southern bypass. He agreed that much of the Blue Earth County work was accurate other than he was proposing to use a 2 to 1 grade. Mr. Gigear essentially acknowledged that the southern bypass engineering consisted of looking at the topographical maps and drawing a rough line.

Toward the end of the meeting, Mr. Vetter and I both acknowledged that Skyline would be willing to work with the DM&E to avoid the use of the southern bypass.

After the meeting, Mr. Vetter and I had a brief conversation with Mr. Schieffer outside. He once again acknowledged that he had no intention of using the southern bypass, going so far as to say that he would build that route only "if someone put a gun to my head." Mr. Vetter and I reiterated our desire to work with the DM&E to avoid the use of the southern bypass. Mr. Schieffer indicated he would get back in touch with us if something arose of significance.