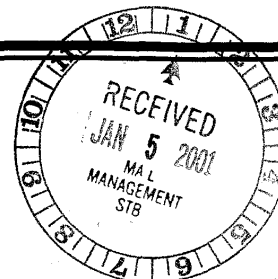


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In The Matter Of:

***DM&E POWDER RIVER BASIN EXPANSION PROJECT
PUBLIC MEETING***

DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 14, 2000

***Beta Reporting
910 17th Street, N.W.
Suite 200
Washington, DC 20006
(202) 638-2400 or (800) 522-2382***

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DM&E POWDER RIVER BASIN EXPANSION PROJECT
PUBLIC MEETING
DRAFT ENVIRONMENTAL IMPACT STATEMENT
Brookings, South Dakota

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(1) **PROCEEDINGS**

(2) (1:05 p.m.)

(3) **MR. GARDINER:** We're going to get (4) started. My name is Charles Gardiner. I'm (5) going to be the facilitator this afternoon (6) and my role is to help make this meeting (7) productive for all of you as well as also (8) productive for the project team that's here.

(9) We're here to talk about the (10) proposed DM&E expansion project, so if you're (11) here for some other meeting you're in the (12) wrong room. I'm going to cover just a few (13) logistical things and then we have a short (14) overview presentation, and then we want to (15) get to your public comments.

(16) So first let me review our project (17) meeting purpose. We want to describe a (18) little bit to you the roles of the different (19) federal agencies that are involved; the (20) Surface Transportation Board and the other (21) cooperating federal agencies. We want to (22) provide a very brief overview of the project

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(1) and an overview of the results of the (2) preliminary Environmental Impact Analysis and (3) then most importantly, we want to be sure to (4) get to your comments to provide you an (5) opportunity to give comments to the team on (6) the project.

(7) So our agenda is in line with our (8) purpose. I'm going to cover team (9) introductions in a moment and I'm going to (10) cover some of the ground rules.

(11) We're going to cover the Surface (12) Transportation Board's role, the role of the (13) cooperating agencies, the overview of the (14) project, environmental review, and your (15) public comments. Let me explain, before I do (16) the ground rules and introductions, let me (17) explain a couple of things that you probably (18) picked up at the front desk. The first is (19) something that's got a green sheet on the (20) front, that includes our agenda for the (21) meeting, some important information inside (22) that — I think for most of you it's probably

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(1) a blue sheet that talks about how to provide (2) comments, particularly how to provide (3) comments today, it has our ground rules (4) listed there, they are also listed up around (5) the room also, how to provide written (6) comments, and on the back of that sheet are (7) all the addresses

to provide written comments (8) so if you need those addresses those are (9) there.

(10) The comments on the Draft (11) Environmental Impact statement are due (12) January 5, 2001, and the address to send (13) written comments is on there. You also have, (14) I hope you picked up at the front desk, a (15) white sheet that looks like this (16) (indicating).

(17) It is a comment sheet, we encourage (18) you if you want to provide comments today to (19) just write them right on this and you can (20) drop it at the table on your way out. You (21) can take it home and fill it out or you're (22) certainly free to submit written comments in

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(1) any other format you prefer, but this is to (2) make it easy for you today if you want to (3) provide any written comments.

(4) There's also a half page sheet (5) which for some of you is pink, I think for (6) others of you it is white, it has a couple of (7) contact numbers; one is the Surface (8) Transportation Board's web page, so if you're (9) on-line you can actually go get access to the (10) environmental documents at the Board's web (11) page. The other is the project hotline. (12) That is not a place to provide comments, but (13) it's a place if you have procedural (14) questions, you want to know where the (15) libraries are that have the documents, you (16) call the hotline and we'll get back to you. (17) There is also at the front desk a listing of (18) the library locations so if you're interested (19) in that you can pick that up on your way out.

(20) Last thing we wanted to cover is (21) there's another half page size card and (22) that's really if you have procedural

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(1) questions tonight or this afternoon you would (2) like us to answer, we're really not intending (3) to answer questions about the Draft (4) Environmental Impact statement, we're here to (5) hear your comments on it.

(6) We encourage you to phrase your (7) comments on the document, any questions you (8) have, phrase them as comments so if there's (9) something that's not clear to you about the (10) document tell us that the document needs to (11) be more clear. If there's information that (12) you can't find in there, "I don't find this (13) information in that document," those are the (14) kinds of things that the team is going to (15) address.

(16) You may have questions, procedural (17) questions, we're going to try to cover them (18) all with the presentation, but if you have (19) anything else you can fill that out and give (20) it to us during the

meeting. We'll try to (21) take a break and if you have any of those (22) questions we can address those, but mostly

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(1) we're here to hear your comments.

(2) So let me touch on some ground (3) rules of how we want to work together today. (4) First is one speaker at a time. This is (5) quite important, we have all the microphones (6) on and as you have already noticed they are (7) sensitive and they will pick up side (8) conversations and make it hard for other (9) people to hear. We also have a court (10) reporter here transcribing comments and if (11) there are several people talking at once it's (12) very hard for her to capture the comments (13) that she really needs to transcribe, so (14) please keep conversation or comments focused (15) up here.

(16) We want to honor time limits. We (17) set a time limit of three minutes for (18) comments, we've done that to be fair to (19) everybody, we have a large number of people (20) who have been signed up to offer comments and (21) we want to be sure that the people who are (22) further down on the list have an equal

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(1) opportunity to speak, so in fairness to (2) everybody we have set everybody at three (3) minutes to comment. What that means, as a (4) guideline, is if you have a prepared (5) statement you get about a page and a half, so (6) if your statement is longer than that you (7) won't finish it in three minutes and you (8) might want to start now thinking about how to (9) summarize it, what are your key points and (10) cover those in the three minutes. (11) If you have a written statement, (12) and I should mention also for the court (13) reporter, if you're rushing through it to (14) finish it in the three minutes it's hard for (15) her to capture everything. So if you have a (16) longer written statement please feel free to (17) leave it with us at the front table, we'll (18) make sure it gets into the record and, again, (19) you can submit additional comments in detail (20) in your written comments.

(21) So being concise is important. Hit (22) on your key points. If previous speakers

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(1) have addressed your points, feel free to say, (2) "I agree with that person," and add other (3) points.

(4) Last thing is respect other's (5) opinions. This project has generated a fair (6) degree of controversy, there are viewpoints (7) on all sides of it, we're here to hear all of (8) them and I need your help in helping us do (9) that. So that means respecting opinions if (10) they are different from yours. If you have (11)

rebuttal statements those aren't particularly [12] productive, make your positive statement to [13] us.

[14] If you object to someone's comments [15] I encourage you to keep that to yourself. [16] I recognize you may support another commenter, [17] if you applaud during their three minutes it [18] may cut into their time to provide what they [19] are saying so I encourage you to hold that [20] until they are at the end of their [21] presentation.

[22] Let me quickly introduce the folks

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[1] who are up front. Vicki Rutson is here from [2] the Surface Transportation Board, Vicki is [3] the project manager for the environmental [4] review of the DM&E expansion project.

[5] Steve Thornhill is here from Burns [6] and McDonnell, Steve is the project manager [7] for the consulting team that is working under [8] the direction of the Surface Transportation [9] Board and prepared the Draft Environmental [10] Impact statement.

[11] Wendy Schmitzer from the Forest [12] Service couldn't be here today, but she is [13] the lead person at the Forest Service [14] addressing potential impacts to Forest [15] Service lands.

[16] Jerry Folkers is here from the Army [17] Corps of Engineers, he is responsible for [18] their activities in the permit issues related [19] to waterways, wetlands and so forth, he's [20] going to touch on that in the short [21] presentation.

[22] Again, my name is Charles Gardiner,

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[1] my role is to keep everybody moving forward [2] today.

[3] So with that we pass it to Vicki [4] and we're going to just do a quick overview [5] of the project and then we'll get right to [6] the comments.

[7] **MS. RUTSON:** Thank you, Charles. [8] Can everybody hear me? If someone has [9] trouble hearing me please put your hand up. [10] Again, I am Vicki Rutson, I'm an attorney [11] with the Surface Transportation Board section [12] of environmental analysis. I'm very happy to [13] be with you this afternoon and I'm looking [14] forward to hearing your thoughts on the Draft [15] Environmental Impact statement. I would like [16] to spend a few moments telling you about the [17] Surface Transportation Board, what it is, [18] what it does, and what is being done in [19] reviewing the Dakota, Minnesota and Eastern [20] railroad rail construction proposal.

[21] The Board is a three-member Board [22] located in Washington, DC. The Board is

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[1] composed of a chairman, a vice-chairman and [2] one board member. It is an independent [3] adjudicatory federal agency and Congress has [4] charged the Board with the responsibility [5] over new rail construction proposals, [6] railroad abandonments, and rail mergers. [7] Obviously, what DM&E has proposed is a new [8] rail construction so that's the type of [9] transaction the Board is reviewing here.

[10] Now in February of 1998, DM&E filed [11] an application with the Surface [12] Transportation Board to build a new rail line [13] from its existing line into Wyoming's Powder [14] River Basin. This application triggered two [15] processes at the Surface Transportation [16] Board. The first is called the [17] Transportation Merits Review. What does that [18] mean? It's a three-part test.

[19] In deciding whether an application [20] meets the transportation merits of the [21] Board's governing statutes, the Board asks: [22] Is this applicant financially fit? Second,

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[1] the Board asks: Is this proposal in the [2] public interest? Third, the Board asks: Is [3] there a public need for this action?

[4] On December 10 of 1998, the Board [5] answered those three questions for the DM&E [6] proposal. It issued a decision and said that [7] based on the information that was before the [8] Board at that time, DM&E's application did [9] meet the Transportation Merits criteria, but [10] the Board noted that it didn't have all the [11] information in front of it at that time [12] because the environmental review process had [13] only just begun.

[14] Until the environmental review [15] process is finished the Board said it [16] wouldn't have all the information in front of [17] it that it needed to make a final decision on [18] DM&E's application. The environmental review [19] process, that's what we've been engaged in [20] for a few years now, it involves a number of [21] steps; scoping, receiving public comments on [22] the scope of the analysis, and most recently,

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[1] issuance of the Draft Environmental Impact [2] statement.

[3] That's a document that we've issued [4] for public review and comment and now we're [5] in the public comment portion of that [6] environmental analysis.

[7] The Draft Environmental Impact [8] statement was intended to serve a number of [9] interests. We were hoping to analyze the [10] environmental impact of what DM&E is [11] proposing. The Draft

EIS also analyzes the [12] environmental impact of alternatives to [13] DM&E's proposal, including the no build [14] alternative. Another purpose of the Draft [15] EIS is to inform federal, state and local [16] agencies, affected communities, tribes, and [17] all interested members of the public on what [18] the Board is thinking about environmental [19] impacts related to DM&E's proposal.

[20] The draft also has some preliminary [21] recommended mitigation measures and some [22] alternatives identified as environmentally

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[1] preferable.

[2] Comments are due to the Board on [3] January 5 of 2001. We provided a 90-day [4] comment period because we understand that the [5] DEIS is quite long and the proposal is quite [6] complex. Therefore we provided twice the [7] usual 45-day comment period. Please remember [8] that written comments and oral comments are [9] given the same serious consideration and [10] deference at the Board. If you don't have an [11] opportunity or don't feel comfortable [12] speaking, please submit your comments in [13] writing, they will be treated with equal [14] consideration.

[15] When we're finished with the EIS [16] what's the next step? We'll gather all your [17] comments together and we'll respond to your [18] comments in a Final Environmental Impact [19] Statement. If appropriate and necessary we [20] will do additional environmental analysis. [21] When we issue the Final EIS, that will be the [22] end of the environmental review process. At

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[1] that point the decision-maker, the Board, [2] will have all the information in front of it to [3] make a final decision.

[4] The Board will issue one more [5] decision and it will make one choice out of [6] three choices before it. The Board could [7] either approve the proposal as DM&E has [8] proposed it. Approve the proposal, but only [9] if certain mitigating conditions are [10] implemented that would reduce some of the [11] impact of the DM&E proposal, and the third [12] option is denial of the proposal.

[13] So it's approval, approval with [14] conditions, or denial. Those are the three [15] options before the Board. So the Board will [16] issue a decision, making one of those three [17] choices. In issuing the Draft EIS the Board [18] is the lead agency, but we've worked [19] cooperatively with five other federal [20] agencies.

[21] These other agencies are known as [22] cooperating agencies. They are the

Forest

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[1] Service, the Bureau of Land Management, the [2] US Army Corps of Engineers whose [3] representatives are with us today, the Bureau [4] of Reclamation and the Coast Guard. EPA, the [5] Environmental Protection Agency, also has a [6] role in this project. EPA will be reviewing [7] the Draft EIS and issuing a rating based on [8] what EPA thinks of the draft.

[9] With that I will introduce Jerry [10] Folkers from the Corps and I look forward to [11] hearing your comments. Thank you.

[12] MR. FOLKERS: Thank you. Good [13] afternoon, my name is Jerry Folkers and I am [14] the project manager with the Omaha District [15] Corps of Engineers. The Omaha District Corps [16] of Engineers will be responsible for [17] reviewing project impacts in the states of [18] Wyoming and South Dakota. The St. Paul [19] District will be reviewing impacts associated [20] with the project in Minnesota.

[21] With us, I would like to introduce [22] to you right now, is Tim Fell, he is a

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[1] project manager for the state of Minnesota [2] and he's with us this afternoon.

[3] The Corps permit jurisdiction in [4] this matter is based on Section 404 of the [5] Clean Water Act and Section 10 of the Rivers [6] and Harbor Act. Corps permits are required [7] for discharge of — discharge or placement of [8] dredged material to waters of the United [9] States which includes wetlands, rivers, [10] streams and creeks. Corps permits are issued [11] when it is determined that the proposal is [12] not contrary to the public interest and the [13] plans represent the least environmentally [14] damaging alternative.

[15] There are many factors which are [16] considered during our public interest review. [17] Some of these include wetlands and wildlife [18] habitats, water quality, safety, cultural [19] resources, floodplain values, land use and [20] economics.

[21] Information in the Draft [22] Environmental Impact Statement and comments

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[1] generated by the Draft EIS, the Corps public [2] notice and comments received from the public [3] during these public hearings will be used to [4] make the determination whether to issue the [5] Corps permit.

[6] With that I will turn this over to [7]

Steve Thornhill with Burns and McDonnell.

[8] MR. THORNHILL: Thank you, Jerry. [9] Good afternoon everybody, my name is Steve [10] Thornhill, I'm with Burns and McDonnell [11] Engineering. We are the firm that served as [12] a third-party contractor working under the [13] guidance and the supervision of the STB to [14] prepare the Draft Environmental Impact [15] Statement. What I'm going to do is just take [16] a few minutes to kind of breeze through what [17] the DEIS contains and what some of the [18] results and conclusions that are in it are, [19] then we'll get on with comments.

[20] The DEIS contains several different [21] components; one of the things that it does is [22] describe the existing environment within the

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[1] project area and in doing that what it [2] attempts to do is kind of paint a broad [3] picture of the environmental and natural [4] resources, human resources, that are present [5] in the area are so that the reader has an [6] understanding of what's there and what the [7] values of the area are.

[8] The second thing that it does is it [9] looks at the different alternatives that are [10] considered reasonable and feasible to meet [11] the project need or purpose. One of those [12] alternatives as required under the Natural [13] Environmental Policy Act is the no action [14] alternative. [15] After those alternatives are [16] identified and discussed the DEIS then [17] evaluated what the impact of each of those [18] alternatives would be on the environmental [19] resources previously determined or defined in [20] the existing conditions.

[21] As has been noted, the DEIS was [22] served to the public on September 27 of the

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[1] year 2000, there is a 90-day comment period [2] and the comment period will conclude on [3] January the 5th. The DEIS did discuss the [4] purpose and need for the project which [5] generally fell into two different purposes.

[6] One purpose was by extending the [7] existing DM&E system into the coal fields the [8] project would provide DM&E the financial [9] resources necessary to rebuild its existing [10] system and facilitate it continuing to [11] provide efficient rail service to its [12] shippers.

[13] The second purpose was to allow a [14] third rail carrier access to the Powder River [15] Basin, thereby increasing competition and [16] availability of coal resources in that [17] region. The alternatives that were proposed [18] as part of

or were evaluated as part of that [19] purpose and need included; Alternative A, [20] which was the no action alternative. [21] Alternative B, which included new [22] construction of rail lines generally along

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[1] the Cheyenne River Valley in both South [2] Dakota and Wyoming.

[3] Alternative C, which again was kind [4] of a modification of Alternative B that took [5] the alignment away from sensitive areas along [6] the Cheyenne River. Alternative D, which [7] included reconstruction of additional DM&E [8] rail line section and additionally new [9] construction along existing rail within the [10] region utilizing, to the extent practical, [11] existing rail corridors in the area.

[12] Just to kind of highlight some of [13] the things that are contained in DEIS, [14] Within the state of Wyoming the project would [15] involve new construction of rail line to [16] access the mine. There would be one new rail [17] yard constructed.

[18] Alternatives were investigated in [19] addition to the extension alternatives I [20] mentioned a moment ago. Alternatives were [21] evaluated for accessing the Black Thunder [22] Mine and North Antelope Mine, and some of the

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[1] unique characteristics and concerns that we [2] identified, there were many, but two that [3] I'll just point out here were impacts to [4] Thunder Basin National Grassland and impacts [5] to the many ranches and ranchers throughout [6] the region.

[7] In South Dakota the project would [8] involve new rail line construction, again, to [9] facilitate access to the coal mine; there [10] would be two new rail yards constructed. [11] DM&E's existing rail line would be [12] reconstructed across the state. There were [13] alternatives investigated in the Spring Creek [14] area of South Dakota, the Hay Canyon area and [15] also around the community of Brookings.

[16] Some of the unique characteristics [17] identified included impact to Buffalo Gap [18] National Grassland, many and numerous tribal [19] concerns, impact to ranchers and farmers [20] throughout the area, both along the existing [21] rail line and in the new construction areas, [22] sensitive riparian areas, particularly those

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[1] along the Cheyenne River, impacts to the [2] Angostura irrigation project, impact to the [3] communities in the area and the impacts [4] associated with either

rehabilitation of the [5] existing bridge or construction of a new [6] bridge over the Missouri River at Pierre.

[7] In Minnesota, the project would [8] involve reconstruction of the existing line, [9] there would be three new rail yards [10] constructed, there would be new construction [11] or proposed new construction in the [12] communities of Mankato, Owatonna and [13] Rochester. [14] Some of the unique characteristics [15] identified included the many communities [16] located along the line, again, the farmers [17] located both in the new construction areas [18] and along the existing rail line, the Mayo [19] Clinic, sensitive riparian areas and wetlands [20] and the flood control projects found in the [21] communities of Mankato and Rochester.

[22] In completing the analysis of the

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[1] different alternatives for the project and [2] all the many project components it was [3] determined that the project would have [4] significant impact to a variety of resources [5] throughout the area. Not all of the project [6] components would impact all of these [7] resources significantly, but some components [8] of the project would have a significant [9] impact on one or more of these resources. [10] These resources included safety, that's [11] particularly applicable to grade crossing [12] safety, highway rail grade crossing safety, [13] geology and soils, water resources, wetlands, [14] paleontological resources, cultural [15] resources, both historic and archeological, [16] threatened and endangered species, land use, [17] noise, air quality, environmental justice, [18] esthetics, socioeconomic and cumulative [19] effects.

[20] Finally the DEIS contained a [21] recommendation for mitigated measures which [22] could be imposed by the Board should they

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[1] take an action alternative on this project to [2] minimize or reduce the potential [3] environmental impact of the various [4] alternatives. In general these mitigation [5] measures were general in nature and could be [6] applied to many or all of the alternatives [7] proposed.

[8] Because of that general nature they [9] mostly took the form of what could be [10] considered best management practices and that [11] would be things like silt fences or straw [12] bales to control erosion, not necessarily [13] specific to any particular community or [14] things like that. There were numerous [15] mitigation measures which involved [16] coordination between DM&E and various [17] federal, state and local agencies

to address [18] the concerns of those agencies or in many [19] cases those agencies had some jurisdictional [20] or other interest in the actions of the [21] project.

[22] However, the Board did recognize in

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[1] doing so that many of the impacts of the [2] project would be difficult to mitigate or [3] difficult to mitigate effectively. So [4] because of that, part of the process of [5] commenting on the draft EIS involved [6] requesting your comments on what you feel [7] would be appropriate mitigation measures to [8] minimize the various impacts of the project.

[9] Finally then, one of the things [10] that was pointed out was the use of [11] negotiated agreements and these would be [12] agreements between DM&E and some other entity [13] whether it be a citizens group or a community [14] or the state or some other agency that would [15] allow those agency's concerns to be met [16] through some agreement between the railroad [17] and the entity as to how those measures could [18] be implemented or what things could be used [19] to minimize the different impacts of the [20] project.

[21] In doing that the Board also [22] indicated the process whereby those

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[1] agreements need to be submitted to the STB so [2] that they could be considered in the [3] environmental analysis and conditions of [4] those agreements imposed as part of any [5] conditions that could be placed on project [6] approval should the project in the end be [7] approved.

[8] So with that I will turn it over to [9] Charles to get on with your comments. Thank [10] you.

[11] **MR. GARDINER:** Again, just to [12] review a couple of things about the comments, [13] as we've said, oral comments today go into [14] the record, we welcome your comments today. [15] Written comments on the comment sheets today [16] or submitting a statement that you want to [17] make or want to provide to us that would be [18] great or written comments by mail.

[19] As we said, all of those will be [20] considered by the team in looking at the [21] comments, responding to those and then [22] preparing the Final Environmental Impact

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[1] Statement.

[2] The things that the team is looking [3] for comments on are specifically the Draft [4] Environmental Impact Statement.

ent, included in [5] that are the Programmatic Agreement which [6] deals with Native American issues and the [7] Biological Assessment which deals with [8] threatened and endangered species, the [9] Section 404 permit application, that's what [10] Jerry talked about dealing with waterways, [11] wetlands, impacts and permits associated with [12] that and the proposed Forest Plan Amendments [13] that are part of the Forest Service's review [14] of the project.

[15] So those are the things we would [16] like comments on, we encourage you to be [17] specific about your comments. "I would like [18] the Draft EIS to address this. The [19] information contained in the Draft EIS is not [20] accurate, this is the accurate information," [21] those kinds of things are very helpful to the [22] team in being able to respond to your

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[1] comments.

[2] The order that we're going to take [3] commentators; we're going to first have several [4] state elected officials who are here, the [5] preregistered speakers, those folks who [6] called our hotline to register to speak we'll [7] go through those first, and then other [8] speakers if you came today and signed up [9] we'll take those folks and then people who [10] may have spoken at other meetings, with time [11] available we'll get to those folks.

[12] Again, the ground rules for those [13] who came in late; we are setting a time limit [14] to be sure we get to everybody, three [15] minutes, I'll give about a 30-second warning [16] so you can wrap up. If you can provide your [17] name and then any organization that you are [18] representing the court reporter can then [19] capture that. Again, we want you to be [20] concise, summarize your points, you get about [21] a page and a half of a written statement you [22] can read in three minutes, and I think that's

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[1] the only things I wanted to cover.

[2] Again, if you have — if there's [3] something in our presentation of a procedural [4] nature you still have a question about, grab [5] one of these cards, fill it out, get it up to [6] the front and we'll see if we can get it [7] addressed during the course of the meeting.

[8] So, let's see, I want to start with [9] a couple of elected officials that are here, [10] the first is State Senator Charlie Flowers.

[11] **MR. FLOWERS:** Thank you. I'm going [12] to address my remarks probably more for the [13] agricultural segment of what we're trying to [14] do here.

[15] I am testifying in support of the [16] DM&E Powder River Basin project. This

rail [17] line is very important to South Dakota [18] because it will also open up new markets on [19] the west coast for South Dakota agriculture [20] commodities. We have a trucking business, [21] but I am well aware that if all agricultural [22] products needed to be moved by truck our

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[1] roads would not stand the pressure put on [2] them.

[3] It is unfortunate that for years [4] the rail line was allowed to deteriorate. [5] Since 1986 when the DM&E bought this line [6] they have worked very hard to make it a [7] viable rail service. While the service has [8] improved dramatically, more needs to be done. [9] If this project is allowed to continue it is [10] going to change the whole complexion of South [11] Dakota.

[12] There would be hundreds of better [13] paying jobs, several million dollars of new [14] property taxes to help support governmental [15] entities and better prices for our farmers [16] because of more markets and quicker [17] transportation of products.

[18] There is a concern that all these [19] trains will create safety problems for the [20] citizens of South Dakota. I feel you could [21] make the case that it will be safer because [22] people will know there will be more trains

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[1] passing through on a daily basis. Under [2] current conditions, because of few trains, [3] people are a little complacent and don't pay [4] much attention to the railroad crossings.

[5] In closing, I feel South Dakota [6] would be better served by putting politics [7] aside and do what's best for the bulk [8] commodity transportation needs of the state.

[9] Thank you for giving me this [10] opportunity to testify before this committee [11] and I ask your favorable consideration of [12] this project. Thank you. Senator Charlie [13] Flowers.

[14] **MR. GARDINER:** Thank you. State [15] Representative Ron Volesky.

[16] **MR. VOLESKY:** Thank you. I want to [17] thank the Surface Transportation Board for [18] being here today to take public comment on [19] this very, very important project and [20] opportunity for the people of South Dakota. [21] South Dakota desperately needs the Dakota, [22] Minnesota and Eastern railroad as an

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[1] essential part of its economic future. The [2] present expansion project being proposed by [3] the DM&E is an important opportunity for the [4] people of

our state.

[5] The expansion project will do a [6] number of things that are in the overall best [7] interest of the citizens of our state. It [8] will upgrade the current DM&E railroad to a [9] Class I railroad which will stabilize its [10] future in this region. It will provide a [11] safer more efficient rail system in South [12] Dakota. The expansion will also provide an [13] economic boost to the economy of our state, [14] and this economic boost will consist of [15] increased job opportunities.

[16] Also, the expansion will provide a [17] much needed advancement in the transportation [18] of agricultural products for our state's [19] farmers, particularly with regard to opening [20] up markets to the west coast. The project [21] offers additional opportunities for [22] manufacturing and industrial development, and

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[1] finally, the project offers greatly increased [2] tax revenues for the counties in which the [3] project will travel through our state.

[4] As a state representative I [5] represent District 21, which includes all of [6] Beadle County and a portion of Spink County. [7] The major population center in this [8] legislative district is Huron and I firmly [9] believe that a vast majority of my [10] constituents believe in this project and the [11] opportunities that it offers to our region of [12] the state is good for our state as a whole [13] and will benefit our state as a whole. I [14] believe the project is an important milestone [15] in developing the economic future of our [16] state.

[17] I would also state that the 90-day [18] comment period is more than sufficient to [19] meet the needs of gathering the necessary [20] input for the Surface Transportation Board to [21] make an informed decision. As an elected [22] representative of the state legislature, I

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[1] urge the Surface Transportation Board to give [2] favorable approval to the expansion proposal [3] being offered by the Dakota, Minnesota and [4] Eastern Railroad, and in closing I will say [5] that the participatory agreement entered into [6] between the Tribes in South Dakota and the [7] DM&E and the Surface Transportation Board is [8] an extremely important part of this project [9] and an extremely important document and I [10] believe that it sufficiently addresses the [11] sensitive needs of the Tribes in our state [12] and in this region and therefore, I would [13] urge that the Surface Transportation Board [14] give approval to this project in light of the [15] fact that it

would be good for the overall [16] economy commerce of our state and also it [17] does address the significant needs and [18] concerns of the Native American Tribes in [19] this region. Thank you.

[20] **MR. GARDINER:** Thank you. Next I [21] have Dana Nelson here representing the [22] governor and the state agencies.

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[1] **MR. NELSON:** Thank you to members [2] of the Surface Transportation Board, Section [3] of Environmental Analysis, and the [4] cooperating agencies for this opportunity to [5] provide oral comments on the Draft [6] Environmental Impact Statement. My name is [7] Dana Nelson, I'm offering these comments on [8] behalf of the South Dakota State Government [9] and they will be brief. State government [10] will provide further comment on a variety of [11] topics discussed in the Draft EIS in writing [12] prior to the January 5, 2001 deadline.

[13] Much controversy surrounds [14] discussions in this community about the [15] prospects of a bypass. In an effort to help [16] reach a solution or fashion some degree of [17] compromise, Governor William Janklow offered [18] the DM&E the use of state highway right of [19] way for Highway 14 and 14 bypass as [20] alternative routes for the railroad.

[21] State and local business people are [22] currently attempting to fashion such a bypass

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[1] proposal and a negotiated agreement by [2] accepting the governor's offer and the [3] funding which DM&E president, Kevin [4] Schieffer, subsequently offered to help [5] construct such a bypass. For the record I [6] would like to restate the governor's intent [7] to offer the use of the highway right of way [8] and further advise the STB, the DM&E, and the [9] community of Brookings that the state of [10] South Dakota will fund the construction of a [11] grade separation structure where the bypass [12] route would potentially cross Interstate 29.

[13] It is hoped in continued [14] discussions among the DM&E both the city of [15] Brookings and Brookings County, and Railco, a [16] group of local business, civic, and education [17] leaders, will result in the adoption of a [18] negotiated agreement which can be submitted [19] to the STB and made a part of a final [20] decision as described in Section 7.5 of [21] chapter 7 of the Draft Environmental Impact [22] Statement, which is SEA's proposed

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[1] environmental mitigation chapter. [2] The other comment the state wishes

[3] to make a part of the public record relates [4] to the project impact on residential property [5] values. The Draft Environmental Impact [6] Statement indicated no real impact will be [7] noticed on these values as decreases in [8] property values would be offset by similar [9] increases in other property values. Further, [10] the DEIS indicates reduced residential [11] property values would not be realized because [12] of the demand for housing by new employees of [13] the railroad. It is naive to suggest [14] property values of homes in close proximity [15] to the railroad tracks will not be impacted [16] because of increased housing demands by new [17] railroad employees.

[18] Please don't expect the citizens of [19] Brookings or the state of South Dakota to [20] accept this superficial treatment of property [21] values. The DEIS does a very inadequate job [22] of analyzing the impact on property values.

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[1] While the DEIS conclusion may have some merit [2] with regard to property tax revenues for the [3] city and county, it has no merit with regard [4] to actual property values.

[5] The impact on residential property [6] values is real, particularly to homes and [7] properties immediately adjacent to the [8] railroad tracks. The negative impact to [9] property values is certainly less as the [10] distance to the railroad perhaps becomes [11] greater. The DEIS should take a considerably [12] more in-depth look at property values, not [13] only in Brookings, but throughout the entire [14] route of the DM&E line in order to make this [15] section of the Environmental Impact Statement [16] credible.

[17] Such analysis should be set out in [18] the table that's described above comparing [19] the distance from the railroad tracks with [20] the projected reduction in property values [21] and in that manner citizens can make a more [22] informed analysis of the impact on property

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[1] values. Thank you.

[2] **MR. GARDINER:** That concludes the [3] elected representatives, so I'm going to work [4] through the list that I have of registered [5] speakers and I'll check to be sure they are [6] here as I go. First name I have is Liliias [7] Jarding and then Rodney Freeman, so you're on [8] deck, and then Lynn Schneider.

[9] **MS. JARDING:** Back up information [10] is in writing and I have just handed it to [11] you so you have it because I will be speaking [12] quickly. I've been reading EAs and EISs for [13] over 20 years and to

my knowledge I'm the [14] only person in South Dakota with a specialty [15] in environmental policy at the Ph.D. level. I [16] have over 50 publications. The Jardings have [17] been farming in South Dakota for five [18] generations and I do not live by the tracks. [19] I am commenting today from an environmental [20] policy perspective only.

[21] First, I request 180 days to read [22] and consider the Draft EIS and the 404

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[1] Permit. Both should have the same closing [2] date. This huge amount of information was [3] poorly arranged and the CD-ROM is unusable. [4] From an environmental policy standpoint I [5] have become convinced that this project is [6] totally unnecessary in terms of the coal [7] aspect of it. I also believe that this [8] process is irreparably damaged and can only [9] lead to delays in the courts if it is allowed [10] to continue.

[11] Three specific problems. First, it [12] is bad public policy for the STB to issue [13] such an incomplete Draft EIS. The STB knows [14] it has done this and has repeatedly asked the [15] public to do its work for it by researching [16] various options. The STB is attempting to [17] turn the NEPA process on its head by having [18] the public do the research and tell the [19] agency what alternatives might work.

[20] This transfers the agency's [21] specific burden to a diffuse public. [22] Examples include information on Class I

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[1] airsheds, National Register of Historic [2] Places, proposed mitigation, economic [3] impacts, demand for electricity, reasonably [4] foreseeable impact and unmitigatable impacts [5] as well as Section 319 of the Clean Water Act [6] and archeological and paleontological [7] surveys.

[8] Second, it is bad public policy for [9] the STB to issue a document that ignores [10] basic professional standards for citations.

[11] **Examples:** You use an electric utility [12] lobbying group as your basic source for [13] information on energy needs. Citation form [14] and references are incomplete. Information [15] on economic impact is not properly [16] documented. You use 1990 census data in [17] discussing Native Americans, which is totally [18] horrendous. I guess is the word, and you [19] repeatedly make unsupported assumptions. I [20] used to teach college and the methodology in [21] this Draft EIS would have led to a failing [22] grade for any term paper in my undergraduate

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[1] classes.

[2] Third, environmental justice. It [3] is bad public policy for the STB to proceed [4] with this process in a manner so obviously [5] ignorant of treaty rights, Native American [6] sacred sites and tribal sovereignty. These [7] are the key environmental justice issues. [8] The DM&E can get signatures from as many [9] native nations as it wants, but if it hasn't [10] got permission from the Lakota nation under [11] the 1868 Fort Laramie Treaty, this project [12] will be in court for a long time.

[13] In conclusion, the agency has [14] rushed an incomplete and unsubstantiated [15] document to press and has not shown an [16] adequate understanding of environmental [17] justice issues. I suggest that good public [18] policy would be to voluntarily withdraw the [19] DEIS, issue a complete one at the applicant's [20] cost and then proceed with the NEPA process. [21] Thank you.

[22] **MR. GARDINER:** Mr. Freeman. Lynn

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[1] Schneider is next and then Dennis Bowman.

[2] **MR. FREEMAN:** Thank you very much [3] for the opportunity to address you. I'm [4] Randy Freeman from Huron, South Dakota. [5] Huron is a community of approximately the [6] same size as Brookings and also about the [7] same size as Pierre where you were yesterday. [8] I am here representing or on behalf of Huron [9] Greater Development Corporation. I have [10] served for two years as the volunteer [11] president of that group, during that time we [12] have had some ups in Huron and the area and [13] we have had some downs.

[14] Two and a half years ago we lost a [15] major plant which resulted in [16] approximately 800 jobs leaving the community. [17] We've worked diligently with state and [18] federal and local representatives, I believe [19] we've made great strides forward, but I want [20] you to know this project and its approval is [21] absolutely critical and essential for our [22] continued economic well-being, not only in

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[1] Huron, but in the state as well.

[2] In Huron alone this project would [3] create at least 500 well-paying railroad jobs [4] and enumerable auxiliary or side jobs would [5] flow into the area and the community and the [6] state. I believe the estimates are well [7] over 1000 railroad jobs in South Dakota alone [8] and we all know what that would mean in side [9] jobs to fill in for those new employees and [10] families.

[11] I drive around the country quite a [12] bit, my wife won't fly and so I really don't [13] have much choice when she's going with me. I [14] can tell you in those travels I have seen [15] hundreds of coal trains go by. I don't see [16] coal dust, I don't see safety issues, I don't [17] hear a lot of racket. What I do see is the [18] economic prosperity of the communities along [19] that track. Especially communities that have [20] facilities as Huron would have. [21] Now I know it's probably selfish or [22] in our own best self interest to ask for

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[1] approval of this project for economic [2] well-being, but I can tell you if it's [3] selfish to want to improve the quality of [4] life in our area and our state, if it's [5] selfish to want to provide good jobs, if it's [6] selfish to try and improve the environment [7] and the safety of our citizens, then so be [8] it. In closing, I would urge this panel to [9] issue the final impact statement as soon as [10] is humanly possible and hopefully then the [11] STB will approve the project. Thank you very [12] much.

[13] **MR. GARDINER:** Mr. Schneider and [14] Dennis Bowman and Dr. Robert Hohm.

[15] **MR. SCHNEIDER:** Thank you. I am [16] speaking in support of the project. I'm Lynn [17] Schneider, a nearly lifelong resident of [18] Beadle County in Huron, South Dakota. I was [19] born, raised and educated there and served in [20] the US Army during the Vietnam era conflict, [21] receiving a honorable discharge. My wife and [22] I raised three sons who were educated in

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[1] South Dakota earning college degrees except [2] for one who earned his degree at the [3] University of Nebraska.

[4] Only one has gained his employment [5] in South Dakota, the others are working out [6] of state. I tell you this personal [7] background because I believe it to be a [8] common example in South Dakota. South [9] Dakota's quality of life is great in terms of [10] space, work ethic, education and personal [11] safety. Yet a great number of our young [12] people must leave the state to secure [13] attractive employment and careers, except for [14] a few who find it in the two population [15] centers of Sioux Falls and Rapid City.

[16] In my case I was fortunate to [17] develop my career in community banking, [18] principally financing farmers and [19] agri-business. During the past 29 years I [20] have worked with more than 600 farm and ranch [21] customers.

[22] Currently I am president of

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[1] Marquette Bank in Huron, South Dakota, a [2] position I have held for 14 years. I see [3] firsthand the great challenges our farmers [4] face in generating reasonable profits from [5] cash flow of their business. A strong [6] transportation system for farm commodities [7] and to develop value added agriculture [8] processing is critical.

[9] The DM&E railroad's request to [10] revitalize and expand is most worthy of the [11] Surface Transportation Board approval. That [12] approval must happen swiftly. The very [13] economic life of our farm customers depend [14] upon it.

[15] This railroad cannot survive [16] without that project. South Dakota's [17] highways cannot survive the added wear and [18] tear of the grain hauling semis that would be [19] needed to replace the railroad. My bank also [20] serves many commercial, consumer and public [21] entity customers in east central South [22] Dakota. Their economies have also been

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[1] greatly strained.

[2] This railroad project would provide [3] major opportunities for them as well as all [4] of South Dakota to improve everyone's [5] welfare. New job creation and tax base [6] growth would abound. When you positively [7] impact those areas, you improve the general [8] welfare which we desperately need in this [9] part of the United States.

[10] New markets for our farmer's grain [11] production mean better prices for their [12] product. Job creation means new business [13] opportunities and new capital investment in [14] an otherwise stagnant economy. Growth of the [15] tax base means government has a better [16] opportunity to serve citizens more [17] effectively with a more equitable tax burden.

[18] I thank the Surface Transportation [19] Board for its careful deliberate process in [20] arriving at a credible conclusion in the [21] Draft Environmental Impact Statement. There [22] is no logical reason to continue delays

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[1] advocated by some parties.

[2] I urge you to proceed diligently [3] and stick with your established deadline to [4] end the comment period on January 5, 2001. I [5] implore the STB to grant approval to the DM&E [6] promptly within a scope they can accept so [7] that they can begin actual construction next [8] year in 2001. The future of thousands of [9] people hang in the balance. Thank you.

[10] **MR. GARDINER:** Mr. Bowman, then

[11] Dr. Hohm.

[12] **MR. BOWMAN:** Thank you. My name is [13] Dennis Bowman. I'm employed by the Otter [14] Tail Power Company. Otter Tail Power Company [15] is a relatively small electric utility [16] operating in South Dakota, North Dakota and [17] Minnesota. We operate coal fired generating [18] plants at three locations. Two of those [19] locations involve rail transportation of [20] coal. Both of these locations are captive to [21] a single railroad.

[22] Otter Tail Power will not see a

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[1] direct benefit from the construction of the [2] proposed DM&E line. We have however [3] supported and actively encouraged competitive [4] access within the railroad industry. It is [5] in this context that we support the proposed [6] DM&E line.

[7] As a captive rail customer we find [8] it virtually impossible to negotiate [9] delivered fuel prices for our generating [10] plants. While there is intense competition [11] at the coal mine it's negated by the impact [12] of the freight. The freight portion of the [13] delivered cost of fuel is typically 75 [14] percent of the total cost.

[15] As the electric utility industry [16] moves toward deregulation, it is vitally [17] important that the industry have a [18] competitive access to rail service. The [19] electric utility industry is facing [20] deregulation efforts throughout the country [21] because of the fundamental belief that [22] competition is what ultimately lowers prices

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[1] and stimulates innovation. Large monopoly [2] railroads do not have proper incentives for [3] either efficiency or innovation and we [4] applaud the DM&E for their proposed project [5] which demonstrates the advantages of both.

[6] It is our belief that competition [7] within the railroad industry will enhance the [8] economy of the area by providing low cost, [9] quality rail service for other businesses. [10] Thank you.

[11] **MR. GARDINER:** Thank you. [12] Dr. Hohm, David O'Donnell and then Mark [13] Whaley.

[14] **DR. HOHM:** My name is Dr. Robert [15] Hohm from Huron, South Dakota. Like Lynn [16] Schneider, I was born and raised in Huron, [17] South Dakota, educated in Huron, did five [18] years at the University of Oklahoma in my [19] training of internal medicine. Through the [20] years that I lived in Huron, Huron was a [21] railroad town.

[22] My second father was a retired

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[1] railroad man and I spent many, many hours at [2] his house learning about the Chicago [3] Northwestern railroad. Over the years the [4] Chicago Northwestern deteriorated, was [5] ultimately bought by the DM&E and operated as [6] it is now.

[7] In regards to healthcare, rural [8] South Dakota does not enjoy the benefits of [9] Rapid City or Sioux Falls. Rural South [10] Dakota functions on rural economy. As rural [11] economy provides, rural healthcare is reliant [12] upon rural economy to continue the existence [13] and provide adequate healthcare to the rural [14] population.

[15] With the Balanced Budget Act intact [16] and proceeding forward, the reimbursement for [17] healthcare for our aging population is on a [18] downhill spiral. Healthcare, on the other [19] hand, is on an upward spiral. The cost of [20] equipment for testing and diagnostic [21] instrumentation skyrockets literally as we [22] sit here.

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[1] With the population becoming a [2] higher and higher percentage of Medicare aged [3] patients, the reimbursement of the Balanced [4] Budget Act all have a phenomenal negative [5] impact on healthcare. The current fiscal [6] year of 2000 for Huron Regional Medical [7] Center is slated to lose over a million [8] dollars on its Medicare aged patients. This [9] process will proceed and continue and worsen.

[10] With the influx of non-Medicare [11] aged patients, such as what would be supplied [12] by DM&E employees, and the support mechanism [13] in businesses that would be associated with [14] the DM&E project, healthcare itself would [15] benefit tremendously in allowing us to [16] maintain a positive balance, such that the [17] test equipment and the facility itself would [18] continue to grow and meet the standards of [19] healthcare as the larger metropolitan areas [20] do as well as the larger communities in South [21] Dakota. I beseech you to consider in a [22] positive fashion the DM&E project and thank

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[1] you much for your time.

[2] **MR. GARDINER:** Mr. O'Donnell and [3] then Tim Brown and then Mike Williams.

[4] **MR. O'DONNELL:** David O'Donnell, [5] chancellor of Huron University. I came up [6] here with some of our colleagues today to [7] speak to this group. I want to thank you for [8] the time. I'm appreciative that you've [9] doubled the standard of time normally allowed [10] from 45 days to 90 days. I'm appreciative of [11] the fact that you're moving around our

large [12] geographic state, we don't have the [13] population of Washington, DC.

[14] I moved here in 1997 to be the [15] chancellor of Huron University. I moved here [16] from Colorado and I can tell you that trains [17] come from Wyoming down Colorado through [18] beautiful mountains down to Colorado Springs [19] and on south. These are the coal trains and [20] I will tell you Colorado is not covered with [21] coal dust, it's not covered with traffic, [22] it's not covered with accidents, it's able to

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[1] be managed very well.

[2] I've relocated 37 families to Huron [3] with over 25 children who were school age and [4] I will tell you if you look at the state, [5] we're three or four communities that are [6] thriving and that are doing well, but like so [7] many areas in the middle of our country, the [8] rest of us are having difficulty with [9] economic success, with diversification and [10] with growth and whether we find it with [11] railroads or whether we find it with [12] agriculture and how to move products and sell [13] products, we need to do something in a [14] positive sense to help our communities.

[15] Not just Huron, we need to work [16] together to resolve our differences in a [17] nonadversarial way. Instead of saying "why [18] not" if a company wants to invest in a [19] business enterprise we should look at it [20] maturely with what the problems are and work [21] together to resolve those problems so we can [22] move forward. Thank you for the time.

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[1] **MR. GARDINER:** Mr. Whaley and then [2] John Moore.

[3] **MR. WHALEY:** My name is Mark [4] Whaley, I'm speaking on behalf of the DM&E [5] upgrade, but opposed to a bypass in the city [6] of Brookings. I'm a traffic accident [7] reconstructionist and have specialized [8] training in railroad grade crossing [9] collisions and therefore feel qualified to [10] speak on rail safety as it applies to the [11] Brookings areas.

[12] Banner Associates Incorporated, a [13] consulting engineering firm, was hired by the [14] city some time back to put together a [15] railroad bypass feasibility study. I believe [16] the STB received all or at least portions of [17] that study when the city submitted its [18] nearly 16 mile bypass proposal to the STB. [19] In the introduction, Banner stated that, "The [20] most important concern the Brookings [21] community has as it addresses the proposed [22] DM&E upgrade plans is the impact on public

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[1] safety. The major issue in this regard is [2] the potential for train and vehicle [3] collisions at crossings."

[4] I agree very strongly with this [5] statement, but would argue just as strongly [6] that running new track around the city is not [7] the best way to ensure public safety. The [8] proposed 16 mile bypass adds 16 new at grade [9] crossings. 16 new at grade crossings in a [10] time when states and the railroad industry [11] are working hard to eliminate at grade [12] crossings because of their recognized danger [13] to the motoring public.

[14] These 16 crossings will be on roads [15] with speeds of 55 to 65 miles an hour, [16] whereas the six at grade crossings currently [17] in the city are on streets with posted speed [18] limits of 25 to 35 miles an hour. I could [19] talk volumes about increased stopping [20] distances, decreased visibility due to [21] weather conditions, lack of lighting, the [22] lack of advance warning devices on most rural

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[1] roads, et cetera, but instead I will talk [2] about a grade crossing accident that occurred [3] in the city on Monday morning, November 13.

[4] A motorist was driving south on [5] Western Avenue at approximately 5:48 a.m. [6] The city streets as well as country roads [7] were extremely slick due to a recent heavy [8] snowfall. The driver of the vehicle said [9] that she could not get stopped in time to [10] avoid hitting the side of the train. This [11] crossing is equipped with advance warning [12] lights. These lights were working properly [13] at the time of the accident.

[14] Why the driver did not see these [15] warning lights and stop before hitting the [16] train is not known and probably never will be [17] clear. Maybe she was not paying close enough [18] attention to her driving, maybe the icy roads [19] prevented her from coming to a stop, maybe a [20] combination of several things, but what we [21] know is that the vehicle was able to slow to [22] a low speed, driver stated less than 10 miles

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[1] per hour before impact. The vehicle hit the [2] side of the last of three locomotives and [3] bounced back away from the train causing only [4] front-end damage to the car and minor [5] injuries to the driver.

[6] Take that same accident and move it [7] out to a rural crossing. Vehicles should not [8] be traveling 55 to 65 miles an hour on [9] slippery roads, but we all know that they do. [10] Make that impact speed 30 to

40 miles an (11) hour, maybe higher, instead of less than 10 (12) miles per hour. The immediate change in (13) velocity alone is enough to cause fatal (14) injuries, not to mention the penetration of (15) the vehicle into the train and quite possibly (16) getting caught under it and being dragged (17) some distance before the train is able to (18) stop.

(19) Add to that 10 proposed gravel road (20) crossings that will not be equipped with any (21) more than an unlit cross-buck sign at unlit (22) crossings. It sounds like the makings of a

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(1) fatal car/train accident instead of minor (2) injuries.

(3) We can also talk about the safety (4) of the people who operate the trains. On the (5) early morning of August 26th, 2000, a young (6) man stands accused of tampering with a switch (7) in the city of Brookings, causing a loaded (8) westbound train to change tracks and collide (9) with a parked group of loaded railcars. This (10) collision caused the death of one of the (11) operators and critical, life-changing (12) injuries to another.

(13) DM&E CEO, Kevin Schieffer, has (14) stated publicly that this kind of tampering (15) would not go undetected with the upgrade DM&E (16) has proposed. Switches would be monitored (17) and unauthorized changes would be noted so (18) that crews could be alerted before (19) approaching with switch. If DM&E is forced (20) to build a bypass around the city, will they (21) be able to upgrade the tracks through town (22) and will it be warranted for only local

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(1) traffic? I think these are questions the STB (2) should be asking itself as lives are at (3) stake.

(4) **MR. GARDINER:** Mike Williams and (5) then John Moore and Carol Humburg.

(6) **MR. WILLIAMS:** Good afternoon, I'm (7) Mike Williams, I'm the city manager here in (8) Brookings. Thank you for the opportunity to (9) be heard. My comments do represent the (10) position of the city council and most of them (11) are represented here; Mayor Virgil Herriott (12) and Councilpersons Bill Davidson, Tom Bozied, (13) Keri Weems, Sam Artz and Mike McClemons are (14) present.

(15) The project that we're talking (16) about is a good project in so many ways, but (17) the proposed expansion will dramatically harm (18) this community if it's allowed to proceed as (19) requested in the application. The bypass (20) suggested by the state of South Dakota and (21) the city of Brookings mitigates the negative (22) environmental impacts of the route through

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(1) residential and commercial historic areas of (2) Brookings, all which have been well (3) documented. The city followed the STB's (4) notice of April 14, 1999, and demonstrated (5) that the bypass proposal was reasonable and (6) feasible.

(7) However, in an effort to compromise (8) and continue to support the DM&E project, the (9) city of Brookings with the assistance of the (10) state of South Dakota and a committee of the (11) state chamber of commerce negotiated with the (12) DM&E and explored alternative routes for the (13) bypass. The reason for this exploration was (14) to design a bypass that affected even less (15) people, even less land and utilized public (16) right of way and state and city-owned lands (17) as much as possible.

(18) This process was successful in (19) identifying an alternative bypass route that (20) is only eight miles long and traverses (21) adjacent to the Highway 14 bypass through (22) state and city-owned land and through many

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(1) less private property owners and road (2) crossing than the bypass originally (3) submitted.

(4) The shorter bypass is also less (5) expensive to build and only slightly longer (6) than the in-city route. However, at this (7) time the city has no agreement with the DM&E (8) and no option but to petition the STB to (9) impose mitigation on the DM&E in the form of (10) a shortened bypass because we have no (11) agreement with the DM&E.

(12) The shortened bypass that we have (13) found is a more reasonable and feasible (14) alternative for the railroad and causes less (15) environmental consequence than both the (16) in-city route and the 14 and a half mile (17) route. The shortened bypass proposal is a (18) version of B-3 B-4 alternatives. It is a (19) version of that and the city is willing to (20) conduct further analysis as required by the (21) STB so that the environmental review process (22) moves forward without undue delay.

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(1) The state and the city, as Dana (2) Nelson has said, has combined with a local (3) effort of \$8.5 million dollars towards (4) this \$26 million dollar project. This is a (5) very large commitment from the city and (6) illustrates its strong support and genuine (7) belief that a bypass is absolutely necessary (8) for mitigating the adverse impact of the DM&E (9) expansion project.

(10) In summary I have a few points to (11)

make. The city council has held many public (12) hearings and many public meetings and (13) negotiations with the DM&E on the expansion (14) project for the last few years. The DM&E and (15) other engineers and architects have analyzed (16) the bypass routes. These hearings, meetings, (17) negotiations and diligent study are the basis (18) for the city of Brookings position on this (19) project. (20) The city of Brookings remains (21) supportive of the overall project with that (22) support conditioned upon the construction of

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(1) a bypass around the community. The city of (2) Brookings is unique in comparison to the many (3) communities on the DM&E expansion route. The (4) DM&E has reached agreement with other (5) communities and land owners during the (6) project development, but we have not reached (7) resolution in Brookings because it is unique (8) and different mitigation efforts are (9) required. The STB DEIS properly demonstrated (10) a preference for a bypass around the city of (11) Brookings.

(12) The city will conduct further (13) review of the proposed shortened bypass, but (14) argues that the shortened bypass is clearly a (15) reasonable and feasible route, clearly a more (16) reasonable and feasible route than the long (17) bypass and clearly a route that negatively (18) affects far less people than both the in-city (19) route and the long bypass.

(20) The city at this time must request (21) that the STB order construction of a (22) shortened bypass route as mitigation. We

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(1) will continue to have a dialogue with the (2) DM&E and we will further refine our position (3) and submit a further filing if that is (4) necessary. Thank you.

(5) **MR. GARDINER:** John Moore and then (6) Carol Humburg and Harold Bisch.

(7) **MR. MOORE:** Thank you. My name is (8) John Moore, I am here to represent Ag First (9) Farmers Cooperative which is headquartered (10) here in Brookings, but also has facilities in (11) Aurora and Palmer located along the DM&E. (12) Additionally we have facilities in White and (13) Toronto in which we have our grain shipped (14) via the DM&E. Ag First is owned by over 500 (15) farmers from Brookings, Moody and Deuel (16) Counties. In order to save time at the (17) hearing today I will summarize my comments (18) with the main points and will submit more (19) detail via written comments.

(20) We strongly support the Alternative

[21] C action of the Draft EIS. Ag First depends [22] on the DM&E rail for shipping grain, but

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[1] added the option for receiving fertilizer and [2] propane products and these products are moved [3] by rail. If the no-action alternative became [4] a final decision we envision the eventual [5] loss of our rail service. If this came to [6] pass it would take away our soybean markets [7] in Mankato and the Mississippi River, leaving [8] us with only one market for our soybeans.

[9] It would also take away our corn [10] market at the river and for Chicago and [11] beyond shipment. There are also less [12] frequently used markets that can only be [13] reached by rail that would be gone, leaving [14] us without the option of using those markets [15] as well to achieve the best possible price [16] for our farm customers. Conversely, if the [17] upgrade is approved then it opens up [18] additional markets in the Pacific Northwest.

[19] The mere fact that by rail, Ag [20] First can reach markets more than 1000 miles [21] away, but by truck are limited to markets [22] within a few hundred miles speaks clearly

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[1] regarding maintaining competition between [2] markets for our customers and the efficiency [3] of rail transportation. That efficiency is [4] only improved with faster rail traffic.

[5] Conversely, that gain in efficiency [6] is offset many times over with quadrupling [7] the truck traffic that it would take to move [8] our grain to market without rail service. [9] The impact for our economic environment from [10] the loss of rail market and the increased [11] cost of truck transportation could only be [12] negative ones. We also feel that the safety [13] of our local roads would also be improved.

[14] Certainly when we look at a 25-car [15] train, that unit makes two trips through [16] town; one arriving and one departing. If we [17] were forced to ship by truck that 25-car unit [18] would require 100 trucks to move the same [19] number of bushels. That's 200 trips through [20] town counting arrivals and departures. The [21] improved safety at intersection crossings of [22] two trips versus 200 trips seems rather

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[1] obvious to us.

[2] In addition, a new rail would [3] decrease derailments and move trains faster [4] so the intersection is tied up for a shorter [5] period of time. In summary, the actual [6] efficiency will improve

while at the same [7] time maintaining our market options and [8] transportation efficiency. This all has a [9] positive impact on our economic environment.

[10] We also see it as a viable option [11] from a more safe traffic environment [12] standpoint when you look at increased truck [13] traffic through town as the option to rail [14] transportation.

[15] Regarding the bypass, the bypass is [16] a "my backyard" issue and only moves the [17] problem to a different area. Workers, [18] shoppers, students, emergency vehicles and [19] incoming suppliers still have to cross the [20] railroad no matter where it is located. [21] Therefore it becomes a waste of dollars and [22] the matter is either public, private, or a

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[1] combination of two. This concludes my [2] comments. Thank you.

[3] **MR. GARDINER:** Ms. Humburg.

[4] **MS. HUMBURG:** Thank you. My [5] statements are abbreviated due to the time [6] abbreviation. The proposed upgrade of the [7] DM&E rail line is unquestionably important to [8] the future of the state of South Dakota. [9] However, the bypass being sought by the city [10] of Brookings only serves to move any negative [11] impacts of that project onto another [12] population.

[13] I am not unsympathetic to our [14] friends and neighbors who knowingly purchased [15] homes along the railroad as there will be [16] changes that accompany the rehabilitation of [17] the existing line. It's regrettable that the [18] issue of a bypass around the city of [19] Brookings, which relocates the potential [20] consequences onto another population, has [21] become and continues to be divisive for [22] citizens both within and outside the existing

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[1] city limits.

[2] The DEIS recognizes that the [3] railroads can repair, replace and [4] rehabilitate their existing line without any [5] Board authority and included the analysis to [6] the extent necessary for the Army Corps of [7] Engineers. The DEIS notes the presence of [8] the proposed rail line, this being the B-4 [9] alternative, could also act as a dam [10] resulting in changes to surface drainage [11] patterns along the rail line.

[12] It should be noted that a majority [13] of the area through which the proposed B-4 [14] bypass would cross is indeed lowland and [15] floodplain and the damming effects would have [16] the potential of causing catastrophic damage [17] to residences and roads north of that line.

[18] In addition, the roadbed would have [19] to be built up considerably which could [20] involve subsurface alterations with the [21] potential for adverse affects for the ground [22] water. The city has just spoken to the

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[1] reasonableness of the B-4 proposal by [2] offering a shortened bypass route, hence some [3] of the comments that I had prepared may be a [4] little bit adjusted. In its summary the DEIS [5] concludes that Alternative B-2 would have [6] significant impact to noise sensitive and [7] vibration receptors that would be difficult [8] to mitigate effectively.

[9] With regard to noise the STB, in [10] agreement with other federal agencies, [11] considers noise levels up to 65 decibels to [12] be compatible with most noise sensitive [13] receptors, while levels at or above that [14] level are adverse. Tables confirm that there [15] are no noise sensitive receptors within the [16] city of Brookings on the existing route from [17] wayside noise regardless of the level of [18] train traffic.

[19] Only when the horn is factored in [20] are there any noise sensitive receptors. [21] Whistle-free status with the accompanying [22] safety measures of quadrant gates and

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[1] flashing lights when and if rail traffic [2] reaches 40 million net tons, has been offered [3] to the city of Brookings repeatedly over the [4] last two years by DM&E railroad at the [5] railroad's expense, the last offer as recent [6] as last week.

[7] One would assume that the city [8] could share in the cost of such measures at a [9] lower level of rail traffic if so desired by [10] the city. The communities of Volga and [11] Aurora already have community agreements with [12] the DM&E which will provide them with these [13] safety measures.

[14] The bottom line concern here is [15] safety, both within and outside the city of [16] Brookings. Most notably, safety is not [17] listed as an issue which could not be [18] mitigated on an existing route. The issue [19] here is cost, not only in dollars, but also [20] in human life. The Mayor's Ad Hoc [21] Committee's report states, "There is [22] considerable belief that the city of

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[1] Brookings helped to create this problem when [2] it zoned land along the right of way as [3] residential. One way the city can help [4] correct this situation and assist these [5] people is to provide the leadership and some [6] financial

support."

[7] The city is looking at bearing [8] substantial, if not the entire, cost in a [9] bypass situation and rightly so. A fraction [10] of that bypass cost would serve to make rail [11] passage on the current route both safe and [12] efficient. Thank you.

[13] **MR. GARDINER:** Harold Bisch and [14] then Josephine Waldner.

[15] **MR. BISCH:** I'm Harold Bisch, a [16] retired Huron businessman. I had a 33 year [17] career with Sears, Roebuck and Company, [18] including being the Sears retail store [19] manager in Huron from 1965 to 1983. I was [20] the Huron area Chamber of Commerce Executive [21] Director for four years and Executive [22] Director of the Greater Huron Development

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[1] Corporation for three and a half years, [2] retiring at age 65 in 1991. As a Huron, [3] South Dakota businessman I was keenly aware [4] of the need for a viable railroad, especially [5] to transport South Dakota grain to the [6] Midwest and eastern markets.

[7] The DM&E railroad needs to have a [8] secure source of operating income that the [9] coal source can provide for the railroad. [10] South Dakota and Minnesota grain producers [11] especially need to have a dependable railroad [12] to market their crops to the midwest and [13] eastern markets and now with exports to China [14] becoming a possibility.

[15] In 1984 the Chicago Northwestern [16] railroad announced plans to close down part [17] of the railroad. In 1986 the Chicago [18] Northwestern railroad did close down the [19] entire railroad between Rapid City, South [20] Dakota, and Winona, Minnesota. Their [21] expenses were obviously greater than their [22] income. As Chicago Northwestern was heading

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[1] for close down, central South Dakota's [2] highways were full of grain haulers. Our [3] grain producers were being charged more to [4] ship their farm commodities and South Dakota [5] and Minnesota highways were taking a beating.

[6] United States Senator Larry [7] Pressler and his staff assembled a group of [8] railroad executives to see if a new railroad [9] company could be put together. In 1986-1987 [10] the Dakota, Minnesota and Eastern railroad [11] came into being. They purchased used [12] locomotives, railroad cars, et cetera, to [13] begin hauling South Dakota's agricultural [14] commodities over a deteriorated railbed to [15] the Midwest and

eastern markets. The DM&E [16] has made major investments in upgrading the [17] railbed and tracks, now installing seamless [18] tracks for smoother running and eliminating [19] the clickety click people are accustomed to [20] hearing. Much more is needed to be done. [21] Our farmers are again having their grain [22] transported at reasonable costs. More and

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[1] more grain elevators and grain bins have been [2] added along the railroad line in recent [3] years, also, major investments to market [4] their grain via the railroad.

[5] South Dakota and Minnesota farmers [6] need to have a railroad that is stable and [7] secure. The coal commodity can be just what [8] the DM&E railroad needs to become a solid and [9] secure railroad company.

[10] Folks are worried about all the [11] trains and that they will be held up going [12] from one side of town to the other. The coal [13] trains will not be switching, they will just [14] roll through. On Sunday afternoon, [15] October 8, 2000, I was on a South Dakota [16] Farmers Union bus tour returning from the [17] east coast. In western Wisconsin we [18] encountered a 116-car freight train. I timed [19] the crossing as the bus driver counted the [20] rail cars. It took two and a half minutes [21] for the 116-car freight train to roll past in [22] front of us. Not much different than waiting

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[1] for signal lights to change at a down-town [2] intersection.

[3] The long range survival of the DM&E [4] railroad is no doubt the most important [5] investment that has been made in recent years [6] in South Dakota. I urge the Surface [7] Transportation Board to approve the DM&E [8] railroad plan to expand into the Powder River [9] Basin in Wyoming and secure the future of [10] this most important railroad for South Dakota [11] and Minnesota's economic well-being. Thank [12] you.

[13] **MR. GARDINER:** Ms. Waldner. Is Jim [14] Lambert here?

[15] **MS. WALDNER:** I'm Josephine [16] Waldner, a landowner who will be directly [17] affected by a railroad bypass around [18] Brookings.

[19] First let me say I appreciate the [20] opportunity to provide my comments on this [21] extremely important project. I urge you to [22] reexamine and reevaluate your preferred

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[1] environmental alternative for Brookings, [2] South Dakota.

[3] Number one, I do support the DM&E [4] expansion project. It is not only a coal [5] train project, but vitally important to the [6] agricultural industry in South Dakota.

[7] Number two, I do oppose any bypass [8] through Brookings, whether it be the [9] ridiculous 16 mile bypass submitted or the [10] recently formulated Railco bypass. The [11] bypass issue for Brookings, South Dakota, is [12] essentially a political issue proposed by [13] approximately 200 trackside residents and [14] bought into by Governor Janklow, who then [15] spearheaded a drive for Brookings to be able [16] to submit a bypass plan as well as the cities [17] in Minnesota.

[18] Unfortunately our congressional [19] delegation also bought into the plan. [20] The 200 residents sold the plan to the city [21] commission, who then hastily contracted with [22] an engineering firm to put a line on a map,

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[1] and Governor Janklow submitted it. At no [2] time were any of the rural residents who are [3] directly affected consulted about the plan [4] until it appeared in the newspaper. At that [5] time it had become a fact and we have spent [6] two years fighting it.

[7] This 16 mile irrational and [8] ridiculous bypass, which was recently called [9] a bunch of crap by the Mayor, was really the [10] city of Brookings' recommendation and desire [11] until the DEIS mentioned they had to pay for [12] some of it. Suddenly they became more [13] reasonable and adopted a bypass proposal by [14] Railco, a group of business and educational [15] leaders in Brookings, that bypass being [16] only 8 miles long, now they feel that had [17] possibilities because they have to pay for [18] part of it.

[19] Railco sang long and loud that they [20] had contacted all of the affected landowners, [21] et cetera. Until it came out at a public [22] meeting that they had intended for the state

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[1] to provide right of way along Highway 14, [2] which is our property, and it would be taken [3] by eminent domain so they didn't have to [4] contact us.

[5] Preferential treatment was given to [6] the University, they were allowed to comment, [7] they didn't want the Railco bypass going [8] through their land and that was done even [9] though the University property is state [10] property and Governor Janklow had originally [11] offered that.

[12] The Railco proposal shows no [13] analysis of need for a bypass. Citizens [14] against the Brookings bypass tried to [15]

negotiate the right to due process for all [16] affected landowners and we did not get it. [17] However, Senator Daschle assured in me in his [18] letter of July 22, 1999, "You can be assured [19] I will work with the STB and DM&E to ensure [20] that any bypasses, if required, will be [21] chosen with the input of affected residents."

[22] Both bypass proposals are strictly

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[1] a classic case of moving the city's perceived [2] problem to the rural residents north of [3] Brookings. A bypass cannot constitute a [4] transferred burden of problems to other [5] residents, there has been no demonstrated [6] need for a bypass. I strongly urge you to [7] reject Alternatives B-3 and B-4 as described [8] in the DEIS and adopt B-2 as it relates to [9] Brookings.

[10] This request is based on the [11] unreasonableness of B-3 and B-4 alternative [12] routes, it is neither economically reasonable [13] or feasible. I will submit written comments.

[14] **MR. GARDINER:** Thank you. [15] Mr. Nelson and then Lori Hintz, Larry [16] Zickmund, Mary McKinney.

[17] **MR. NELSON:** Jack Nelson here to [18] represent the Arlington Farmers Elevator [19] which is a cooperative supply business. We [20] buy and sell grain and supply fertilizer and [21] ag chemicals. Some of the things we have to [22] do with the DM&E project is our grain is

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[1] mostly all shipped out, about three million [2] bushels a year by rail, we receive some of [3] our fertilizer.

[4] Some of the impacts that could have [5] on a community the size of Arlington, which [6] most of you are probably aware of the size of [7] the town, is when you compare what the [8] farmers are going to be paid on this grain [9] versus a truck market, roughly it adds up to [10] be about seven cents a bushel and on three [11] million bushels you're talking \$210,000 and [12] according to some of the state figures I have [13] seen, every time a new dollar comes in or [14] goes out, it has the impact of turning over [15] six to seven times in a community.

[16] So if you use a conservative figure [17] you're talking about \$1.2 million in a town [18] the size of Arlington, the impact it could [19] have it.

[20] Some of the things that I feel will [21] be important to us if the DM&E could upgrade [22] to this project, we'll have a lot quicker car

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[1] turnarounds so we don't have this problem of [2] car shortages to move

mass volumes of grain [3] where we can't do with truck and if we went [4] back, like John Moore said, with trucks we [5] would have major safety problems trying to [6] bring that major volume in at one time. The [7] railroad is a very important asset to rural [8] communities. Not only to the elevator and [9] the farmers, but it also affects the whole [10] town itself.

[11] I would hate to see what could [12] happen with the small towns if we didn't have [13] our railroad coming through. I just had a [14] magazine the other day that came to me that [15] had a picture of an old empty rural elevator [16] sitting there, the town was gone and I think [17] the heading on there was "Rural Agriculture [18] Prairie Monuments" and it even mentioned it [19] as a tombstone.

[20] So it kind of gives a guy an idea [21] of what could happen to our rural community [22] if we don't have a railroad, we have seen

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[1] what has happened to them already. This not [2] only affects the small rural towns, when [3] these towns start going down, they start [4] dying, it creates a chain reaction where we [5] have people leaving our state at that point, [6] and it creates a chain reaction back to our [7] bigger cities also where we don't have those [8] people to do business with. I feel we need [9] to support the DM&E project, let them [10] diversify their income and stay viable and be [11] able to provide not only a new service, but [12] the existing services that we've been used to [13] in the past. Thank you.

[14] **MR. GARDINER:** Mr. Lambertz and [15] then Larry Zickmund, Mary McKinney and Carl [16] Anderson.

[17] **MR. LAMBERTZ:** My name is Jim [18] Lambertz, I live at 1227 30th Street, my [19] wife, Linda, and Shawn live there also. Our [20] daughter, Liz, attends the university here in [21] Brookings. Our home is one-half mile north [22] of the proposed B-4 alternate as it cross

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[1] Highway 77 north of Brookings. Our home is [2] in an incorporated housing community called [3] Sunnyview, we love the aspects of being a [4] near to city rural environment. It's because [5] of these values that I address this panel.

[6] I've had the opportunity to review [7] particularly chapter four of the EIS draft [8] document. I found the document to contain [9] errors and misleading facts. It is my [10] concern that these errors are corrected and [11] facts are completed so that a reasonable [12] person could make an informed decision about [13] the issue. I would like to list some of the [14]

concerns I found in chapter four.

[15] The introductory explanation of B-3 [16] and B-4 give directions about rail traffic [17] movement. I do not understand that the [18] Transportation Safety Board has the [19] regulatory authority to effect which trains [20] go on which tracks. If the Board does have [21] that authority please amend the document to [22] state that authority. If not, these

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[1] alternatives are being misrepresented as [2] reasonable alternatives.

[3] The topographic inputs of the [4] bypass alternates are significantly [5] understated. I offer an example which I will [6] attach and submit. The picture reflects a [7] location where the proposed bypass would [8] cross through the Six Mile Creek drainage [9] area. The picture reflects a driveway to the [10] city's water treatment plant that has been [11] cut to eliminate the damming effect.

[12] This driveway is 200 feet south of [13] the proposed bypass route. I live within a [14] half mile of this location and have seen [15] flooding which occurs each spring or during [16] heavy rains. At least two years in memory [17] that same driveway with culverts has been [18] cut.

[19] The section about surface water [20] impacts has significant errors. The B-2 [21] alternative has stated that runoff affects [22] the water quality of Lake Goldsmith. I'm

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[1] familiar with this area, and will state that [2] water would have to run uphill for this to [3] occur. The wetland section seems [4] impractical. B-1 and B-2 alternatives are [5] stated as affecting 5.8 acres of wetlands [6] encompassing 12 intermittent streams and a [7] river.

[8] Alternate B-3 and B-4 are stated as [9] affecting 20 intermittent streams and a [10] river. I note that almost twice the [11] crossings affect a lesser acreage of 5.1 [12] acres. The bypass alternative near our home [13] would be considered by a mortgage insurance [14] company as being in the floodplain. This too [15] should be an indication that measurement of [16] wetlands within the meandering Six Mile Creek [17] has been misjudged. I'm not aware of any [18] formal wetland audit on these proposed bypass [19] routes.

[20] Section 4.9.5 speaks to ground [21] water. The document suggests activities [22] would not have a potential impact on ground

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[1] water. I very seriously point out the north [2] Brookings city well field is

within 100 feet [3] of the proposed bypass. That same route [4] would sff another potential exposure to the [5] very shallow aquifer that this well field [6] pumps.

[7] One of the biggest issues and the [8] reason I am here today is the question of [9] safety. The EIS draft addresses the exposure [10] in technical terms. I have a concern which [11] has not be evaluated, this is the ambient [12] lighting condition difference that would [13] exist between the two alternatives; bypass or [14] not bypass. All city passages are lighted [15] with streetlights.

[16] This is true for both the city of [17] Brookings and the city of Volga. None of the [18] bypass alternative crossings have lighted [19] requirements. I believe my neighbors and [20] family would be substantially at risk. 35 [21] to 55 mile an hour at grade rural crossings [22] with poor lighting are totally different

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[1] than 25 to 35 miles an hour at grade with [2] good streetlights. I would point out — I [3] would just want to make one other final [4] closing comment. The DEIS executive summary [5] at ES-48, "The railroads are not required to [6] seek the Board's authority to rehabilitate or [7] improve their existing system."

[8] **MR. GARDINER:** Ms. McKinney and [9] then Carl Anderson. Is Scott Brandon here?

[10] **MS. MCKINNEY:** Hello. I'm not a [11] lawyer, an architect, an engineer, or [12] representing any business here. I am just a [13] homeowner living one mile north of town. My [14] name is Mary McKinney, my husband and I own a [15] home, again, one mile north of town in a [16] small subdivision called Sunnyview. Our home [17] was purchased in 1983.

[18] We chose to live out in the country [19] for what we feel is a better quality of life. [20] Breathing room, larger yards, virtually no [21] traffic and a quiet lifestyle and no city [22] noise or close neighbors. As a trade-off we

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[1] have had to pay a price for this lifestyle.

[2] Our utilities are more expensive, [3] our commute time is greater, and our travel [4] costs are greater than those of people living [5] in the city of Brookings. The little gravel [6] road that leads to my home frequently is not [7] plowed of snow for several days. When the [8] fog settles in our rural area we have trouble [9] getting to town safely. In fact, just a few [10] years ago a stoplight was installed at a busy [11] highway intersection leading to town and [12] we're very grateful for that. [13] However, many times the trucks [14]

leading to the soybean plant do not stop for [15] this red light. I am concerned about that [16] highway leading to the soybean plant because [17] the proposed bypass, one of the proposed [18] bypasses, would have to cross that two [19] additional times and those trucks are going [20] awfully fast and they don't like to stop.

[21] Now certain residents in the city [22] wish to remove the train tracks from their

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[1] backyard and put them in our backyard. Yes, [2] that empty cornfield north of town is my [3] backyard. I feel this not justified for many [4] reasons. When I was a kid growing up in [5] Aberdeen, a city with many rail tracks, it [6] was known as the hub city, my folks lived [7] right next to the track, but it was also [8] close to the school.

[9] I would never buy a home next to [10] the tracks. We made that decision when we [11] purchased our little rural home and the [12] homeowners along the track made their [13] decision to buy there as well. I would not [14] want a home near an airport or major highway [15] or shopping mall or a gas station, a large [16] factory, or other high traffic areas.

[17] People in our town sometimes buy [18] near the university and then complain about [19] poor parking, noise. Location, location, [20] location. Usually the homes are priced lower [21] with the undesirable factors in mind.

[22] Secondly, the train traffic moved

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[1] to the country will not be as safe. This is [2] particularly true with the longer bypass. [3] Again, I stated this earlier, coming through [4] the cornfield while trucks are traveling 55 [5] miles an hour, cars are going too fast. Will [6] there be an overpass? Will there be safety [7] gates? Nobody can guarantee me this. [8] Another concern we have with the bypass is [9] the potential for more flooding in our area. [10] Essentially the new set of tracks would act [11] like a little dam for the creek and ditches [12] that flood annually in the field north of [13] town. Drainage is very poor.

[14] What justification can folks in the [15] city who request this bypass give me, a [16] homeowner near the proposed bypass, to push [17] the undesirable effects of the train on me? [18] This may be variations of the story you've [19] heard over and over, but I am the voice in [20] the country that you're pushing the track on. [21] Please continue to negotiate with the DM&E. [22] Buyout of homes was once on the table. Thank

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[1] you for your time.

[2] **MR. GARDINER:** Mr. Anderson and is [3] Redlin Murphy here? Ralph Nelson? Jack [4] Yonkovich? Okay.

[5] **MR. ANDERSON:** My name is Carl [6] Anderson, I'm the executive secretary of the [7] South Dakota Grain and Feed Association. Our [8] membership is about 250 members and associate [9] members in the grain trade. Most of our [10] members are grain elevators across South [11] Dakota and we have supported this project [12] since it was first proposed and continue to [13] do so for reasons already stated by the [14] gentleman just a moment ago from Arlington.

[15] We are concerned about the [16] viability of the DM&E and let's talk about it [17] in terms of two segments. From Pierre to all [18] the way across the west river to Rapid City, [19] the line is 80 to 100 years old. It doesn't [20] have enough traffic to support upgrades, [21] which it desperately needs, the trains travel [22] from 5 to 10 miles an hour, certainly not an

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[1] economical thing in anybody's book. [2] In eastern South Dakota something [3] that nobody else has addressed is the fact [4] that the Burlington Northern, our only other [5] railroad in South Dakota, has encouraged, [6] through lower rates, the construction of [7] approximately 16 to 18 110-car unit train [8] facilities and they are — if you draw a [9] theoretical 50-mile radius being the drawing [10] power of those more favorable rates around [11] them, you will find a heavy concentration [12] across this section of South Dakota which is [13] the heart of the DM&E line, and we're [14] concerned that it is going to have an adverse [15] effect on the bottom line of the DM&E, and [16] with coal people have repeatedly said, "Why [17] in the world would the grain industry support [18] coal trains?"

[19] Because we think coal trains are [20] going to preserve the DM&E and preserve two [21] competitive railroads in South Dakota. Thank [22] you and we urge your approval on this

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[1] project.

[2] **MR. GARDINER:** Scott Brandon.

[3] **MR. BRANDON:** Hello, Scott Brandon. [4] I'm an employee of the DM&E railroad speaking [5] kind of for the DM&E railroad, but I'm also [6] speaking as a citizen of South Dakota. I [7] moved here approximately three years ago. I [8] used to work for other railroads in the [9] eastern United States, used to be a coal [10] railroad out there so I know exactly

what the (11) coal railroads do.

(12) As my other supporters have (13) mentioned, I've never seen any coal dust or (14) problems of that nature out that way. I have (15) seen the impact of loss of railroads in town, (16) it's not very pretty. I can tell you this (17) since I have been a railroad engineer for (18) some time; that a new rail infrastructure is (19) very well needed in this area. This rail, as (20) the other gentleman just before me spoke (21) about the deterioration of the line between (22) Pierre and Rapid City, is terrible.

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(1) As you well know there's been quite (2) a few derailments out that way. If you look (3) at our rail line between Huron and Pierre (4) where that has been upgraded to a continuous (5) welded rail, which much of the new railroad (6) will be, there has been absolutely no (7) derailments on that line since it's been (8) constructed.

(9) The safety aspect of this new line (10) that's going to be constructed is just, I (11) mean — the comment that people have already (12) made about the wait at the crossing, there's (13) going to be added lighted crossings, gates, (14) and things of that nature. The signalling (15) for the switches, as another man had (16) mentioned about an accident that happened (17) here a few months ago, very tragic, could (18) have been avoided with the new signalling (19) system that this infrastructure will provide.

(20) The grain traffic has been (21) mentioned here. I agree with everything that (22) the fellow supporters have said here today.

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(1) On a personal note, as a citizen of South (2) Dakota I have a two year old now and I have (3) one on the way and I would like for them to (4) have a future here in South Dakota. As it (5) stands right now I don't see much of that. (6) If this railroad does get its approval to (7) move on, then there will be a future for them (8) and I won't have to relocate again.

(9) In conclusion here, I would just (10) like to say that one train equals 400 (11) semi-trucks. If you feel comfortable sharing (12) the road with 400 more semi-trucks to equal (13) one of our trains, then good for you. I (14) don't care for it personally. The (15) maintenance of the roads, you don't need it. (16) This project will cost the taxpayers (17) absolutely nothing except for the people who (18) hit the bypass. I guess that's about all I (19) have to say. I'll be submitting a letter (20) with more details. Thank you.

(21) **MR. GARDINER:** Thank you. (22) **Ms. Yonkovich.** Is Nicole Kurtenbach here

or

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(1) Paul Koespell? Jerry Cope? Paul Johnson?

(2) **MR. YONKOVICH:** My name is Jack (3) Yonkovich. I'm the director of Human (4) Development and Distribution for Larson (5) Manufacturing. I moved to South Dakota (6) in 1970 as part of 3M's management team and (7) except for four years in the '70s I have been (8) a resident of this area. I managed the 3M (9) operations in Brookings until retirement (10) in 1995.

(11) We have participated in and shared (12) with the Brookings community the prosperity (13) that has come with the dynamic growth our (14) community has experienced. It would be my (15) opinion the majority of the Brookings (16) community does not oppose the expansion (17) that's being proposed.

(18) However, many of us are concerned (19) about the quality of life we would experience (20) in this community if we would have trains run (21) through the heart of our town 30 times a day. (22) The issue in Brookings is not just a "who

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(1) lives across or along the tracks issue," it (2) is an issue that affects almost everybody in (3) our community every day. Our residential (4) growth is to the south and will continue in (5) that direction. We have three schools south (6) of the tracks and two schools north of the (7) tracks. There is an obvious safety concern, (8) access to fire protection and emergency help (9) will be comprised for a great number of (10) people. Grade separations at the major (11) intersections within the city would improve (12) the logistics, but it is unimaginable what (13) they would do the esthetics of the city.

(14) This world works through the act of (15) compromise. Compromise is necessary and will (16) work when all parties can step back and have (17) an open mind to alternatives. We find that (18) difficult to do especially when a quick (19) consensus is not available. The position (20) taken by the DM&E with regard to Brookings (21) has not been one of compromise or a hope of (22) compromise. The DM&E has opposed bypass

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(1) discussions since the beginning. It stated (2) repeatedly that the bypass was not feasible, (3) but provided nothing to support that (4) contention. It's a tactic that's divided our (5) community. During the same time we've had a (6) significant change to our city governing (7) structure that added some delay as we put the (8) new formal government in place. Now two (9) serious bypass proposals have

been formalized (10) and there's been an opportunity for some (11) negotiation and for compromise.

(12) The original proposal was submitted (13) with a study and more recently a proposal was (14) formalized and submitted by Railco. The (15) Railco proposal is one of compromise. It (16) best considers the needs of the entire (17) community and provides the opportunity for (18) the city and the railroad to grow together. (19) Cost estimates of the Railco proposal have (20) ranged from \$17 to \$25 million depending upon (21) grade separations. With the city funds and (22) state funds that been proposed, the

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(1) additional cost to the DM&E on the project is (2) quite a small part of the \$1.4 billion. We (3) encourage you to support the Railco bypass (4) proposal when considering this project. This (5) proposal is a reasonable compromise to a very (6) difficult situation. Thank you.

(7) **MR. GARDINER:** That concludes our (8) preregistered speakers, but I want to go back (9) through and just double check these people. (10) Is Tim Brown here? Lori Hintz? Larry (11) Zikmund? Redlin Murphy? Ralph Nelson? (12) Nicole Kurtenbach? Paul Koespell? Jerry (13) Cope? Paul Johnson. Onto the folks who (14) signed up on the way in. Claire Hannasch (15) you'll be up next. Melissa Meyer? Lowell (16) Slyter? Pat Fishback? So you'll be on deck.

(17) **MR. HANNASCH:** Good afternoon, I'm (18) Claire Hannasch. I'm the mayor of Tracy, (19) Minnesota, and I have asked to get on this (20) here. I fully support the DM&E, their (21) project. I guess the thing is coal makes it (22) feasible. The winner on this here is rural

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(1) South Dakota and rural Minnesota. If we can (2) pick up a line of connections to the west (3) coast ports for crops and other markets we (4) will all win on this here. The way the rail (5) is right now, if we don't have a way that we (6) can move coal they cannot possibly afford to (7) rebuild that railroad and we all lose. Some (8) communities are against this here for (9) different reasons. I'm hoping that all of (10) the communities can get together, resolve (11) their issues, take this here back to the (12) Surface Transportation Board and approve this (13) project. It will be good for rural Minnesota (14) and rural South Dakota. It will help our (15) economy and it definitely will be good for (16) our future generations. I fully support this (17) here and I hope you do too. Thank you.

(18) **MR. GARDINER:** Thank you. (19) **Ms. Fishback?** Bryon Carsrud, you'll be up (20)

next, and Dan Cook.

[21] **MS. FISHBACK:** My name is Pat [22] Fishback and I'm the current chairman of the

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[1] Brookings Historic Preservation Commission. [2] One of our historic districts, the Brookings [3] commercial historic district, which consists [4] of 59 buildings and has been listed on the [5] National Register of Historic Places [6] since 1988 is located next to the existing [7] track. The central residential historic [8] district is listed on the National Register [9] of Historic Places in 1994 and other [10] individually listed sites are in close [11] proximity. We are interested in learning [12] more about the cumulative affects of the [13] rebuild on sites and structures directly [14] affected. During the Section 106 [15] consultation at the appropriate time we will [16] be putting any concerns we have in writing.

[17] **MR. GARDINER:** Thank you. [18] Mr. Carsrud.

[19] **MR. CARSRUD:** My name is Bryon [20] Carsrud. I would like to offer some comments [21] on the opposition to the bypass proposal for [22] the Brookings community. My wife and I and

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[1] our four children live in a home a few [2] hundred feet from the route of the proposed [3] bypass. We have lived in our home for 13 [4] years and have made many sacrifices to enjoy [5] the quite and seclusion of our home. We have [6] paid a premium price in electricity, water, [7] fuel, property tax, and original investment [8] to have this lifestyle. Now with no chance [9] to give any input or any talk about how it [10] will affect our lives, we are told we will [11] have a train on our doorstep. This will ruin [12] our life that we have worked to achieve and [13] no one seems to care how it will affect us or [14] how we will ever recover from this financial [15] and lifestyle destruction.

[16] From an environmental standpoint I [17] can't understand why any bypass of Brookings [18] would be the preferred alternative. The [19] bypass will cross 16 miles of previously [20] undisturbed land. The use of the existing [21] route through the city of Brookings will not [22] disturb any new land. From the standpoint of

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[1] the natural environment, clearly the greatest [2] negative impact will be to build the bypass [3] around Brookings. Since there is no need for [4] the bypass and it would have the greatest [5] negative impact, why would we want to [6] unnecessarily waste and disturb more land?

[7] The proposed bypass was developed [8] with no input from landowners that will be [9] affected by it. It was developed by people [10] who currently live by the railroad tracks and [11] the city of Brookings behind the backs of [12] those who will be affected. It was developed [13] out of concern for those who live in town by [14] the railroad and out of no concern for those [15] who it is now proposed to go by. You cannot [16] develop a project that affects so many people [17] and expect it to go unchallenged. This [18] bypass proposal is legally flawed and will be [19] the source of many lawsuits. We can not [20] stand by and have people walk all over us [21] when a clear alternative exists.

[22] There is the issue of safety being

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[1] used as a reason for the need of a bypass. [2] There will be no fewer safety issues with a [3] bypass of the city. In fact, there will be [4] more safety issues with the route of the [5] bypass. The city of Brookings was designed [6] around the railroad with only five streets [7] that intersect with the rail line. These [8] intersections in the city will be made safe [9] with cross arms and lights. There are many [10] more than five rural crossings and these will [11] not get the protection of cross arms. These [12] rural crossings will also have the traffic [13] crossing them at a higher rate of speed than [14] they would be crossed in town. There are [15] many people that commute to work in Brookings [16] and will cross these rail crossings at least [17] twice every day. There are also school buses [18] that will have to encounter these rural [19] crossings that will have little protection.

[20] Who will be responsible for the [21] gigantic cost of this proposed bypass? I can [22] see no reason why DM&E should pay anything to

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[1] fund a bypass when they own an existing route [2] through the city and should have every legal [3] right to use that route. I do not understand [4] how a railroad can be told to not use an [5] existing rail line that they now own and [6] operate. There is clearly no need for a [7] bypass, especially when there are many other [8] towns the side of Brookings or larger that do [9] not have a bypass for the trains. These [10] towns have much higher train traffic than the [11] maximum expected 34 trains per day that is [12] predicted for ten years from now in [13] Brookings.

[14] In conclusion, this bypass has no [15] clear need presented for it and appears to be [16] a legal battleground when none of the [17] affected people have been

negotiated with. [18] It would be bad policy for the Surface [19] Transportation Board to recommend the bypass [20] as a preferred route as it clearly would have [21] a negative effect on the environment and the [22] farmers and landowners whose land would be

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[1] taken. It also seems that it would be bad [2] policy to tell DM&E that they can no longer [3] use the rail line that they now own and [4] operate through town. This is the rail line [5] that the city is built around and the rail [6] line that has built the city. Therefore it [7] is my recommendation that the Surface [8] Transportation Board support the use of the [9] existing route through the city of Brookings. [10] This would be in the best interest of the [11] city. Thank you.

[12] **MR. GARDINER:** Thank you. [13] Mr. Cook.

[14] **MR. COOK:** My name is Donald Cook, [15] I own Cook Seed Company in Huron, South [16] Dakota, and before I continue my talk I got [17] to tell you where Cook Seed Company is [18] located. The DM&E railroad runs east and [19] west through Huron, First Street runs north [20] and south and I live right on the corner of [21] both of them. All the traffic and all the [22] trains go right by my place. This is not a

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[1] problem, it's never been a problem, and I [2] don't think it would be a problem for Huron. [3] We have lights, we don't have accidents, they [4] do all the switching right there and they tie [5] up the track for just a little bit, but not [6] long and we move on down and everything works [7] good. I've been in agriculture all of my [8] life, farming or ag industry. Agriculture is [9] one of the biggest commodities we have in the [10] state of South Dakota and we have very few [11] tracks through all of the state. Last year [12] DM&E hauled 62,000 train carloads of [13] agricultural product out of our state. That [14] would be 250,000 truckloads of agricultural [15] products we would have to haul out by truck. [16] Our governor is very protective of our [17] highways, we don't have many, and he likes to [18] keep them held up and this undoubtedly would [19] not last very long if we had to do that.

[20] I think it's extremely important [21] that DM&E gets to haul coal over these [22] tracks, an area where we can build a new rail

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[1] line. Seems like just every few weeks they [2] have a wreck where this railroad track is [3] becoming weaker and weaker, and they do haul [4] some big long trains of grain. I'll never [5] forget one time I sat

in a meeting with [6] Senator Hubert Humphrey, Al Barns and myself [7] and he was being considered to run for [8] president. He said, "If I get to be [9] president, one thing I will try hard to do [10] and that's take over all the railroads and [11] we'll treat them as interstates and the [12] railroads will pay the government to travel [13] over them and I'll guarantee that they will [14] be good." I hope you can support DM&E so [15] that they can haul coal and all of our [16] agricultural products out of this state. [17] Thank you.

[18] **MR. GARDINER:** Thank you. Next I [19] have Harold Murphy. Are you here? Andy [20] Carter?

[21] **MR. CARTER:** I guess the obvious [22] isn't being ignored here, that the housing in

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[1] Brookings was built adjacent to the existing [2] tract. I suspect the major impetus in [3] Brookings for a bypass or total opposition to [4] DM&E expansion is concern for impact on [5] property value for adjacent properties and to [6] a lesser extent noise and vibration. I spent [7] a night in a motel near high speed tracks. [8] In the morning a desk clerk told me there had [9] been several trains that I had otherwise not [10] noticed. I have been in one home along the [11] DM&E track here in town. The current railbed [12] causes considerable vibration. I strongly [13] suspect reconstructing the railbed would give [14] much less vibration, which makes me wonder [15] why these owners who purchased these homes, [16] implying they were willing to live with the [17] current operations, wouldn't be willing to [18] live with less noise and vibration, albeit it [19] may come with more traffic on the improved [20] DM&E tract.

[21] As I said, I suspect the owners see [22] a chance for enhancing property values. The

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[1] figures I've heard for the shorter Brookings [2] bypass, the Railco one, the eight mile one, [3] is \$26 million dollars with the DM&E [4] offering \$8.2 million and the state of South [5] Dakota offering \$4 million. The Brookings [6] housing immediately adjacent to the tracks [7] has a value of about \$14 million dollars, [8] which is the difference between the \$12 [9] million that's up on the bypass and what the [10] DM&E and state are offering.

[11] With the greater safety of the [12] gating allowed by whistle-free zones, the [13] only major safety issue I see is possible [14] delays of emergency vehicles. The 22nd [15] Avenue overpass would allow free passage of [16] the ambulances and for two-thirds of the fire

[17] stations. I understand that DM&E is [18] currently offering \$6 of the \$8 million [19] dollars to construct an overpass, if 800 [20] million tons is shipped annually. This would [21] leave \$2 million dollars for the city to pay. [22] I wasn't quite sure that the figure was 800

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[1] million tons, but with Scott Brandon's [2] comments I think that would come out to [3] about 25 trains a day, I was just doing some [4] rough figuring, that may or may not be right; [5] I'm not sure if the 800 million tons number [6] was right.

[7] That's kind of my next paragraph [8] here, but at an October 18th meeting, Kevin [9] Schieffer, DM&E president, said 20 to 30 [10] trains would be a realistic expectation. I [11] have also heard that the DM&E offer to [12] purchase housing was tied to tonnage quotas. [13] I guess what I would like to see is possibly [14] the 22nd Avenue overpass. I don't know if [15] it's really required, but where the city is [16] required to pay 25 percent seems fair as long [17] as they are pressing for a bypass which I [18] oppose. I would push for a local settlement [19] of this where the city pays a significant [20] portion of any bypass, like, 20 to 60 [21] percent, and then if a bypass is constructed [22] I would like to see the people benefitting

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[1] from it pay a considerable amount say, [2] like, 7 percent for the first tier of housing [3] and then decreasing out. I think, about a [4] million and a half dollars could be raised at [5] that.

[6] **MR. GARDINER:** Thank you. Let me [7] check a couple of other names that we have. [8] Melissa Meyer? Lowell Slyter? That [9] concluded the list of people who have signed [10] up to speak. We have some time available, [11] are there others that feel moved to provide a [12] comment or something additional to say?

[13] **MR. BRANDON:** I would like to say [14] something else if I could.

[15] **MR. GARDINER:** Okay.

[16] **MR. BRANDON:** As I spoke earlier [17] and just a few things since my time was cut a [18] little short there, I asked the STB Board —

[19] **MR. GARDINER:** Can you restate your [20] name.

[21] **MR. BRANDON:** Scott Brandon. I [22] asked the STB Board to — I guess that's kind

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[1] of redundant saying the STB Board — I asked [2] the STB to look at the needs of the many [3] residents rather than the wants of a few and [4] to do this as quickly as possible. I think [5] a 90-day voice

period was gracious, I do not [6] see it necessary — I do not see it necessary [7] dragging it on. I think this has been taking [8] longer than it needs to in my opinion. A few [9] other things, I guess that grain is a [10] problem, lower sulfur coal will solve that [11] problem, and that's basically all the other [12] things I wanted to say. Thank you.

[13] **MR. GARDINER:** Thank you. Anyone [14] else have comments that didn't get a chance [15] to provide them? Those of you who spoke I [16] appreciate your moving forward quickly, [17] please do provide your statements. Please [18] provide those at the front desk to help the [19] court reporter get it accurately and we want [20] to make sure that the key points that you [21] have, get those to us. Yes, sir?

[22] **MR. ROSTERN:** Thank you for

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[1] listening to me. I'm Bob Rostern, I'm from [2] Wolsey, South Dakota. I live between Huron [3] and Wolsey and I live on 100 acres of land [4] that DM&E wants to purchase for the main [5] operations center at Huron, South Dakota and [6] I'm also a small businessman in Huron, South [7] Dakota, running a petroleum business and I [8] would appreciate it if you would pass this [9] and get this thing moving forward. Next [10] spring would be a nice time to dig some dirt. [11] Thank you much.

[12] **MR. GARDINER:** Thank you. Yes, did [13] you want to make a comment?

[14] **MR. THORNBUSH:** My name is James [15] Thornbush. I have submitted information to [16] you previously. I just want to offer counts [17] of the traffic over the exchanges in the city [18] of Brookings. It was obtained from the [19] Department of Transportation and it shows [20] that we have approximately 4200 vehicles a [21] day over the six crossings within the city [22] limits. No exchange, except the underpass,

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[1] and that is only used at about 1300 vehicles [2] a day. There has been a 50 percent increase [3] in traffic in the last ten years on 22nd [4] Avenue and I expect that to continue rapidly. [5] My major concern is emergency vehicles if we [6] run the tracks through the city, some way for [7] an ambulance and fire trucks to get on both [8] sides of the track quickly.

[9] **MR. GARDINER:** Thank you. Any [10] others? We will conclude then. Again, feel [11] free to leave any written comments or [12] statements you have, write comments in, and [13] thank you very much for your comments. I [14] appreciate it.

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[1] **EVENING SESSION**

[2] (6:10 p.m.)

[3] **MR. GARDINER:** Why don't we get [4] started. Thank you for coming, we are really [5] glad you're here. We're here to talk about [6] the proposed DM&E expansion project, so if [7] you're here for the dancing which seems to be [8] next door, you're in the wrong room. My name [9] is Charles Gardiner and I'm going to be the [10] facilitator this evening, so my role is to [11] help make this meeting as productive as [12] possible for all of you, as well for the [13] project team that's here tonight.

[14] We're going to cover a couple of [15] logistical things and then we have a short [16] presentation. First thing we want to [17] accomplish this evening is the team would [18] like to describe the roles of respective [19] agencies, the federal agencies, that are [20] reviewing the project. So we're going to [21] cover that, we're going to provide an [22] overview of the project just a short picture

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[1] of it, also an overview of the results of the [2] Environmental Impact review and most [3] importantly we want to provide an opportunity [4] for you to provide comments to the project [5] team about that Draft Environmental Impact [6] Statement. So our agenda is in line with our [7] purpose.

[8] I'm going to cover some team [9] introductions in a moment, I'm going to cover [10] some meeting ground rules for our operating [11] procedures this evening. We're also going to [12] hear in the presentation about the Surface [13] Transportation Board, the Surface [14] Transportation Board is a federal agency. [15] We'll also hear about the roles of the [16] cooperating agencies, the other federal [17] agencies involved in the review, and an [18] overview of the project and the environmental [19] review, and then we'll get to your comments [20] shortly.

[21] Let me cover a couple of things [22] that you probably picked up at the front

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[1] table, those may help you as we go through [2] this evening here. First is a green sheet in [3] the front that has our agenda, it has some [4] other information inside, one is just some [5] written procedures of how we're going to [6] proceed with the comments. I'm going to [7] cover those in a little while as well, it [8] also has some descriptions of how to provide [9] written comments. On the back of that sheet [10] are the addresses where you can provide [11] written comments on the Draft Environmental [12] Impact Statement and some other

related [13] documents. We also have a white sheet that [14] looks like this (indicating), it's a comment [15] sheet. If you feel you want to make comments [16] tonight in writing you can certainly do that, [17] you can use this as a tool to do that, you [18] don't have to use this, you can submit [19] comments in writing either tonight or by mail [20] on this or on some other piece of paper, but [21] if you want to just make some comments [22] tonight you can do that.

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[1] There's also a half a page paper, I [2] think yours is white, that has some important [3] contact information. If you're on-line it [4] has the Surface Transportation Board's web [5] address and at that web address you can [6] access the full Draft Environmental Impact [7] Statement if you want to look at that [8] on-line. Also on here is the project [9] environmental hotline, if you have a question [10] about where the libraries are that have the [11] documents, when the end of the comment period [12] is, and those kinds of things you can call [13] the hotline and we'll get back to you with an [14] answer. The hotline is not a place to [15] provide comments, we prefer your oral [16] comments here or your written comments in [17] writing, but if you do have questions about [18] the process and procedures you can call the [19] hotline.

[20] The last thing is if you do have — [21] we're going to cover some of the procedural [22] issues in the presentation — but if in the

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[1] course of that you have questions about the [2] process you can put those on this card, drop [3] it at the back desk during the meeting and [4] we'll try to take a break and answer them. [5] We're not going to try to answer questions [6] about the environmental document, we really [7] encourage you to frame those questions as [8] comments. If there's something that's not [9] clear in the document tell us that. "The [10] environmental document is not clear about [11] that," and the team will be addressing those [12] comments as part of the written responses to [13] the comments. So it is not our intention to [14] answer a lot of questions here, but you may [15] have questions about the process. We are [16] going to try to cover them in the [17] presentation, but if you still have something [18] you can fill this out and get it to one of [19] the people here with the nametags on and [20] we'll take a break at that point and answer [21] them.

[22] Let me quickly cover some ground

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[1] rules. The first is we want to have one

[2] speaker at a time, all these microphones are [3] on so they do pick up side conversations [4] which can be distracting. We also have a [5] court reporter who is transcribing your [6] comments so if there are other people [7] speaking she may miss some things, so one [8] speaker at a time is really quite important. [9] We want to honor the time limits, we have [10] quite a number of people who have signed up [11] to speak. We are having people stay to three [12] minutes so let me give you a little guideline [13] as to how much time that is. If you have a [14] written statement you can get about a page [15] and a half in three minutes. If you're [16] longer than that you might want to start [17] making some notes about what your key points [18] are and highlight those. We encourage you to [19] give us those written statements if you have [20] them with you today, they help the [21] transcriber make sure we captured everything, [22] but if you can't cover every detail that you

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[1] have in there we will be putting those in the [2] record as well and we'll take those as [3] written comments so feel free to leave those [4] with us. So summarizing is important, if [5] people before you have said your point, feel [6] free just to say I agree with that person and [7] move forward quickly. The last point is [8] respect other's opinions. This project has [9] been controversial, there are different [10] opinions about it, our role here tonight is [11] to hear all of those opinions and we need [12] your help in doing that. So you may disagree [13] with someone who is speaking, I encourage you [14] to keep that to yourself. You may support [15] people who are speaking, that's fine, you can [16] express that support, but it does interrupt [17] their time if you applaud. So those are the [18] ground rules.

[19] Now would be a good time for [20] everyone to nod and say, "Yes, we'll agree to [21] those as to how we're going to operate." Let [22] me quickly introduce the folks who are up

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[1] front. Vicki Rutson is here from the Surface [2] Transportation Board, she is the project [3] manager for the environmental review of the [4] proposed DM&E expansion. Steve Thornhill is [5] here from Burns and McDonnell, he is the [6] project manager for the consulting team that [7] is working on the environmental review under [8] the direction of the Surface Transportation [9] Board. Wendy Schmitzer couldn't be here [10] tonight, she's from the Forest Service, the [11] Forest Service is examining potential impacts [12] on Forest

Service lands. Jerry Folkers is [13] here from the Army Corps of Engineers, he is [14] going to talk a little bit about their role [15] in reviewing impacts to waterways, wetlands [16] and so forth. Charles Gardiner, that's me, [17] I'm the facilitator. So with that we'll do a [18] short presentation to cover the project and [19] the agencies and Vicki is going to start with [20] that.

[21] **MS. RUTSON:** Thanks, Charles. [22] Everyone can hear me; is that right? Again,

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[1] I'm Vicki Rutson, I'm an attorney with the [2] Surface Transportation Board Section of [3] Environmental Analysis. I'm very pleased to [4] be with you tonight and I'm looking forward [5] to hearing what you think about the Draft [6] Environmental Impact Statement.

[7] First, I would like to tell you a [8] bit about the Surface Transportation Board. [9] The Board is a federal agency located in [10] Washington, DC. The Board itself is composed [11] of three members, a chairman, a vice [12] chairman, and a Board member. Congress has [13] given the Board the responsibility of [14] licensing various railroad actions, including [15] rail construction, like the DM&E is proposing [16] here, railroad abandonment, and railroad [17] mergers.

[18] Now in February of 1998, the [19] Dakota, Minnesota and Eastern railroad filed [20] an application with the Surface [21] Transportation Board seeking the Board's [22] approval of a 262 mile new rail line

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[1] construction into Wyoming's Powder River [2] Basin. There were also smaller new [3] constructions proposed around two communities [4] and also a rebuild of DM&E's existing system [5] in order to transport coal trains from the [6] Powder River Basin. This application started [7] two processes at the Board in reviewing the [8] application. The first process is called the [9] Merits Review. Under the Board's governing [10] statutes, the Board must decide whether an [11] application meets three criteria. First, is [12] the applicant financially fit? Second, is [13] the proposal in the public interest? Third, [14] is there a public need for the proposal? In [15] December of 1998 the Board issued a decision [16] on those three criteria, the transportation [17] merits. The Board found in its decision that [18] DM&E's application had met those three [19] criteria. The Board made it very clear [20] though, that its decision was based on the [21] information submitted in DM&E's application [22] and the Board noted that all the information

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[1] wasn't before it, simply because the [2] environmental review process had just [3] started. Until the environmental review [4] process is completed, the Board said that it [5] couldn't issue a final decision on DM&E's [6] proposal.

[7] That brings us to the second [8] process of the Board, the environmental [9] review process. It's a process under the [10] National Environmental Policy Act and it has [11] several steps. It's been going on now for a [12] couple years, the step that we most recently [13] accomplished was issuing the Draft [14] Environmental Impact Statement. We did that [15] on September 27, 2000, and we provided [16] a 90-day comment period. That's a very [17] crucial step in the Environmental Review [18] process because it's your opportunity to tell [19] us what you think of the Draft Environmental [20] Impact Statement, the conclusions that we [21] made, the analysis that we did, was it clear, [22] did you understand it, was it accurate? If

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[1] not, please take this opportunity to let us [2] know. The Draft Environmental Impact [3] Statement is intended to serve a number of [4] purposes. The first is to identify and [5] evaluate potential environmental impacts of [6] DM&E's proposal and all reasonable and [7] feasible alternatives to that proposal. This [8] includes the no build option.

[9] Another purpose of the DEIS is to [10] inform federal, state and local agencies, [11] Tribes, affected communities, and all [12] interested people on what the Section of the [13] Environmental Analysis is thinking about the [14] DM&E proposal in terms of environmental [15] impact. Another purpose was to set forth SEA [16] preliminary recommendations and preliminary [17] mitigation measures. Comments are due on [18] January 5, 2001. You're free to submit as [19] many written comments as you would like after [20] that date, if you speak tonight and feel that [21] you have omitted something or think of [22] something later, you're more than welcome to

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[1] submit a written comment later on up until [2] January 5, 2001.

[3] What's the next step? When we get [4] all your comments we will then prepare a [5] Final Environmental Impact Statement. In [6] that FEIS we'll be responsible for responding [7] to your comments. If necessary, we'll [8] conduct additional environmental analysis in [9] the final. When the final is finished and we [10] issue it, the environmental record and the [11] environmental process will then be finished. [12] It's then up to the Board

to issue a final [13] decision on DM&E's proposal. At that point [14] the decision-maker, the Board, will have all [15] the information in front of it that it needs [16] to make a final decision. The Board can make [17] one of three decisions. It can choose either [18] to approve the action as proposed by DM&E [19] originally, Approve DM&E's proposal, but [20] only if certain mitigating conditions take [21] place first. Or third, deny DM&E's proposal. [22] Those are the three choices; approve, approve

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[1] with conditions or deny. When SEA issued the [2] Draft Environmental Impact Statement we were [3] working cooperatively with five other federal [4] agencies. The Board is the lead agency and [5] the five other federal cooperating agencies [6] are the Forest Service, the Bureau of Land [7] Management, the US Army Corps of Engineers, [8] the Bureau of Reclamation, and the Coast [9] Guard. We have representatives from the Army [10] Corps of Engineers with us tonight. Also [11] another federal agency, the Environmental [12] Protection Agency, has a role in this process [13] as well. EPA will be rating the Draft [14] Environmental Impact Statement, giving it, in [15] effect, a grade. With that I would like to [16] introduce Jerry Folkers from the US Corps of [17] Engineers and, again, thank you so much for [18] coming this evening and we're looking forward [19] to hearing your comments.

[20] **MR. FOLKERS:** Thank you. Good [21] evening, my name is Jerry Folkers and I am [22] the project manager within the Omaha District

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[1] Corps of Engineers. The Omaha District Corps [2] of Engineers will be responsible for viewing [3] project impact within the states of Wyoming [4] and South Dakota. The St. Paul District will [5] be reviewing impacts associated with the [6] project in Minnesota, and I would like to [7] introduce you now to Tim Fell, he's a project [8] manager working for the Corps of Engineers in [9] the St. Paul District and he will review the [10] impacts in the state of Minnesota. The Corps [11] permits jurisdiction in the matter is based [12] on Section 404 of the Clean Water Act and [13] Section 10 of the Rivers and Harbors Act. [14] Corps permits are required for discharge or [15] placement of dredged or fill materials in the [16] waters of the United States, which include [17] rivers, creeks and wetlands. Corps permits [18] are issued when it's determined that the [19] proposal is not contrary to the public [20] interest and the plans represent the least [21] environmentally damaging alternative.

There [22] are many factors which are considered during

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[1] our public interest review. Some of these [2] include wetlands and wildlife habitat, water [3] quality, safety, cultural resources, [4] floodplain values, land use, and economics. [5] Information in the Draft Environmental Impact [6] Statement and comments generated from the [7] Draft EIS and the Corps public notice and [8] comments received from the public hearing, of [9] this public hearing, will also be used to [10] make the determination whether to issue a [11] Corps permit. With that I would like to turn [12] this over to Steve Thornhill of Burns and [13] McDonnell.

[14] **MR. THORNHILL:** Good evening, my [15] name is Steve Thornhill. I'm with Burns and [16] McDonnell Engineering, we're the firm that [17] worked under the guidance and supervision of [18] the Surface Transportation Board assisting [19] them in preparation of the Draft [20] Environmental Impact Statement. What I would [21] like to do is take a few minutes just to kind [22] of hit the highlights of what the DEIS

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[1] contains and some of the conclusions and [2] results that were contained within it.

[3] The Draft Environmental Impact [4] Statement, one of the things that it includes [5] is the description of the existing [6] environment. What that is intending to do is [7] kind of paint a broad picture of what the [8] natural human environmental resources within [9] the project area are so that people have an [10] understanding of what the area is like, [11] what's out there, and kind of what the values [12] or the important things are that are within [13] the project area. It goes on from that to [14] look at what are the reasonable and feasible [15] alternatives that are proposed to meet the [16] project purposes and needs. Those [17] alternatives under the National Environmental [18] Policy Act include the no-action alternative, [19] which was evaluated in this DEIS. From there [20] once the alternatives are identified, each of [21] those alternatives is discussed as it would [22] impact the existing environment or the impact

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[1] of each alternative on the environment are [2] presented. As Vicki noted, the DEIS was made [3] available to the public on September 27 [4] of 2000, there is a 90-day comment period [5] which does conclude on January the 5th. Just [6] as far as kind of what's in there, one of the [7] things the DEIS does

is defines the purpose [8] and need for the project and generally the [9] purpose for this project is twofold. One is [10] it would provide the financial resources, [11] through the transport of coal from the Powder [12] River Basin, for DM&E to upgrade and [13] reconstruct its existing rail system. The [14] second purpose would be to provide a third [15] and additional competitive rail carrier to [16] the Powder River Basin, therefore [17] facilitating additional competition in the [18] rail industry for the transport of coal. [19] The alternatives that were [20] evaluated to undertake that purpose or to [21] fulfill that purpose and need included the [22] no-action alternative or Alternative A as

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[1] defined in the DEIS. Alternative B which [2] generally was new construction of rail line [3] along the Cheyenne River in South Dakota and [4] Wyoming. Alternative C, which was a [5] modification of Alternative B, which removed [6] the alignment from the Cheyenne River and [7] other sensitive areas along the Alternative B [8] alignment, and Alternative D which involved [9] construction or reconstruction of additional [10] portions of DM&E's existing system and then [11] new construction of rail line adjacent to [12] existing rail corridors in the project area [13] which would again facilitate construction to [14] the mines and access to the coal mines. [15] Just a few brief highlights for [16] each of the states that were involved in the [17] project and what we identified. In Wyoming [18] the project would involve new construction [19] to the coal mines. There would be one new [20] rail yard constructed to facilitate the [21] movement of coal. There were alternatives [22] evaluated to access the Black Thunder coal

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[1] mine and the North Antelope coal mine and [2] some of the unique characteristics that were [3] identified, and there were numerous, but just [4] to highlight a couple, would be the impacts [5] to Thunder Basin National Grassland and to [6] the many ranches and ranchers that occurred [7] throughout the area.

[8] In South Dakota, the project would [9] also include construction of new rail line to [10] facilitate access to the coal mines. There [11] would be two new railyards constructed and [12] the existing DM&E line across South Dakota [13] would be reconstructed. There were also new [14] construction alternatives evaluated in the [15] Spring Creek area in western South Dakota, [16] the Hay Canyon area and also around the [17] community of Brookings. The unique [18] charac-

teristics that were identified included [19] impacts to Buffalo Gap National Grasslands, [20] tribal concerns, again, ranches and farmers [21] throughout the area including those both [22] along the existing rail line and the new

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[1] construction portion. Sensitive riparian [2] areas, particularly those along the Cheyenne [3] River, impact to the Angostura Irrigation [4] Project, impacts to the many communities [5] along the line, and finally impacts that [6] would be associated with either [7] rehabilitation of the existing bridge or new [8] bridge construction across the Missouri River [9] at Pierre.

[10] In Minnesota, the project would [11] involve reconstruction of DM&E's existing [12] line, there would be new construction or [13] there was new construction proposed in the [14] communities of Mankato, Owatonna and [15] Rochester. There were three new rail yards [16] that would be proposed and the unique [17] characteristics included the numerous [18] communities along the rail line, farms and [19] farmers located within the project area, Mayo [20] Clinic, sensitive repairing areas and [21] wetlands throughout the area and flood [22] control projects that are found in the

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[1] communities of Mankato and Rochester. In [2] conducting its evaluation, the STB determined [3] that a number of environmental resources [4] would be significantly impacted by this [5] project. Not all of these resources would be [6] significantly impacted by every component of [7] the project, but they would be impacted by [8] one facet or another. These resources [9] included safety, which involved primarily the [10] safety of rail highway grade crossings, [11] geology and soils, water resources, wetlands, [12] paleontological resources, cultural [13] resources, including both archeological and [14] historic, threatened and endangered species, [15] land use, noise, air quality, environmental [16] justice, aesthetics, socioeconomic and [17] cumulative impacts related to this project [18] and other proposed projects in the area.

[19] Finally the DEIS proposed measures [20] related to mitigation that could be imposed [21] as part of any project approval, should it [22] occur, to reduce or minimize the impact of

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[1] the project. In general because these [2] mitigation measures were used to apply to any [3] of the alternatives proposed they could best [4] be classified as what would be considered [5] best

management practices. Things like use [6] of silt fences or straw bales to control [7] erosion. In addition, there were numerous [8] mitigation measures that required [9] consultation and coordination between DM&E [10] and federal, state and local agencies in [11] order to address the concerns of those [12] agencies who may have jurisdictional issues [13] or concerns outside of those that the STB [14] would be in a position to mitigate. It was [15] determined however that many of the impacts [16] of the project would be difficult to mitigate [17] and that mitigation proposed may or may not [18] be effective in actually reducing the [19] impacts. Therefore an important component of [20] this process that we're in right now of [21] taking your comments involves requesting your [22] comments on what mitigation measures could be

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[1] employed that would be effective in reducing [2] the impact of the project.

[3] Lastly then, one of the things that [4] was also included as mitigation was the use [5] of negotiated agreements and those would be [6] agreements between DM&E and other entities [7] such as community groups or agencies that [8] would allow all the parties to come together [9] and agree on mitigation measures or [10] procedures which would be determined to [11] effectively reduce or minimize impacts of the [12] project. As part of development of those [13] agreements the STB provided the mechanism [14] whereby those agreements need to be submitted [15] to the Board so they can be considered in the [16] environmental review process and potentially [17] imposed as conditions of any project approval [18] should the project ultimately be approved.

[19] With that then I'll turn it back [20] over to Charles to go on with the comments. [21] Thank you very much.

[22] **MR. GARDINER:** A couple of other

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[1] quick logistical things. As we have said [2] there are really three ways to submit [3] comments; oral comments tonight, written [4] comments tonight on the comment sheet or in [5] your written statement if you brought one, [6] and then written comments by mail. As Vicki [7] described, the team will be taking all of [8] those comments and reviewing them and [9] preparing responses to those and including [10] those responses as part of the Final EIS. So [11] again I want to reiterate that we don't [12] intend to answer comments or questions that [13] you have tonight, but the process will happen [14] that the team will consider all of those [15] comments and prepare responses in the Final [16] EIS when it is

prepared.

[17] Just to summarize, the three major [18] elements that we're seeking comments on [19] tonight. The first is the Draft [20] Environmental Impact Statement itself and [21] that includes a Programmatic Agreement that [22] addresses Native American issues, it also

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[1] includes a Biological Assessment which [2] addresses issues related to threatened and [3] endangered species. So specific comments on [4] that are quite helpful, the more specific you [5] can be the easier it is for the team to [6] respond to those comments. Also as Jerry [7] mentioned the Section 404 permit application [8] related to waterways, wetland impacts, we're [9] seeking comments on that and the proposed [10] Forest Plan amendment which are part of the [11] Forest Services consideration of potential [12] impacts on Forest Service land.

[13] Your comments, we'll take them in [14] order of first federal and state elected [15] officials, if there are any here, we'll take [16] those folks first, the folks who [17] preregistered to speak, we have a list of [18] those and we'll work our way through that [19] list and then other speakers, those of you [20] who came tonight and signed up to speak or [21] people who are here who have spoken at other [22] meetings we'll take those as time permits.

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[1] Again, the ground rules, remind you we set up [2] a three minute limit, we encourage you to be [3] short and concise and summarize your [4] comments. You can provide your name and any [5] affiliation so that the court reporter can [6] capture that, and I think that's it. So, [7] we'll move on then. I am going to be timing [8] people, I'll give you a thirty second warning [9] as a sign that you ought to be wrapping up. [10] As far as I understand it right now there are [11] no state or federal elected officials that [12] have arrived to speak tonight. So let me [13] give you the first three people so you can be [14] ready to come up. The first is Eugene [15] Butler, is Eugene here? David Walder, is [16] David Walder here? Okay, you'll be on deck, [17] and Gary Larson? Great, okay.

[18] **MR. BUTLER:** Good evening. I will [19] read this so that I can cover material [20] quickly. I am Eugene T. Butler, Junior, one [21] of the oldest of three Eugene T. Butlers in [22] Brookings; the others are my son, Eugene T.

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[1] Butler, the III, and my grandson, Eugene [2] Butler, the IV. There is also a

university [3] student, Eugene M. Butler, who is not [4] related, he used to get my e-mail on campus [5] and he never forwarded it to me. I am [6] life-long resident of the state of South [7] Dakota for 35 and 1/3 years and of Brookings [8] for 30 years. Our Brookings residence has [9] been in the same location, 1626 Deer Run [10] Drive. Consequently, our property is bound [11] on the south by the DM&E railroad. Thus we, [12] my wife and I, have a keen and vested [13] interest in the DM&E coal train project.

[14] In addition to the aforementioned [15] interest I am qualified by: One, that vested [16] interest. Two, approximately eight and a [17] half years professional educational training [18] in navigational and meteorological theory and [19] practice. I have lived through the [20] prediesel era when railroads were steam [21] powered, fueled by coal, and all the trains [22] transported their coal directly behind the

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[1] locomotive in a coal car or tender. In [2] addition, I have traveled extensively by [3] train in the era of coal fuel trains courtesy [4] of the US War Department. Consequently, I [5] have seen the character of the neighborhoods [6] through which the trains were routed, they [7] were always degraded with coal dust.

[8] The DEIS on the DM&E project is [9] obviously a document whose subject is complex [10] and is lengthy. The section toward which my [11] comments will be principally directed is [12] Chapter four, Section 4.3.8, Air Quality. I [13] found this material to be severely limited in [14] scope. Example, "SEA identified no detailed [15] study or provided information on the amount [16] of coal dust lost for rail transportation or [17] the potential problems it could create." I [18] found this misleading and in gross error in [19] regard to coal dust. Example, "SEA does not [20] believe fugitive coal dust poses a [21] significant environmental concern." First, I [22] will present to the project director and team

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[1] a copy of a relevant article from the Wall [2] Street Journal dated Tuesday, [3] October, 12, 1993, that is titled, "Coal [4] Hauling Trains Leave Virginians Fuming in the [5] Dust." The subtitle is, "Black Powder [6] Sullies Homes and Everything in Them as [7] Railroads Seek Remedy." Second, I will [8] forward a copy of an article from the Journal [9] Policy 1996, which informs us that, [10] "Residential Coal Dust Sullies Town." [11] Complaints concern damage to curtains, desks, [12] automobiles, lawn furniture, clothing, boats, [13] and cars. Attention from local businesses [14] center on concerns over

cross-contamination [15] of industrial projects and wind-blown coal [16] dust from trains."

[17] **MR. GARDINER:** Thank you. [18] Mr. Walder and then Mr. Larson is up next. [19] Is Barbara Walder here? Okay, great.

[20] **MR. WALDER:** I'm David Walder, my [21] family and I live along the railroad track [22] at 1308 LeGeros Drive. I urge the STB not to

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[1] grant DM&E permission to extend its line into [2] the Power River Basin because I believe the [3] whole project idea is environmentally, [4] economically and morally wrong. For DM&E to [5] make immense profits at other people's [6] expense and hardship is a contradiction of [7] the moral world. This coal train project is [8] not needed. If DM&E wants to haul coal it [9] already has the right of way and it can [10] obtain the trackage rights to enter the [11] Powder River Basin on tracks already in [12] place. DM&E does not have to lay down new [13] track on public and private land. Let DM&E [14] go forward with this project without running [15] their tracks on other people's land and we'll [16] see if it is such a viable and compelling [17] idea.

[18] I'm requesting that the DEIS be [19] rewritten, pared down so that people have [20] time to read and analyze it. Citizen [21] participation should not be denied in favor [22] of a rush to judgment. Therefore I

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[1] requesting this comment period be lengthened [2] at least 180 days after the draft is redone [3] and sent out again. I am requesting an [4] independent economic analysis of the entire [5] project. The expression "DM&E says" used so [6] often in the document is not research.

[7] I question the wisdom and the [8] legality of devaluating our property so that [9] energy consumers in other parts of the [10] Midwest can save money on their utility [11] bills. You overuse the word "however" in [12] this study. You use however to signal the [13] end of any negative remarks about the DM&E [14] project. Typically you present a few [15] harmless bland negatives and then you swoop [16] in with however and try to neutralize it. [17] You bury the negative with positive [18] statements. This practice is repetitive and [19] tactless and completely detracts from the [20] objective tone this document should have and [21] it's very biased. Your choice of the words [22] "nuisance" and "inconvenience" and "noise"

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[1] and "disturbance" appear to be nothing more [2] than carefully chosen words

that have one [3] function and that is to make the devastating [4] impact of this project appear harmless. [5] These words are not appropriate nor accurate [6] words to use in describing the devaluation of [7] real estate, the ruinization of our quality [8] of life, the threat to our safety, the [9] hazardous diesel emissions, the vibrations [10] that will shake our property and disrupt our [11] sleep.

[12] What appears to be your culminating [13] statement in this section is nothing more [14] than a writhing swirl of gibberish. You [15] state in 4.48, "Specific impacts are [16] difficult to quantify as they may be [17] significant in some areas, but not in others [18] or to one homeowner and not another depending [19] on overall real estate market of the area and [20] concerns of the buyer. Overall some impact [21] is expected, however, while the impact is [22] expected to be negative it is unknown to SEA

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[1] if it would be significant," and I submit if [2] it is unknown then you have dropped the ball, [3] you have not done the study that is required [4] in this city.

[5] **MR. GARDINER:** Thank you. [6] Mr. Larson. Is Brad Bonde here?

[7] **MR. LARSON:** I am Gary Larson and [8] I'm here as the co-chairman of the Brookings [9] Coal Train Issues Coalition, a group [10] organized in March 1998, to pursue and [11] promote an alternative to having DM&E's [12] projected heavy haul coal train traffic [13] passing directly through residential [14] Brookings.

[15] The DM&E expansion project as [16] proposed by the corporation would impose [17] significant safety, health, environmental and [18] quality of life challenges upon Brookings [19] inhabitants and particularly for those who [20] live near the DM&E right of way. We find it [21] puzzling that DM&E insists on 200 feet of [22] right of way for all new construction,

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[1] including for any bypasses of their existing [2] line, while contending that an [3] existing 100-foot right of way through [4] residentially zoned neighborhoods is plenty [5] wide for this project. We disagree. In our [6] view the company would be trying to shoehorn [7] a 21st century railroad into a 19th century [8] corridor, and the outcome would pose serious [9] danger and routine disruption for the city [10] and especially so for DM&E's neighbors.

[11] Our city government has devoted [12] long-term study and consideration to the DM&E [13] project. The conclusion consistently reached [14] is that a bypass of Brookings for DM&E's coal [15] train

traffic makes more sense than having [16] the city bisected by an entirely new [17] industrial development. Why should this [18] project, with its attendant safety and [19] environmental issues, be imposed upon the [20] maximum number of people, some of whom would [21] live in closest possible proximity to the [22] development? Our city has a bypass for

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[1] diverting Highway 14 traffic away from [2] downtown, it only makes common sense to do [3] the same thing for heavy train traffic.

[4] We acknowledge and very much [5] appreciate the support of the Brookings [6] bypass concept provided by Senators Daschle [7] and Johnson and Governor Janklow. Each of [8] these men has publicly endorsed a bypass for [9] this city and Governor Janklow in particular [10] has been very helpful in exploring ways that [11] the state can help bring this to fruition.

[12] We are also pleased to note that [13] the STB designates the B-4 alternative as the [14] environmentally preferred and most easily [15] mitigatable option for the Brookings area. [16] Compared to the other alternatives addressed [17] in the DEIS we agree that the B-4 route would [18] be the most reasonable one. We realize, [19] however, that the EIS process set forth by [20] NEPA is just that, a process, and accordingly [21] other bypass alternatives with advantages [22] over the B-4 route may need to be evaluated.

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[1] One option we believe is reasonable as a [2] reasonable alternative to B-4 is the Railco [3] proposal. This is a bypass plan offered by a [4] group of community leaders in an attempt to [5] resolve the DM&E dilemma for Brookings. The [6] Railco route would greatly reduce bypass [7] mitigation issues in that it is only half the [8] length and it would take advantage of state [9] land and existing highway right of way. The [10] route is laid out purposely to avoid home [11] sites. We realize that the Railco bypass [12] would have some impact on some rural [13] residents, but those impacts would be [14] considerably less and much more easily [15] mitigated relative to the in-town route.

[16] Even Mr. Schieffer is quoted as [17] saying of the Railco plan, "We are agreeable [18] to it as a compromise under certain [19] conditions." Unfortunately, the city of [20] Brookings and DM&E have been unable to agree [21] on those certain conditions. Thank you.

[22] **MR. GARDINER:** Thank you.

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[1] Ms. Walder and after Mr. Bonde, Scott VanderWal.

[3] **MS. WALDER:** I'm Barb Walder and I [4] live along the railroad tracks in Brookings. [5] My recommendation for the DM&E Powder River [6] expansion proposal is no build. Properly [7] considered, there are many more negatives [8] than positives for this proposal. In the [9] event that this project is approved for a [10] reason which I would not know I favor a [11] bypass of Brookings. 13 books comprise the [12] huge DEIS document which, because of its [13] sheer size, cannot be read and commented on [14] by January 5, 2001. There must be at least [15] a 180 day period for citizens to examine it [16] and a willingness by the STB, if necessary, [17] to extend that 180 day time period. NEPA [18] laws do not allow you to get away with such a [19] massive document. Sol Simon commenting in an [20] October 30, 2000, Winona Daily News story [21] notes these NEPA requirements:

[22] "Environmental Impact Statements shall be

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[1] analytical rather than encyclopedic." NEPA [2] also says, "If a draft statement is so [3] inadequate as to preclude meaningful [4] analysis, the agency shall prepare and [5] circulate a revised draft of the appropriate [6] portion." Simon also notes that NEPA warns, [7] "Agencies shall avoid useless bulk in [8] statements and concentrate effort and [9] attention on important issue. Verbose [10] descriptions of the affected environment are [11] themselves no measure of the adequacy of an [12] Environmental Impact Statement." In short, [13] NEPA calls for a readable analysis, not the [14] burden you have sent us and that analysis [15] must not be in highly technical language. [16] Let me cite just one example from a noise [17] pollution and vibration analysis which [18] obviously doesn't speak to the common [19] citizen. That would be Volume III-A, chapter [20] four, Wyoming and South Dakota, page 4.3-21 [21] to 4.3-64, "Methodology and computer modeling [22] are not specific studies of the noise,

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[1] pollution or vibration impact in Brookings, [2] South Dakota." They say nothing about [3] impacts on LeGeros Drive or Orchard Drive, [4] they say nothing about Derald Drive, Elmwood [5] Drive, Olwien Street, Gilley Avenue, 14th [6] Avenue, 16th Avenue, 17th Avenue, 22nd Avenue [7] or other neighborhoods. Simply giving the [8] number of noise receptors does not make a [9] meaningful study for us. For the DEIS to

[10] make sense to people you must conduct [11] specific studies and list the impact [12] information in relationship to specific [13] streets and avenues, homes and businesses. [14] Therefore, I request that a specific noise [15] pollution and vibration study be done for the [16] city of Brookings. Since there is no [17] guarantee of a Brookings bypass, I am [18] requesting that these studies be done [19] regardless of the ongoing bypass negotiations [20] between DM&E and the city of Brookings. We [21] have not been provided with the information [22] we need.

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[1] Finally, if you are concerned that [2] DM&E cannot survive financially during a [3] lengthy extended study of the DEIS document [4] and its rewriting then you should reexamine [5] your findings during the transportation stage [6] of this process. At that time you found that [7] DM&E was financially fit to undertake this [8] project and the application process. If your [9] finding is valid, why do we hear and read [10] that a quick decision must be reached or DM&E [11] railroad will not be able to continue [12] operation?

[13] **MR. GARDINER:** Thank you. [14] Mr. Bonde and Joel Foster.

[15] **MR. BONDE:** I am Brad Bonde and I'm [16] representing the Citizens Against the [17] Brookings Bypass. I want to thank you for [18] this opportunity to share comments with you [19] tonight.

[20] I first of all want to start with [21] the Citizens Against the Bypass Brookings [22] petition. I have 905 signatures and of

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[1] these 905 signatures, 35 percent are [2] represented by citizens that are living in [3] Brookings, people affected by the proposal. [4] They were not submitted or collected by going [5] door to door, but they simply added their [6] names to the list by people who were in local [7] cafes and restaurants. "We the undersigned [8] citizens of Brookings County and State of [9] South Dakota support the railroad expansion [10] project proposed by the DM&E, but strongly [11] oppose the proposed STB bypass of the city of [12] Brookings. We further support efficient and [13] safe passage of the trains through Brookings [14] on the existing track. We will further [15] encourage the Brookings county commission, [16] the Brookings city council and all other [17] affected government agencies to work together [18] toward that means. Further we strongly [19] encourage the STB to reject Alternative B-3 [20] and B-4 as described in the Draft EIS and to [21] adopt Alternative B-2 as it relates to [22] Brookings. This request is based on the lack

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[1] of statutory authority for the STB to enforce [2] the inefficient rail construction and STB's [3] failure to adequately compare construction [4] impacts between alternatives because of the [5] unreasonableness of the B-3 and B-4 [6] alternative route which has doubled the [7] length of the two other Brookings alignments, [8] one route by the state of South Dakota and [9] the other by Railco Incorporated and from [10] various other political or other policy [11] reasons."

[12] I first want to make clear that [13] Citizens Against the Bypass are strongly in [14] favor of the DM&E revitalization project. [15] The proponents — we feel that the 16 mile [16] bypass is unnecessary and unreasonable and [17] redundant. The Mayor of the city of [18] Brookings even referred to the 16 mile bypass [19] pass as "crap" as reported in our local [20] newspaper. The proponents of the bypass will [21] identify safety as a concern. Living in the [22] country we understand traffic safety

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[1] concerns. We have shown through statistics [2] obtained from the South Dakota Department of [3] Transportation that train/vehicle accident [4] fatality rates are higher in the country and [5] that the overall accident rate per capita is [6] higher in the country as well. It also needs [7] to be noted that the new rail infrastructure [8] through the city with new signaling and [9] control systems would greatly improve the [10] safety along the existing rail line. Each of [11] the through town crossings would have safety [12] devices and quad gates, where the proposed [13] country crossings would merely be at-grade [14] with cross-buck signage.

[15] The proposed bypass is [16] unreasonable, it is unnecessary and it is [17] redundant and there has been no input on the [18] plan from any of the involved parties. [19] Landowners and nearby residents learned of [20] the proposed line by reading about it in the [21] local newspapers two hours before the city [22] commission voted to accept the proposal. It

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[1] is clearly a case of the city taking their [2] perceived problem and placing it in someone [3] else's backyard. Thank you.

[4] **MR. GARDINER:** Thank you. [5] Mr. VanderWal and then Joel Foster and is [6] Robert Foster here?

[7] **MR. VANDERWAL:** Thank you. My name [8] is Scott VanderWal and I'm from Volga, South [9] Dakota. First I would like to state that I [10] am fully in support of the DM&E's proposed [11] project, but

however I am in extreme [12] opposition to the Brookings bypass. Our [13] family owns and farms two quarter sections of [14] land that would be cut diagonally if the long [15] bypass proposal were to become reality. It [16] would be drastically devalued and the [17] efficiency and viability of that part of our [18] operation would be severely compromised. [19] This is economic loss for us, not just loss [20] of convenience or enjoyment of the property. [21] Farming diagonals means decreased efficiency, [22] lower overall yields and doubling up of

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[1] inputs along ends rows. This is not [2] reasonable.

[3] When this bypass idea surfaced we [4] were not asked or notified until the finished [5] proposal was ready to go to the STB. The [6] process was secretive and underhanded and we [7] were not asked for any input at all. There [8] is not one home or business along those [9] tracks that was purchased or built by the [10] owner without full knowledge that the [11] railroad was there. The railroad was there [12] before anything else and, in fact, the city [13] moved to the tracks when the tracks came [14] through because they knew that it would be [15] the lifeline of the city. The DM&E has [16] approached the city of Brookings with [17] numerous mitigation measures for the in-city [18] line and they have been virtually ignored. [19] In addition, having two rail lines within one [20] mile greatly increases crossings by commuters [21] and school buses. The Sioux Valley School [22] Board which is in Volga has publicly taken a

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[1] stand in opposition to the bypass based on [2] safety concerns for commuting students and [3] buses. Recent sales of property along the [4] line also show no decrease in values. So now [5] we're being told by the vocal few bypass [6] proponents that we have to accept significant [7] losses economically in the interest of [8] enjoyment of property issues within the city [9] of Brookings. I ask you: Is that [10] reasonable? I suggest not.

[11] The main purpose of the project is [12] to increase efficiency and improve service to [13] customers of the DM&E. The bypass proposal [14] would not contribute to this goal and, in [15] fact, would detract from it. Statements are [16] made in the DEIS about building spur lines or [17] possibly relocating some existing customers. [18] What a monstrous expense. This again is very [19] unreasonable. Since the city of Brookings [20] exclusively came up with the bypass

idea I [21] would strongly suggest that the city of [22] Brookings be required to pay the entire bill

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[1] for the bypass if it would be built. We [2] think that the bypass proponents are a very [3] vocal minority and that most people in [4] Brookings would say the whole bypass idea is [5] unreasonable. I suggest that if Brookings is [6] faced with raising in-city property taxes in [7] order to pay for a bypass, the silent [8] majority that we think is there would quickly [9] become a very vocal majority and they would [10] say that we're not paying for it.

[11] In summary, the Brookings bypass [12] proposal should be dropped from the [13] Environmental Impact Statement as well as [14] from the project. We as rural landowners [15] should not have to give up our land and [16] sacrifice the viability of our farming [17] operations for the bypass proposal. It's [18] unfair, irresponsible and unreasonable. [19] Please recommend that the STB drop the bypass [20] proposal. Thank you.

[21] **MR. GARDINER:** Mr. Foster. Is Ed [22] Hogan here?

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[1] **MR. FOSTER:** My name is Joel Foster [2] and I live along the B-3 and B-4 route. I [3] support the DM&E project and I support the [4] B-3 and B-4 bypass and support B-2 through [5] town. I have a hard time understanding what [6] need Brookings has shown for a bypass. The [7] city leaders have said that Brookings is too [8] unique of a town to have coal trains running [9] through it. Brookings is unique in the sense [10] that it believes that it can be situated [11] geographically between the people in the east [12] and the coal in the west and play no part in [13] getting the two together.

[14] Brookings is unique in the sense [15] that it believes it can ask rural landowners [16] to sacrifice land and livelihood for the [17] greater good, yet Brookings is unwilling to [18] go from 0 to 24 coal trains a day to relieve [19] other cities that routinely have 40 and 60 [20] and 100 or more coal trains per day. I have [21] a hard time believing Brookings is too unique [22] for trains when Fargo, North Dakota has 71

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[1] trains a day: Ames, Iowa, and St. Cloud each [2] handle 65 a day, and both these towns seem to [3] be surviving and thriving. They are doing [4] their part to supply and transport the [5] nation's energy. The Brookings bypass has [6] become a matter of luxury and convenience for [7] the city and they should pay for it in its [8] entirety. It's been said by city leaders [9] that the needs of Brook-

ings 100 years in the [10] future must be considered with having a [11] bypass. If I were here in 100 years and [12] still waiting 15 minutes for a train to pass [13] I would think my predecessors were not too [14] bright. In 100 years Brookings will have a [15] worn-out railroad through town that is 200 [16] years old. With a bypass route they would [17] have a modern track built mostly on [18] floodplain that may not be fit to use either. [19] That is exactly what B-3 accomplishes for the [20] city of Brookings.

[21] Safety between the town and bypass [22] route is a non-issue. A family in town has

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[1] said they can cross the tracks 18 times a day [2] going to and from school and work. The same [3] family in the country could cross two [4] tracks 36 times a day. It doesn't matter [5] where the tracks are, what matters is this: [6] Every time you cross a railroad track you [7] have to take on a certain amount of [8] responsibility upon yourself. If the city of [9] Brookings thinks its residents need to be [10] free from that small level of responsibility, [11] they should pay for that privilege and pay [12] for the bypass in its entirety. Again, I [13] encourage you to eliminate B-3 and B-4 and [14] wholeheartedly support B-2. Thank you.

[15] **MR. GARDINER:** Thank you. The [16] other Mr. Foster and Chad Swedlin, are you [17] here? How about Marlin Hill?

[18] **MR. FOSTER:** I'm Bob Foster, the [19] father of Joel, and it's our farm that's [20] being bisected with this bypass proposal. We [21] in South Dakota like our wide open spaces and [22] uncrowded living conditions. Some people may

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[1] feel threatened by high speed trains hauling [2] coal through their communities, but if I had [3] a choice between more people moving here from [4] out of state to gain access to our energy [5] from low sulphur coal or transporting coal [6] via the railroad to the eastern market I [7] would choose the railroad.

[8] The benefit of an ungraded railroad [9] would be improved access to markets for our [10] natural resource. Corn and soybeans, [11] woodchips, bentonite and so forth, many [12] well-paying jobs from an improved railroad, [13] more industry in the midlands of our state [14] and the prospect of added value to our [15] natural resources. Finally, fewer trucks on [16] our highways, freight is easier and cheaper [17] to move by rail than by truck, closer to [18] home. Brookings wants a bypass for coal [19] trains, they believe coal train traffic would [20] devalue trackside homes. Reports from [21] realtors do not confirm this. Listed

homes [22] sell readily without market loss. These

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[1] homes were devalued in 1999 at a 10 percent [2] devaluation because of their nearness to the [3] rail line. Since then these homes have [4] gained market value and the study may soon [5] recommend that these homes be valued at their [6] true market value and this is from the lady [7] at the courthouse.

[8] Safety in another concern of the [9] city. While it's safer to have a bypass — [10] why is it safer to have a bypass when all [11] major in-city crossings will be gated and [12] when traffic warrants it, an overpass will be [13] constructed? Compare this to a bypass in the [14] rural community where there will be many [15] unguarded crossings. A quote from the [16] preliminary DEIS report and I quote, "There [17] could be significant increase of accidents on [18] rural crossings." Does it make sense to [19] shift the burden from one to another? That [20] is what the bypass proposal will do. The [21] bypass will bisect farms and center set [22] irrigation systems causing inefficiency and

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[1] higher production costs. The bypass will [2] infringe upon the lifestyle of rural [3] homeowners who have just as much right to [4] serenity as your city dwellers.

[5] Has the STB looked at the land on [6] which the bypass will be located? Over half [7] the proposed alignment is over the aquifer. [8] The STB has labeled the land on which the [9] proposed bypass is to be located as [10] underdeveloped farmland. If the farm has a [11] center pivot it is developed. The same with [12] the conservation practices. The land on [13] which rural homes are situated is as [14] developed as city land though it is less [15] densely populated.

[16] In closing, in all the meetings [17] that I have attended on the bypass issue, [18] Brookings has never come forth with a sound [19] reason or a need for a bypass. It wasn't [20] until the city realized that they may have to [21] pay for part of the bypass is when they began [22] to meet with the DM&E officials. I thank

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[1] you.

[2] **MR. GARDINER:** Thank you. [3] Mr. Hogan, and is Daniel Humburg here?

[4] **MR. HOGAN:** My name is Ed Hogan. I [5] was — served as chair of the Mayor of [6] Brookings Ad Hoc Committee to the railroad. [7] I had hoped to never have to speak publicly [8] about the DM&E proposal again. The recent [9] information on the Railco bypass and some of [10]

DM&E's public responses were encouraging and [11] may yet provide a reasonable alternative to [12] the longer B-4 bypass. However, until the [13] DM&E decides to be a good neighbor and [14] develop a bypass route around Brookings I see [15] no option but to express support for the [16] current longer bypass identified by the STB [17] as being preferable.

[18] Today I want to focus on what I [19] consider the major environmental concerns of [20] the DM&E's proposal. First is safety. [21] Almost 1000 people a year are killed on our [22] nation's railroad tracks despite all the

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[1] safeguards of people that the railroads have [2] put in to protect people. My concern with [3] the DM&E's proposal is how many people in [4] Brookings will be killed or hurt each year [5] because of coal trains running through town. [6] More important, how many fewer children or [7] adults in the Brookings community will be [8] killed or maimed if the DM&E bypass is in the [9] heart of the city? The STB is in a better [10] position to answer this question than anybody [11] else. Each human life is a precious resource [12] to our nation. Despite all our good [13] intentions government still needs to take [14] steps, such as a bypass, to protect people [15] from harm. We did not run Interstate 29 up [16] Main Street in Brookings as we did old [17] Highway 77.

[18] Speed is another safety concern, [19] speeds will nearly triple. We're asking that [20] for safety reasons the DM&E run its route [21] around Brookings in open country just as it's [22] doing in the rest of the country and almost

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[1] all of the state. Sound and noise are still [2] another concern. Sound and noise impacts can [3] travel, open space and distances however will [4] help negate that impact. If you are [5] concerned about sound and noise talk to the [6] people in Fargo and ask them about sound and [7] noise and you may get a different viewpoint [8] than you were presented a few minutes ago. [9] Vibration, we also experience these today [10] without the sound. In reality we don't know [11] the psychological, physical and economic [12] affects vibrations will have on us because [13] coal trains are much larger than what we are [14] experiencing today.

[15] Finally, the city of Brookings [16] helped create the problem with prior zoning. [17] I'm glad to hear it's willing to help solve [18] it with money for a bypass and assuming [19] ownership of the present route through town. [20] I believe that if the STB wants to address [21] the

environmental concerns of the people of [22] Brookings it must require the DM&E to bypass

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[1] Brookings and at the same time facilitate the [2] process by allowing the DM&E to incorporate [3] the bypass into its existing request. Thank [4] you.

[5] **MR. GARDINER:** Mr. Hill and then is [6] Richard Waldner here?

[7] **MR. HILL:** Thank you. My name is [8] Marlin Hill, I was born in Brookings and [9] resided near Brookings all of my life. My [10] wife and I have spent 10 years inside the [11] city limits on Missouri Avenue, most of the [12] time was spent north of the track, but — [13] some of the time was spent north of the [14] track, but most of the years were at 205 [15] Medary and the corner of Vine Street. We got [16] firsthand experience with the trains 20 years [17] ago. I realize things are different with the [18] trains today, but you do get used to them and [19] my ambition in life was to be on the farm, to [20] return to the farm. Our greatest concern [21] about the 16 mile bypass relates to [22] springtime flooding. Our farm is on the

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[1] lower end of the Six Mile Creek watershed, it [2] runs diagonally toward the town of White. I [3] have with me two pictures of the water as it [4] flooded our property in one of those floods, [5] usually an annual event. Building a railroad [6] bed across the south side of our property as [7] proposed, will greatly antagonize this [8] situation. We were not informed of nor asked [9] to participate in any discussions or planning [10] regarding any bypass issues and we stand [11] ready to seek legal remedies if either the [12] city, the county, or DM&E make any serious [13] threat or implications to include a portion [14] of our property in this bypass. We fully [15] intend to defend our property rights. [16] Because the DM&E already owns and controls a [17] route through town, I believe that eminent [18] domain privileges cannot be used in this [19] instance.

[20] As a member of the Brookings [21] community I am very concerned that the city [22] council and the DM&E officials have yet to

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[1] secure an agreement regarding the safety [2] on 22nd Avenue at the railroad crossing. [3] With or without a bypass, this is an [4] important crossing that needs attention. I [5] feel that the bottom line position from the [6] STB should be to allow the in-state [7] in-community local residents make the [8] decision regarding the bypass. This is a [9] fairness and common sense test and that [10]

should be applied in all aspects of decisions [11] of this magnitude. The DM&E project will be [12] bogged down in the courts for a long time if [13] the STB assists in promoting any bypass. The [14] local Railco bypass plan will put many [15] semi-trailer loads of soybeans headed to [16] Volga on at least two at-grade crossings on [17] Highway 14 north and east of town and this [18] seems to be a lethal environment for a lot of [19] us. School busloads of children will also be [20] a part of that traffic flow. We need to use [21] as much common sense and fairness as we can [22] muster to reach an end to this highly

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[1] emotional situation. Thank you very much.

[2] **MR. GARDINER:** Thank you. [3] Mr. Humburg. Mr. Waldner. Is Dwight Adams [4] here?

[5] **MR. HUMBURG:** Thank you. My name [6] is Dan Humburg, I live just north of [7] Brookings. First I would like to say that I [8] have many friends and colleagues that live [9] along the present alignment in town and we [10] certainly don't wish any harm or headaches or [11] nuisances upon them. We are rural residents [12] of Brookings and we are strongly in favor of [13] the Powder River Basin project and its many [14] benefits overall to the state of South [15] Dakota. However we are not in favor of [16] shifting the burden of increased traffic on [17] the rail line to the rural residents.

[18] The reasons are myriad for that, [19] but I will restrict my comments to those of [20] safety and environmental effects. The SEA's [21] Draft EIS states that an increase in [22] accidents at rural crossings is expected with

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[1] the proposed 16 mile bypass of Brookings. [2] This is fairly logical for us as a lower [3] level of protection is offered at rural [4] crossings and approach speeds at the [5] crossings are much higher. Any bypass that [6] also includes maintaining the existing line [7] through town will result in a substantial [8] number of increased rail crossings. Diluting [9] the resources by developing two routes will [10] yield a lower level of protection along both [11] the in-town route and the bypass route than [12] could be afforded if the available resources [13] of both the DM&E and the city are [14] concentrated on establishing the safest [15] possible transit through town.

[16] With regard to environmental [17] issues, the STB document states that the [18] reason that the SEA is required to look at [19] environmental impacts of existing line [20] improvements is to comply with the Corps of [21] Engineers mandate to

consider the impacts [22] under the Clean Water Act. SEA's preliminary

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[1] EIS concludes that the negative impact on [2] wetlands and the environment would be greater [3] under the proposed bypass than under a [4] rebuild of the existing line. SEA does [5] conclude that the impacts on vibration and [6] noise receptors are greater in the case of [7] the expansion along the existing line. This [8] appears to be the only finding in the Draft [9] EIS that favors construction of a bypass. So [10] looking specifically at noise and vibration [11] the SEA document clearly shows that up to and [12] including 70 decibels, with 65 being their [13] threshold for affected noise receptors, there [14] are zero noise receptors along the existing [15] alignment affected by the wayside traffic [16] noise, until the addition of the horn or [17] whistle is considered. It must be noted that [18] since early in the process the DM&E has [19] offered to provide whistle free operation [20] with the required crossing carriers and [21] flashing lights paid for at the railroad's [22] expense. This would seem to offer a solution

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[1] that would reduce the impact and noise [2] receptors of a through-town mitigated line [3] back the zero level determined by the STB.

[4] With regard to vibration, the SEA's [5] Draft EIS concludes that structures in the [6] rural areas of the bypass may be subject to [7] more vibration impact since they have not [8] been constructed to be tolerant of adjacent train [9] traffic, as have those along the current [10] alignment. In conclusion, the conclusion [11] that I draw when I read the SEA's Draft EIS [12] is that the noise and vibration impacts of an [13] expansion along the existing line are [14] entirely manageable. Managing the safety and [15] environmental issues along any bypass is a [16] much greater challenge and potentially more [17] costly in terms of dollars and potentially in [18] lives.

[19] **MR. GARDINER:** Thank you. [20] Mr. Waldner. Is Kim Camp here?

[21] **MR. WALDNER:** I'm Richard Waldner, [22] landowner. Either the 16 mile bypass or the

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[1] Railco one would affect my land. If the [2] proposed B-4 bypass would come about, it [3] would take land to the north of my building [4] site. If the Railco proposal came about, it [5] would take land to the south of my home. I [6] am for the proposed DM&E railroad expansion [7] plan. I do believe that a bypass is not in [8] the best interest of the Brookings

community [9] or the rural area. Too many things have been [10] discussed and decided without input from [11] those that are affected by these decisions.

[12] The 16 mile bypass was decided by [13] the city, endorsed by the governor, and sent [14] to STB by the governor's office. No input [15] was asked from any of those living in the [16] rural Brookings area. Banner Engineering was [17] hired to do the study and proposed a bypass [18] plan with estimates. It's interesting to [19] note that two of the Banner Engineers who [20] worked on this proposal have also had homes a [21] short distance from the railroad. What other [22] type of decision would you expect from them?

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[1] The same thing happened when some businessmen [2] from the state of Brookings and the [3] university put together the Railco bypass [4] plan. This was presented in open meetings, [5] but again those of us in the rural community [6] were not part of that plan. In the meeting [7] we were not told the whole truth, but found [8] out after much discussion that not only [9] landowners with land who would not — I'm [10] sorry — and discussion with not all [11] landowners whose land would not be — were [12] not contacted as presented. I would [13] encourage that the STB not require either [14] bypass for approval of the DM&E's proposed [15] rail expansion. The city did not seek input [16] from the rural community. None of us in the [17] rural area that would be affected were asked [18] for input. Time and time again, many of us [19] heard about various proposals and decisions [20] when listening to the news or reading it in [21] our daily newspapers. You have heard [22] frequently today that the city did not seek

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[1] input from those in the rural community. How [2] can the STB approve either of the bypass [3] proposals since there was no input from all [4] those concerned and affected people? Thank [5] you.

[6] **MR. GARDINER:** Thank you. [7] Mr. Adams. Ms. Camp, you're up next. Is [8] Leroy Hoffman here? Okay.

[9] **MR. ADAMS:** I'm Dwight Adams, I've [10] been a resident of Brookings for 39 years. I [11] own a home on the trackside of the railway, [12] I've been in that home for 30 years. When I [13] bought my house there were two cornfields, [14] one east, one south of me. 22nd Avenue was a [15] two-lane gravel road, the pheasants went [16] through my yard and sitting with executives [17] of the St. Paul office of the Chicago [18] Northwestern railroad up in Minneapolis at [19] Viking ball games we

knew the process going [20] on in seeking the abandonment of that line. [21] Hence, we had no qualms about buying that [22] home. I am serving as an advisor to the

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[1] local citizen's committee favoring a bypass. [2] I serve on the governor's state railroad [3] study committee. I participated in the [4] Brookings Mayor's Ad Hoc Committee meetings [5] as a citizen. I served on the Mayor's [6] advisory committee for the bypass. There are [7] two basic points I would like to make based [8] on almost three years of involvement on this [9] issue, a tremendous amount of research. [10] Since I'm retired I've had time to devote to [11] doing research and study.

[12] Two points I would like to make. [13] Calling your attention, and it's documented [14] in things you already have, that a survey was [15] made, paid for by CTIC and local businessmen [16] hiring a professional research firm out of [17] Sioux Falls. The reports of that survey were [18] that 82 percent of the citizens of Brookings [19] do not favor the current alignment as [20] presented in the DM&E plan for their coal [21] trains. It should be noted that the citizens [22] of Brookings constitute 65 to 70 percent of

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[1] the citizens of the county. Only 12 percent [2] favored the railroad on the current [3] alignment. The other point I would like to [4] make and the governor's representative here [5] today talked about it, it's been mentioned [6] briefly by others, and that's valuation of [7] property. South Dakota law requires county [8] assessors to assess property at full, true [9] market value. They do this based upon sales [10] looking at sales within given specified [11] areas. As a consequence of that process this [12] year's tax notes as it came out in January or [13] February reduced the valuation on properties [14] trackside by 10 percent, across the street [15] by 5 percent. Thus no increase was imposed [16] on those homes. There are approximately 200 [17] plus homes in that category. Ballparking the [18] estimate of what the impact of that [19] devaluation, it is probably in the range [20] of \$2 to \$2.5 million dollars.

[21] When you look at sonic studies that [22] have been made and submitted by Mankato and

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[1] also a lesser one from Brookings, there are [2] conditions under which problems requiring [3] mitigation can extend out in some categories [4] to 400 feet and others to 1200 feet. There [5] are approximately 400 homes in Brookings [6] within 300 feet of the right of way. [7] Projecting

from the \$2 to \$2.5 million [8] dollars on the 200, without coal trains [9] running, just under the possibility they [10] will, then one can easily see that in five or [11] ten years if the coal trains are running you [12] might have \$10 to \$15 million or more dollars [13] devaluation. This is not only affecting the [14] homeowners, but it affects the tax base for [15] Brookings city and Brookings County. Thank [16] you. I will submit these points in writing [17] before the end of the comment period.

[18] **MR. GARDINER:** Thank you. Ms. Camp [19] and then Mr. Hoffman. Is Dale Eishold here?

[20] **MR. CAMP:** Good evening, my name is [21] Kim Camp. I work for DM&E railroad, I've [22] been here about four years. 20 years before

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[1] that I spent with Burlington Northern and [2] when I came down here I was amazed at the [3] condition of the tracks. Our track is [4] obsolete, it's worn out, most of our rail is [5] anywhere from 70 to 100 years old. We have [6] more derailments than any other railroad in [7] the United States. Most of our guys work [8] anywhere from 50 to 70 hours a week trying to [9] maintain it, and I believe if something is [10] not done this railroad is going to go under [11] and all of us will be hurt and I think the [12] whole state of South Dakota will be hurt. [13] Thank you.

[14] **MR. GARDINER:** Thank you. [15] Mr. Hoffman. Is Dale Eishold here? Joe Cech [16] will be on deck and James Wickman, are you [17] here? You're coming up shortly.

[18] **MR. HOFFMAN:** My name is Leroy [19] Hoffman. I'm opposed to the bypass, either [20] one of them. Our family moved to Brookings [21] in 1984 and we lived on Orchard Drive for [22] about two years right on the south side of

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[1] the railroad tracks. We later moved to 18th [2] Avenue south which is right off Elmwood and [3] we lived there for about 12 years. The last [4] two years we've moved north of Brookings [5] about two and a half miles. We wanted to get [6] away from the hubbub of the city, get our [7] independence out there, have a nice life for [8] ourselves out in the country. We're opposed [9] just like a lot of the other people to the [10] north, east and west of Brookings who will [11] have to cross the tracks many times during [12] the day coming and going to work. There's a [13] lot of people in Volga, Elkton, Bruce, and [14] all these other communities that do travel [15] from Brookings to work and shop and every one [16] of them will be in jeopardy

because of the — [17] a lot of the bypass options you're not going [18] to have the flare or anything else for [19] stoppage of traffic when the trains go by so [20] it's going to cause a lot of havoc that way.

[21] There's a lot of people that do [22] come from Highway 77 and that way north, a

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[1] lot of the safety concerns and inclement [2] weather for us would be like the school buses [3] and all the people, like I say, that would [4] have to work and shop in Brookings County. I [5] would like to see the people of Brookings get [6] a chance to voice their opinion on this here [7] matter, more than what they are. I know [8] there's a lot of people who are not in favor [9] of a bypass that live in town. I have talked [10] to a lot of them myself, a lot of our [11] friends, and I think that the people of [12] Brookings probably should get a very good [13] chance to vote, and that would be Brookings [14] County, the chance to vote to oppose this. [15] Thank you.

[16] **MR. GARDINER:** Thank you. Joe Cech [17] and then James Wickman and Gladys McCracken, [18] you'll be up.

[19] **MR. CECHE:** I'm Joe Cech, I live on [20] Derald Drive, I've lived in Brookings for 10 [21] years, former physics instructor, I work in [22] the Brookings school district with computers.

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[1] When I was growing up I was told we had life, [2] liberty and pursuit of happiness unless we [3] infringe on someone else's life, liberty and [4] pursuit of happiness and today it seems like [5] if you have billions to invest you can have [6] it your way. Now I can't build a [7] multi-family structure on my residential lot [8] and make more income than I get from the [9] house right now. I can't build a hog [10] confinement unit inside of town because that [11] would be a nuisance to my neighbors. Both [12] the smell and noise of the hogs making noise [13] would be a nuisance. I can't do that. Why [14] should DM&E then have the right to do the [15] same thing to me and my neighbors? Why do [16] they have more rights?

[17] DM&E is not the only possible way [18] to get coal to eastern markets. We have two [19] railroads that do that well already. Using [20] the appendix from the Draft Environmental [21] Impact Statement at the existing rate, [22] the 10, the 20, the 50, and 100 tonnage

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[1] rates, the numbers don't add up. Using the [2] current political phraseology, it's fuzzy [3] math. It's assuming that the coal train is [4] at 20 metric tons. If you are

going from 20 [5] to 100 you would think you would take five [6] times it, it doesn't work out that way. 100 [7] is not listed as 40 coal trains, five times [8] eight, it's assuming this magical coal train [9] that goes to a much longer 135-car train that [10] doesn't exist to my knowledge today because [11] the couplers can't hold that. I would like [12] to know how come we're not told that the [13] reality might be a much huger number, 40, 50 [14] trains, also in the thing it lists only three [15] current trains being transferred at each of [16] those rates. Currently we have more than [17] that in Brookings and it states we're going [18] to increase our service by reducing the [19] number of trains.

[20] One final comment, my brother has a [21] boat in a slip at Prescott, Wisconsin, where [22] Burlington Northern crosses the St. Croix

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[1] River. The slip owners have secured damages [2] from Burlington Northern that requires their [3] yacht club yachts to get washed and waxed [4] every year from the water line up. My [5] brother's small boat costs over \$600 a year [6] to do, so there's definitely an effect. If [7] yachts can get washed who is going to come [8] and wash our homes and cars? Thank you for [9] your time.

[10] MR. GARDINER: Thank you. [11] Mr. Wickman and Gladys McCracken. Is Linda [12] Lambertz here? All right.

[13] MR. WICKMAN: Good evening. I'm [14] James Wickman, a DM&E employee with the [15] mechanical department. My territory is New [16] Ulm, South Dakota. I would like to take this [17] opportunity to discuss the positive impacts [18] from building this project: Safety. The [19] upgrading of the rail would end derailments [20] that have plagued the current DM&E system [21] because of fatigued rail. Through the use of [22] the new rail system there would be fewer

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[1] trucks and truck related accidents on our [2] highways and interstates. The crossings [3] would be blocked for a short amount of time [4] because of trains moving through. Next the [5] DM&E is committed to saving and improving the [6] rail service throughout South Dakota and [7] southern Minnesota. For an example of that [8] would be the growth of our businesses right [9] now here in Rainbow Lumber, Volga Bean Plant, [10] Sioux Valley Cement and others that depend on [11] the DM&E rail service.

[12] Another issue: The DM&E would be [13] able to provide a passenger service for the [14] first time in approximately 50 years. This [15] project would save high-

ways and interstates [16] from excessive truck wear and tear. As you [17] all know it takes about 400 semi-trucks to [18] move the same amount of freight as one train [19] moves. This project would provide many new [20] high-paying jobs. It would generate millions [21] of dollars of annual tax revenues and it [22] would provide many indirect jobs from

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[1] contractors and bringing in new business [2] opportunities. So negative impacts that [3] would result from the no action would be: [4] The growing and increase in the serious [5] energy needs of the United States would not [6] be met. Not improving this project would [7] make the United States more dependant on [8] foreign sources of energy. This project is a [9] great opportunity to make United States more [10] energy independent. The long-term future of [11] DM&E is threatened. Rail service of any kind [12] in the DM&E region would be jeopardized. [13] Safety would continue to deteriorate as the [14] rail and railbed continues to get worse, and [15] opportunities to improve its safety would be [16] lost. Let's fix our main line, existing main [17] line, and let's support this project. Thank [18] you.

[19] MR. GARDINER: Thank you. Gladys [20] McCracken.

[21] MS. MCCracken: I'm Gladys [22] McCracken, I live within the city limits of

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[1] Brookings on the Highway 14 bypass. It's [2] hard not to get emotional about this issue. [3] I've lived all my life in South Dakota and [4] I've watched agricultural land be encroached [5] upon by growth and expansion. Obviously any [6] bypass of the city of Brookings by DM&E rail [7] lines will encroach on agricultural land, [8] some of which has been maintained by the same [9] family for close to 75 years.

[10] Concerns have been stated about [11] safety issues, property values, traffic flow, [12] emergency routes, highway crossings. These [13] are legitimate concerns wherever there is a [14] rail line. Our state and city government is [15] asking that we support a railroad bypass [16] which will encroach on our rural neighbors. [17] It distresses me to think they prefer to [18] divide rural acreages and the family's [19] livelihoods rather than endorsing the upgrade [20] of the existing track. It further distresses [21] me that they expect all city and area [22] residents to help finance this project in the

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[1] rural area. How many city residents truly [2] agree with the bypass proposal? Earlier [3] tonight we heard that the CAPB

group had over [4] a third of the people who signed their recent [5] petition against the Alternative B-4 bypass [6] actually were residents of the city. A small [7] group of businessmen have recommended a [8] Railco bypass. It's interesting to me that [9] these same businessmen choose not to ship [10] their products by rail and appear to have [11] little concern for fellow businessmen who do [12] ship by rail. Further they do not recommend [13] any upgrade of the in-city line, which I [14] understand will still be in use. I would ask [15] the STB to allow DM&E to upgrade the rail [16] line at its present location and not attach [17] any bypass plan to the project. Thank you.

[18] MR. GARDINER: Thank you. [19] Ms. Lambertz and is Judy Kroll here?

[20] MS. LAMBERTZ: Hi, my name is Linda [21] Lambertz and I'm a homeowner north of [22] Brookings. Here in this great country we

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[1] have a right to choose and make decisions, it [2] is our unalienable right of freedom. Somehow [3] as I see it this right has gotten lost in [4] this situation. All of a sudden a business [5] whose original existence probably brought [6] Brookings to the prosperity it has today, [7] does not have the right to run its business [8] as it sees fit, to improve its line to be [9] profitable and survive in the business world. [10] Now this business has no choice but to pay [11] for a study, and I might add restudy, for a [12] substantial number of people have already [13] sent in our views on this issue. A study [14] that has chosen to insinuate that we in the [15] sticks of South Dakota are morons and will [16] believe anything we read, i.e. the Draft [17] Environmental Impact Statement. I believe it [18] does not take a college degree or even a high [19] school certificate to see that either the 16 [20] plus miles or Railco's eight and a half plus [21] miles of virgin land being broken and [22] redistributed will have greater environmental

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[1] impacts than the line through town whose [2] impact has already been made and has settled [3] to an existence for over a century in the [4] best engineer calculated place in this area. [5] I for one have been offended by this [6] insinuation of stupidity and gullibility. [7] Perhaps you are not aware that South Dakota [8] is a poor state, we are close to or at the [9] bottom of the list for many polls for [10] salaries and per capita income, for [11] educational budgets and rankings, et cetera. [12] We do not have enough money in this state to [13] have our most important resource, our [14] children,

first priority. Here our children [15] rate education funding because gambling [16] survives. We just voted as a populous to [17] continue the use of video lottery gambling [18] resources in order not to be taxed any more [19] than we already are. [20] Now because two separate forms of [21] city government over the past two years have [22] chosen to represent a few, we are about to be

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[1] dictated to choose bridges and train tracks [2] over our children and their education. Our [3] city and state leaders seem to think millions [4] can be given to another unnecessary piece of [5] track and bridges. Track and bridges that [6] the business will fund itself in the first [7] place where they exist now. How can our [8] elected officials justify additional expense [9] when it will taken care of by the business [10] involved? How can our elected officials [11] justify this additional burden to taxpayers [12] when our children deserve the best we can [13] provide? What happened to the moral [14] conscious of efficiency and spending people's [15] hard-earned money to the wisest and most [16] efficient use?

[17] Don't get me wrong. I know a lot [18] of people, attend church with, and are [19] friends with people who live along the [20] tracks. I sympathize with them, but [21] sometimes a choice we make requires us to [22] live unfavorable consequence. They chose to

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[1] buy property by the pre-existing track and [2] now consequences are not looking favorable. [3] Still the majority, our children, the cities, [4] counties, and state's economic welfare should [5] not be penalized or burdened because of these [6] few. I implore you to choose Alternative [7] B-2, the existing track through town, and [8] help bring our unalienable rights back where [9] they belong to a people's wise common sense [10] choice. Thank you.

[11] **MR. GARDINER:** Thank you. Dean [12] Sampson and is Gerald Kluess here? Great. [13] Thank you.

[14] **MR. SAMPSON:** My name is Dean [15] Sampson, my wife, Dee, and I live on US [16] Highway 14 bypass on the north edge of [17] Brookings. We are against any bypass. We [18] own and operate a horse boarding stable on [19] the north side of Highway 14 bypass. Our [20] driveway extends to the highway bypass and [21] it's my understanding the new Railco [22] suggested eight and a half mile proposed

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[1] bypass will parallel the highway there and [2] cross my driveway.

[3] I have several questions to raise [4] with this proposed bypass. The first [5] question involves my driveway. The proposed [6] shorter bypass, as I said, would cut across [7] my driveway and according to the Air, Rail [8] Transit Department in Pierre I can't be [9] forced to reroute my driveway. Since my [10] driveway was there first it grandfathers [11] under the law, that's what they said. At one [12] of the earlier meetings we had in our [13] community I was informed I couldn't have my [14] driveway going across the railroad, they said [15] that I just legally couldn't, that was their [16] say.

[17] The second question involves noise [18] of the trains, both for my family as well my [19] stable customer's horses. We have horses and [20] we have pastures where the railroad bypass [21] would be right beside the pasture, horses [22] could be just as sensitive as humans. The

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[1] third question involves safety and I think [2] everybody is concerned about safety. We have [3] up to 100 or more vehicles turning in or [4] leaving the stable daily. This sounds like a [5] lot. Some of these are horse trailers, [6] others are retired people coming to visit [7] their grandkids, they really enjoy that. We [8] have had school buses bringing students in [9] from the surrounding schools, it gave them an [10] opportunity to see both horses and other [11] animals right in our location. I see a [12] tremendous volume of traffic on the bypass, [13] everything from, like I said, people going to [14] work, school buses, ambulances, half a dozen [15] times a day, farm to market, kids on bikes, [16] joggers and the list goes on. The new [17] proposal routing the bypass by my place [18] involves crossing the highway twice from what [19] I understand. I can't understand why they [20] had to cross it. Gates and lights as [21] suggested by the proponents of this project [22] are an invitation for traffic backups on the

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[1] highway any time of the day. These types of [2] highway crossings increase the potential for [3] major traffic pileups in my opinion. We are [4] a rural state and with many gravel roads [5] leading to Highway 14 — according to the [6] Comprehensive Land Use Plan for the Brookings [7] County printed April 15, 2000, we have a [8] large number of housing units, [9] approximately 40.4 percent out in the country [10] or small towns. That's almost half. This [11] appears to be a significant amount of our [12] population impacted in the safety area. The [13] wetlands is another thing, quickly touching [14] on, flooding. The bypass has impacted some, [15] the high-

way and the railway would do the same [16] thing. The only other thing is the real [17] estate downsizing as far as its worth could [18] really have an impact on my property.

[19] **MR. GARDINER:** Thank you. [20] Ms. Kroll and is Nicole Kurtenbach here? [21] Okay.

[22] **MS. KROLL:** My name is Judy Kroll,

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[1] I live at 606 East First Street in Volga, [2] South Dakota. My property is very close to [3] the DM&E railroad line in Volga and I have [4] several points that I would like to make this [5] evening.

[6] First, I do not support DM&E's [7] plans to become a coal hauling train. I [8] don't know why in the world we have to do it [9] in the first place. They keep telling us [10] there's going to be high-paying jobs, it's [11] going to increase the economy of South Dakota [12] and I have yet to see any specifics about any [13] kind of high-paying jobs that are going to [14] come here and how it economically is going to [15] benefit most of us that live in the state. [16] As far as I'm concerned it's just going to [17] degrade the entire quality of South Dakota.

[18] On the other hand, if this project [19] is approved and does go forward at the [20] expense of our country's air quality and [21] South Dakota's quality, I favor the B-4 [22] bypass plans. Second, in order for us to

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[1] read and comment on the DEIS document we're [2] going to need more time. I'm requesting [3] a 180-day period after the DEIS has been [4] rewritten. In its present form the study is [5] incomplete, convoluted and difficult to [6] comprehend. In the time remaining I want to [7] question some information in Volume III-A, [8] chapter 4, pages 4.3-31 to pages 4.3-63. [9] Here's what you have written or part of what [10] you have written. "The area along the DM&E [11] rail line and affected communities that would [12] experience increases in traffic or activity [13] in meeting the Board's environmental analysis [14] threshold for South Dakota are listed in [15] tables 4.3-5 through 4.3-17. Tables 4.3-5 [16] through 4.3-8 show the communities within [17] their respective counties with the number of [18] noise level sensitive receptors expected to [19] experience noise levels exceeding 65 [20] decibels. County totals are in bold and [21] include both the sensitive receptors within [22] and outside these communities. Noise

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[1] sensitive receptors within this noise level [2] due to wayside noise, wayside and horn noise [3] and horn noise only

are presented. Negative [4] numbers reflect a reduction in the number of [5] noise sensitive receptors within a given [6] noise impact category, these reductions only [7] occur in the horn noise category. Where [8] these reductions occur they are due to some [9] noise sensitive receptors in the existing [10] conditions that are within a noise conductor [11] contour due to horn noise being within a [12] contour for either wayside or wayside and [13] horn noise under future operating scenarios." [14] Well, I rest my case because I don't know [15] what that said and I don't think that that's [16] the way it's supposed to be according to [17] NEPA. Because I live very close to the [18] railroad track in Volga I want to know how [19] vibrations, pollution, coal dust and noise [20] will affect my property and quality of life. [21] As a matter of fact, in some of those places [22] that they said that exist in Brookings County

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[1] they have totally left Volga and Brookings [2] off the charts. This is very confusing [3] because of these omissions. With such [4] incomplete of a document it is useless as a [5] credible source. My life revolves around [6] research and drawing conclusions from [7] documents of many sorts including volumes of [8] government documents. From what I have up to [9] this point or what I have seen up to this [10] point, I would not accept work like this from [11] my students. I have higher standards for [12] them and I certainly expect more from my [13] government. Thank you.

[14] **MR. GARDINER:** Thank you. [15] Mr. Gerald Kluess.

[16] **MR. KLUSS:** My name is Jerry [17] Kluess, I live with my wife along the tracks [18] of DM&E at 1031 Orchard Drive and if the STB [19] should make the mistake of approving the DM&E [20] Powder River Basin project I am requesting [21] that a bypass be built around Brookings. I [22] feel it is a failed economic and

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[1] environmental judgment to allow DM&E to run a [2] coal train through barns and ranches, fragile [3] environmental areas like the Bad River, the [4] Cheyenne River, the Thunder Basin, Buffalo [5] Gap National Grasslands, Native American [6] archeological areas, land rich in fossils, [7] just so DM&E can make enough profit to [8] rebuild its line. When you grant a permit [9] for such a project you are saying that [10] economic interests are more important than [11] quiet, than clean air, than people's [12] property, than their safety, and of course, [13] their neighborhoods, cities, towns,

ranches [14] and farms that go along with it all.

[15] Whatever form it takes I do not [16] respect a government that looks the other way [17] as it approves a project knowing it's going [18] to create more harm than good. This form of [19] corporate welfare is not what this country [20] should be supporting. DM&E needs to rebuild [21] its line, but not by hauling coal when the [22] negatives far outweigh the positives. If

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[1] DM&E can't handle the expense of rebuilding [2] its line then another railroad will. [3] Business in America isn't based on government [4] safety nets being thrown under every business [5] that can't make ends meet. I have a comment [6] about your real estate views in Volume III-B, [7] chapter four, at 4.9.4.2 on page 4.9.8. You [8] say, "The SEA understand the concerns of [9] local residents along the rail line [10] particularly those currently residing along [11] the rail line." I have to ask what the [12] difference is between the phrase local [13] residents along the line and the one that [14] follows it which says, "particularly those [15] currently residing along the rail line." [16] This doesn't make much sense. But it is good [17] evidence of how carelessly you have put this [18] document together. The next paragraph [19] continues, "Increased rail operations would [20] certainly change the environment of these [21] residences, however, while these residents [22] are concerned with real estate values SEA

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[1] does not believe significant declines in real [2] estate values should occur as a result of [3] Alternative B-2." It is quite apparent that [4] you don't know what will happen to real [5] estate values when 40 trains a day pass [6] through your neighborhood. How can you claim [7] there won't be a significant decline in rail [8] trains when rail trains run through within 50 [9] feet of your property? I'll tell you why: [10] You don't know. You haven't done your [11] homework. How many of the local real estate [12] professionals that you have apparently relied [13] on for your information there at the bottom [14] of page 4.9.8 have previous real estate [15] experience in a city which has coal trains? [16] Thank you.

[17] **MR. GARDINER:** Thank you. [18] Ms. Kurtenbach. Is Paul Koepsell here? [19] Jerry Cope? Okay, you'll be up next and then [20] Dave Gedge. How about Donald Peterson or [21] Rodney Christianson?

[22] **MS. KURTENBACH:** Hello, my name is

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[1] Nicole Kurtenbach and I am operations [2] supervisor and dispatcher for the DM&E [3] railroad. Our department runs 24 hours a [4] day, seven days a week, holidays, nights and [5] weekends. My job as a operations supervisor [6] and dispatcher is to ensure the safety of all [7] DM&E employees and for the safe movement, [8] safe and efficient movement of trains with [9] balancing the trains maintenance of way on [10] and off tracks, also working with foreign [11] lines and also working with our local [12] residents to ensure their safety when we [13] operate through towns.

[14] Two things I would like to talk [15] tonight about are safety and economic impacts [16] with our expansion project. We have many [17] safety concerns right now that are impacting [18] our operations. With the record harvest this [19] last year that means record bushels, more [20] grain being hauled, and it has been very good [21] for us this past year, but also with that [22] increased business we've had increased

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[1] expenses. Increased expenses in lost [2] revenue, derailments, accidents due to our [3] deterioration of our track and also on the [4] terms of economic impact, every dollar, I [5] think it said in the paper, that is spent in [6] Brookings, I think, is passed seven times — [7] through the hands of a citizen seven times [8] before it leaves that town. I think if this [9] billion dollar expansion project, if you [10] figure out how many times that billion turns, [11] millions of dollars is going to be passed [12] through the hands of our citizens in the [13] state. It would just be one more reason to [14] attract more businesses, to keep people in [15] the state, to increase our tax revenues and [16] also help our major industry, the agriculture [17] department. So I urge the STB to rule in [18] favor of the expansion project and also not [19] to extend the comment period. We may lose a [20] good construction year next year and that [21] means a lot to us.

[22] **MR. GARDINER:** Thank you. Paul

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[1] Koepsell? Jerry Cope.

[2] **MR. COPE:** Good evening, my name is [3] Jerry Cope. I am the transportation director [4] for South Dakota Wheat Growers, we're a [5] farmer owned grain fertilizer and fuel co-op [6] headquartered in Aberdeen. I also serve on [7] the governor's committee for the DM&E [8] oversight committee. Being in Aberdeen we're [9] a little far away here, but we do have three [10] stations on the DM&E. We have one in [11] Mansfield, South Dakota, one in Redfield and [12] in

Huron, South Dakota, we have an elevator [13] as well as a new ethanol plant.

[14] As a steward of the state we [15] believe that the idea of the project proposed [16] is necessary for the economic well-being of [17] the state. We believe it's beneficial, but [18] at the same time we believe it should be [19] completed safely and in an environmentally [20] sound manner and in a manner agreeable to the [21] participants. We do ship the majority of our [22] grain on the Burlington Northern railroad.

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[1] We find them to be a reliable shipper, but [2] one thing we notice on the corridor from [3] south Aberdeen where the DM&E parallels each [4] other is that where we have dual market [5] access we enjoy rates cheaper than maybe we [6] do on other points where it's just served by [7] one railroad. I mention that because any [8] time you have lower rates you can look at [9] bids to farmers and we do pay more when we [10] have lower rates. That same money goes back [11] in their pockets and they say that money [12] turns in the community. We can't forget that [13] this is a world economy. South Dakota is not [14] an island, we can't sit here by ourselves and [15] be a rural farm based economy and survive [16] without access. Access is the key in [17] marketing.

[18] We believe there are three benefits [19] to the project and number one is that access. [20] It is critical that you have access to [21] markets, it's critical that you be able to [22] ship either the raw product or a processed

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[1] product such as what comes out of the ethanol [2] plant if you're going to sell what's produced [3] in the state. The second point that we [4] believe is competitive factors that two [5] railroads running together bring and one is [6] rate competition; where you have competing [7] factors you tend to have lower rates as they [8] compete for business. The third thing we see [9] as a key is as we move through this age [10] environment timing is critical. All the best [11] markets in the world does you no good if you [12] can't get to them. You have to be able to [13] physically have the cars, you have to be able [14] to hit the market when it wants it, without [15] that you're lost and whatever you have is of [16] no value. In summary, we would encourage [17] cooperation to complete the project in a [18] mutually agreeable fashion. Thank you for [19] this time.

[20] MR. GARDINER: Thank you. Let me [21] check these names. Donald Peterson, Rodney [22] Christianson? Good.

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[1] MR. CHRISTIANSON: Good evening, [2] I'm Rodney Christianson. I'm the chief [3] executive officer of the South Dakota Soybean [4] Processors. We are a producer [5] cooperative, 2,100 farm family members [6] throughout Minnesota and South Dakota. Just [7] to give you a background of our four years of [8] operation so far. We have generated \$200 [9] million dollars of economic impact using a [10] Brookings trade study that was done prior to [11] our initiation updating the numbers to actual [12] expenses. So there too we can say put those [13] studies into what the DM&E is doing, a [14] tremendous economic impact for our state. We [15] have returned \$9.8 million dollars to our [16] members in cash patronage. We invested an [17] additional \$10 million dollars to keep us [18] strategically competitive in our industry and [19] have invested \$19 million dollars in rail [20] equipment and rail line at our facility. [21] Without a doubt we are dependent on efficient [22] cost-effective rail transportation. Last

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[1] year we shipped 764,000 tons of product. [2] One-half of that met our customers by rail [3] transportation. Your decision will have a [4] major impact on our members, the 2,100 farm [5] families. A no decision we absolutely [6] believe will jeopardize the long-term [7] viability of continued rail service through [8] the central part of southern South Dakota. [9] Just 14 years ago there was talk of a rail [10] abandonment of this line. It's a tough [11] inefficient road and I would like to put it [12] is as we're on a minimum maintenance road [13] versus an interstate highway as we deal with [14] our transportation.

[15] A decision to force the DM&E [16] bypass, we've listened to the discussion [17] tonight, the split between the rural and the [18] local communities will only create long [19] delays and potentially kill the project. We [20] believe that your mitigation of negotiations [21] between the parties is the best route. Minus [22] the parties being able to come together we

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[1] certainly would go with the Alternative C of [2] the DEIS with the existing trackage being [3] used. Now let me give you a little bit of an [4] idea of the impact that we see, we heard a [5] little bit about competitive rates. For [6] South Dakota as a whole we are held hostage, [7] if you want to say, by one single Class I [8] railroad, the Burlington Northern Santa Fe, [9] it is the only Class I that serves our [10] railroad. In our industry, a lot of grain [11] industries, new business will not even [12] consider making an in-

vestment to come to that [13] location unless they have a competitive [14] railroad system in the same town. We have it [15] only in the same state.

[16] To give you an idea of product [17] competition, for us to ship the 50,000 tons [18] that we get out of the Pacific Northwest, to [19] ship in a carload of soybean meal versus a [20] carload of soybeans costs us \$.13 per bushel [21] more if we ship soybeans. So the BNSF [22] encourages soybeans to leave the state versus

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[1] the product. Our competitor down in Council [2] Bluffs, the differential is only \$.03. The [3] Burlington Northern Santa Fe has said very [4] clearly that they would like to see the [5] products shipped elsewhere, the raw materials [6] here, a tremendous economic impact onto our [7] state. Likewise, our same competitor [8] shipping soybean meal to Sweetgrass, Montana [9] from Council Bluffs versus us, we ship 212 [10] miles less we pay \$550 more. They [11] demonstrate by the clout that they have, [12] single, no competition, that they can set the [13] rates and have a major economic impact [14] throughout the state of South Dakota.

[15] MR. GARDINER: Thank you. That [16] concludes the preregistered speakers, let me [17] check on a couple of people we skipped over [18] early on and I'll get to the rest of you. [19] Chad Swedlin and Dale Eishold?

[20] MR. SWEDLIN: I don't have a big [21] prepared statement. I guess about a year and [22] a half ago we moved into a rural Brookings

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[1] area and about a month after we moved we [2] found out that there's going to be a possible [3] bypass and I'm just — I think a lot of [4] people are just getting sick and tired of the [5] whole, this whole big argument, you know.

[6] 100 years ago how many people were opposed [7] to a railroad being next to their house or in [8] close proximity? The town moved to the [9] railroad. Yes, it's unfortunate, I [10] understand there are people that live along [11] the tracks and they don't want the expanded [12] traffic, but they did buy the home there. To [13] push this problem off onto the rural people [14] it just doesn't make any sense and then the [15] city of Brookings, they're pushing for the [16] bypass and then they would like DM&E to pay [17] for it or most of it. So what's DM&E [18] supposed to do with the track they have [19] already? They have to upgrade that also. [20] Just the whole thing is just — the bypass [21] issue just doesn't make any sense. It's just [22] taking problems from

one area and pushing

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[1] them off onto another and I guess that's all [2] I have. Thanks.

[3] **MR. GARDINER:** Thank you. Is Paul [4] Johnson here? Bernadette DeGreif, you'll be [5] up next. The next name unfortunately I [6] really have a hard time reading it, it looks [7] like Ted Weininger, I'm guessing, is there a [8] Ted that signed up to speak? Then after that [9] Mary Schaefer. Okay.

[10] **MR. JOHNSON:** My name is Paul [11] Johnson and thank you for accepting my [12] request to address your panel in spite of the [13] fact that my request was several days after [14] the publicly declared deadline for [15] registration. To my knowledge there was no [16] public announcement for an extension of the [17] registration process.

[18] I'm a professor at SDSU where I [19] conduct research and teach on biological [20] diversity. I've been involved with the [21] scientific aspect of environmental review [22] since the mid-1970s. I'm a resident of rural

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[1] Brookings County, eight miles east of [2] Brookings. I am opposed to the project in [3] its entirety, including claims of propriety, [4] economic need and energy demand for portions [5] of the country. There is high potential of [6] permanent damage to the welfare of [7] landowners, residents and wildlife. I [8] consider the potential economic benefits to [9] the greater community and economy of South [10] Dakota by this project to be quite illusory.

[11] The DEIS compiled by your [12] contractors is an extensive and voluminous [13] document. However and regrettably, this [14] document is only a pretense with regard to [15] thoroughness and adequacy in its attempt to [16] address numerous pertinent issues. The DEIS [17] was supposedly compiled to meet the [18] specifications of the National Environmental [19] Policy Act of 1970, NEPA. Since NEPA is the [20] overriding federal law that regulates the [21] direction and potential completion of the [22] DM&E project, broad environmental issues and

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[1] policies and precepts of administrative law [2] are merely secondary issues. It is [3] imperative that the SEA and its contractors [4] regard NEPA related issues seriously. Since [5] my time is inadequate to properly address a [6] number of issues many of which were or will [7] be covered by others I would like to cite [8] only a few examples.

[9] One, the DEIS inadequately [10] discusses salient national interests that are [11] obvious effects of the project as it is [12] proposed. Issues such as mercury pollution [13] resulting from the burning of additional [14] Powder River Basin coal were poorly reviewed. [15] As such the DEIS is highly deficient and as [16] written illustrates a callous disregard for [17] the long-term health and safety of peoples, [18] foods supplies, air and water quality in the [19] eastern United States and eastern Canada. [20] Assessments of the present and nature of [21] potential effects on endangered species, [22] ecological integrity of natural communities

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[1] and long-term effects on the North American [2] biome lack the scientific rigor demanded by [3] NEPA. For example, the methodology and [4] protocols stated for surveys of plant and [5] animal populations are woefully inadequate, [6] unscientific in design and sloppy in [7] execution. Socioeconomic forecasts likewise [8] lack scientific rigor. In particular, the [9] socioeconomic forecast for the Brookings [10] region is highly biased, unrepresentative, [11] and fails to address alternatives. [12] Consequently the SEA is apparently derelict [13] in its responsibility to see that all [14] reasonable and feasible alternatives to any [15] action are implemented or addressed. As such [16] the SEA is apparently violating NEPA by [17] failing to require DM&E and the DEIS [18] contractors to compile a complete report. [19] There are only a few of the numerous glaring [20] examples of the sorely deficit documents. [21] The size of the DEIS reminds me of the old [22] adage that, "If you can't dazzle them with

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[1] brilliance then baffle them with BS." As [2] presented the DEIS appears to blatantly [3] violate the spirit and intended provision of [4] NEPA. My further comments will be presented [5] in writing. Thank you.

[6] **MR. GARDINER:** Thank you. [7] Ms. DeGrief, then Mary Schaefer. Is Tom [8] Pierce here?

[9] **MS. DEGREIF:** My is Bernadette [10] Degreif, I live at 102 58th Avenue south. My [11] husband and I live in rural Brookings. We [12] wish to state at the beginning that we are [13] not opposed to the railroad upgrading their [14] line through Brookings. We live east of [15] Brookings, we use Highway 14 on a daily [16] basis. We are concerned about the routing of [17] trains outside of Brookings in the rural [18] area. We and others who commute to Brookings [19] for work would be crossing the railroad [20] tracks that are not presently located on [21]

Highway 14. It is our understanding the [22] railroad would cross Highway 14 somewhere in

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[1] the vicinity of where the truck route north [2] of Brookings connects to Highway 14 east of [3] Brookings. The area is low. In the spring [4] and the fall we have fog many mornings and [5] nights. It is dense. When stopping on a [6] corner to get on Highway 14, looking is of [7] little help. The fog is so dense cars [8] approaching using their lights cannot even be [9] seen until they are upon the corner. With [10] windows rolled down we listen for the cars [11] because they can sometimes be heard before [12] they are seen.

[13] Our concerns with crossing the [14] railroad at Highway 14 will not be — that [15] the crossing will not be seen before a person [16] gets to the crossing. Flashing lights are of [17] little help when the fog is so dense and [18] knowing where the track is is of little help. [19] In the fog distance can seem greater or [20] shorter. When all I see is white I lose my [21] bearing as to space and distance. A [22] barricade across the highway with be of

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[1] little help if I can't see it. People living [2] in the Minnesota towns bordering South Dakota [3] work in Brookings, travel Highway 14 daily to [4] get to work as well as people from our small [5] communities of Aurora, Bushnell or Elkton. [6] They will all have to cross this railroad [7] track if built.

[8] Then there are the high school [9] students who drive to school for school [10] activities and the school buses who cross [11] that highway. We do not feel the safeguards [12] in the rural area will be in place as there [13] will be in the city of Brookings. We live [14] far enough, five miles from Brookings, to be [15] considered rural, close enough that the city [16] children come out to our gravel road to drink [17] and party and not get caught. The evidence [18] of that is in the beer cans, bottles and [19] other liquor bottles strewn around our dirt [20] road. The evidence is the kids wandering to [21] our door staggering because they are stuck [22] and wanting to use a phone. I do not know of

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[1] any parent who wants to have their kids [2] scraped off the road on a foggy dark night [3] because they didn't see the railroad [4] crossing.

[5] **MR. GARDINER:** Ms. Schaefer and Tom [6] Pierce and then Mark Behrends.

[7] **MS. SCHAEFER:** My name is Mary [8] Schaefer and my husband and I moved to [9] Brookings 17 years ago from Mi-

chigan. After [10] spending over two months looking at property [11] to build our house we choose to build north [12] of the city in an established neighborhood [13] on 42nd Street. We now have children. My [14] concern for the coal trains running through [15] or around Brookings is safety. It was said [16] by Mr. Schieffer on October 26, that there is [17] no safer place to have the trains run than [18] through the city of Brookings on their [19] present tracks where there will be in place [20] state of the art safety features along with [21] slower moving vehicles. Another concern that [22] I have is the primary annoyance of the train,

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[1] and that is the train whistle. In the city [2] the trains will be whistle free. However, in [3] the country where I live there will be the [4] whistle and that annoys me. There are no [5] sound barriers in the country to buffer that [6] whistle.

[7] **MR. GARDINER:** Thank you. Tom [8] Pierce.

[9] **MR. PIERCE:** My name is Tom Pierce, [10] I live at 520 Samara Avenue in Volga and I'm [11] a lifelong resident of the community in Volga [12] and a 16 year resident of the city of Volga. [13] I'm also an 11 year member of Volga City [14] Council, currently serving as vice president. [15] I thank you for this opportunity to address [16] the Surface Transportation Board as a citizen [17] of the city of Volga and as a representative [18] of the Volga City Council. The city of Volga [19] has taken a formal position in support of the [20] expansion and renovation of the DM&E railroad [21] through South Dakota, Minnesota and Wyoming. [22] The city of Volga recognizes the importance

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[1] of quality rail service for South Dakota and [2] the city of Volga and the industries of Land [3] O Lakes and the South Dakota soybean [4] processors located in and adjacent to the [5] city of Volga.

[6] The city of Volga has been a strong [7] supporter of ag related business and believe [8] that future development of our city depends [9] on a strong rail service option. On the 21st [10] of June, 1999, the city of Volga passed [11] Resolution 1999-08 strongly opposing the [12] proposed 16 mile bypass of the cities of [13] Volga and Brookings. It is the city of [14] Volga's position that the bypass adds undue [15] safety concerns to the rural community, the [16] Sioux Valley school system and related school [17] bus routes. The city of Volga recognizes [18] that the proposed bypass construction would [19] have to address the crossing or closing of [20] mile roads in the Sioux Valley

school [21] district alone. This doubles the number of [22] rail crossings that the rural community would

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[1] have to contend with as they commute to jobs, [2] school and business. I have included copies [3] of this resolution.

[4] The city of Volga has not been [5] approached for comment or invited to enter [6] into planning of the proposed bypass of our [7] city. Our first review of the plans was [8] after the plan was presented. The city of [9] Volga believes that the best place for the [10] train is on the existing track that goes [11] through Volga. We also feel that the city of [12] Volga and the DM&E railroad will work [13] together to make the four existing crossings [14] safe for our community. Thank you.

[15] **MR. GARDINER:** Thank you. [16] Mr. Behrends and Mr. Nelson and then Martin [17] Maca.

[18] **MR. BEHREND:** My name is Mark [19] Behrends, I've been a resident of Brookings [20] and the Brookings area for about 35 years. I [21] currently reside east of town which would be [22] near the proposed 16 mile bypass. Currently

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[1] I don't know what's worse: A federal [2] government that issues a Draft Environmental [3] Statement that's rather cumbersome and [4] somewhat haphazard and inaccurate or a city [5] government, or a nearby city government, that [6] likes to come up with a bypass plan without [7] consulting with their neighbors.

[8] Back to this Draft Environmental [9] Impact Statement. It looks like there is [10] kind of a cursory study of the noise and [11] vibration impact on the residents of the [12] city. I would like to know what you've done [13] in terms of studying this impact on the [14] residents and the businesses along the [15] proposed 16 mile bypass. The reason why I [16] bring it up is obviously I'm concerned about [17] the noise, having a residence near this [18] bypass, but currently I've been working at [19] starting a pottery business. It's just a [20] humble business, but it's a business. I plan [21] to make it my career and the thing about [22] pottery, it's a matter of physics. When I'm

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[1] firing these pots if I have enough vibration [2] there goes the pots and there goes my [3] business straight down the tubes. It's not [4] just my business, what about these farmers [5] who have pivot irrigation nearby, some of my [6] neighbors. I mean, these people in Brookings [7] talk about the impact on

their residential [8] property values. What about the impact on [9] business that this 16 mile bypass will cause?

[10] Also, in my area, I live pretty [11] much just two and a half miles straight east, [12] I'm concerned about what might happen when [13] this bypass is built near the Deer Creek [14] area. There's usually pretty good floods in [15] that area. I'm sure this proposed bypass is [16] going to affect that quite a bit. Also where [17] is the soil going to come to build this [18] railroad? Start digging it up you're going [19] to affect the Sioux River aquifer, that's [20] where we get our drinking water. So if we're [21] going to build that, obviously they are going [22] to have to haul in dirt which is probably

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[1] going to come out to cost a whole lot more [2] than what the city has come up with, which is [3] a rather contrived amount. Also, another [4] environmental concern up around Six Mile [5] Creek that has an endangered species of fish [6] in there, what have you done to address that? [7] Thank you.

[8] **MR. GARDINER:** Thank you. [9] Mr. Nelson and Martin Maca and Deb Tweed, [10] you'll be up shortly.

[11] **MR. NELSON:** I support the DM&E [12] Powder River expansion. I manage agri [13] business in Lake Preston, grain handling is a [14] major part of business. During harvest there [15] seems to always be grain car shortages. We [16] feel that with greater speeds the turnaround [17] time should almost double from what it is [18] today. Also I know the condition of the rail [19] is very poor, with the DM&E expansion project [20] we could guarantee a railroad for many years [21] down the road and with the quality we [22] question whether the DM&E can stay in

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[1] business. We all know how poor it is and [2] with this project thousands of farmers along [3] the line, hundreds of elevator employees and [4] million of dollars in taxes would be saved by [5] the expansion project. Thank you.

[6] **MR. GARDINER:** Thank you. Martin [7] Maca.

[8] **MR. MACA:** My name is Martin Maca, [9] I am a Brookings resident, I do not live [10] directly along the track. I would like to [11] address some issues tonight that I think need [12] to be looked at and that is two. One is the [13] quality of life that will be diminished if [14] the railroad goes directly through Brookings. [15] I'm not opposed to the expansion project, but [16] I do support a bypass. I would also support [17] a negotiation of a shorter bypass if that [18] comes to be. In terms of quality of life, I [19] think the continual

sound will be affecting [20] our quality of life, I think the fumes from [21] increased numbers of trains, I think the [22] potential for coal dust, but what really

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[1] concerns me is the safety issues. I have [2] three children, two go to high school and one [3] goes to elementary school, we average 18 [4] crossings a day to school, to stores, to [5] shopping, to friend's houses. We've all [6] addressed or at least it's been addressed [7] tonight about cars and how safe it would be [8] if it would go through the community in terms [9] of autos, but what about the kids that walk? [10] What about the kids that ride bikes? We have [11] a swimming pool in the community on one side, [12] and athletic complex is on the other side.

[13] My son is nine years old and if you [14] know nine year old boys they are daring and [15] they will try to scoot around anything, and [16] my fear is that with an increasing number of [17] train that go through the community there's [18] going to be a lot of pedestrians in danger [19] and kids trying to beat it and trying to [20] think they can sneak across it. So I haven't [21] seen anything that would address that, I [22] don't believe there's a good way to address

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[1] it. So therefore I oppose it going through [2] Brookings and would support a bypass around. [3] I also question the — we've heard a lot [4] about the increase in terms of carrying [5] agriculture crops. I guess I don't know, I [6] don't have any figures, but when DM&E is [7] doing this to haul coal I would imagine the [8] agriculture crops would go the bottom of [9] their list of things to haul and coal is [10] going to be it, and if there's room and space [11] then the other products will be hauled as [12] well. Thank you.

[13] **MR. GARDINER:** Thank you. [14] Ms. Tweed and Don Higgins, you're up next.

[15] **MS. TWEED:** Hi, my name is Deb [16] Tweed and I probably wear many different hats [17] in this issue. My husband is a DM&E employee [18] and yes, I'm still proud to state that. I [19] live less than a block away from the tracks, [20] I moved there after the expansion was [21] publicized. My daughter also lives next to [22] the tracks in the apartments on Lions, next

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[1] to Lions Park, her apartment faces the [2] tracks. That train goes within 200 feet of [3] her apartment where her sliding glass doors [4] are. I am in favor of the expansion, I am [5] not in favor of a bypass. I enjoy hearing [6] those trains, I do hear them at times. We [7] did not hear

that awful derailment that [8] happened, we did not know about it until 2:00 [9] the next afternoon and we live probably about [10] a block, we did not hear it and we don't live [11] in a real fancy house, it's considered a [12] manufactured home. We hear the trains once [13] in a while, I tease my husband about those [14] noisy old trains, but I enjoy hearing them [15] and they do not disrupt my life. I can hear [16] my TV, I can talk to my husband.

[17] When I am at my daughter's home [18] with her sliding glass doors open we're [19] sitting in her living room we can still talk [20] when the whistles are going on Medary Avenue [21] and 17th Avenue, she hears them going and [22] coming both ways.

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[1] It does not disrupt her life, it [2] does not interfere with her watching TV or [3] having a conversation. They are not that [4] awful. When we get the wireless, the [5] crossing without all the whistles, it's going [6] to be even quieter.

[7] I've been in communities with [8] those; Scottsbluff, Nebraska, I was less than [9] a block away, you don't hear those whistles. [10] I asked people who lived in Scottsbluff, [11] "Does this bother you?" They were, like, 200 [12] feet from the railroad track with the coal [13] trains going through, they had no problems [14] with them. [15] I was just in Jefferson, Iowa, [16] where the trains go through about 45 miles an [17] hour, I was astonished that they were going [18] through there, I didn't hear them until I was [19] almost on the tracks, but they did not bother [20] anybody. I am for the expansion, but not for [21] the bypass. Thank you.

[22] **MR. GARDINER:** Thank you.

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[1] **Mr. Higgins.**

[2] **MR. HIGGINS:** My name is Don [3] Higgins, otherwise known as No Coal Train. [4] My mind is so bent by reading the Draft EIS [5] that I can't recall my name so you can just [6] call me No. You've heard of my distant [7] relative John Coal Train, he couldn't be here [8] tonight because he's writing another coal [9] train song called Lilly White Coal Train [10] Blues, it's about a snow job on wheels, soon [11] to be released on the Black Lung label.

[12] The last time I saw Coal Train he [13] told me to lighten up and have a little fun [14] with this project. He said, "Get them 50 [15] pounds of coal documents off your head, 50 [16] pounds is too much for anyone to carry in his [17] head or off his head." He said, "Lay that [18] burden down and go to Kansas City and have a [19] little fun." So I'm No Coal Train and

I'm [20] going to Kansas City, Kansas City here I [21] come.

[22] Now I know from all that reading

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[1] that DM&E does not go to Kansas City and [2] never will and, therefore, they can't have no [3] fun, but I'm going to Kansas City on that [4] uppity Burlington Northern coal train. I've [5] got a first-class air conditioned gondola car [6] and a one-way ticket to Kansas City. Kansas [7] City Power and Light that's where I'm going, [8] and I got company with 110 other coal cars on [9] one train and we ain't stopping for no corn [10] whiskey in Brookings.

[11] So if you pardon me, I've got a [12] train to catch. Maybe one of you will help [13] me find it, it's big and black and quiet [14] because this is a whistle-free town, and on [15] that train I'll try to read more of the Draft [16] EIS and the 404 jive.

[17] It's incomplete, it's inaccurate, [18] it's unclear, it's confusing, with no index, [19] the maps are poor, it's applicant driven. I [20] repeat, an applicant-driven EIS does not [21] quite do it to meet the standards. Yes, [22] that's the federal law along with the Clean

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[1] Air Act and the Clean Water Act. Bye now, [2] I'm going to Kansas City and I'll see you [3] there in court. Thank you.

[4] **MR. GARDINER:** Thank you. This [5] concludes the people who have signed up to [6] speak. Is there anyone else? We have more [7] time, is there anybody who hasn't had a [8] chance to speak that feels moved? Yes, sir.

[9] **MR. JOHNSON:** My name is John [10] Johnson, I live out by the bypass. I guess I [11] didn't decide to come here until tonight, I [12] read the little piece in the Brookings paper. [13] I'm for the expansion, but I'm against the [14] bypass.

[15] I guess the main thing and I don't [16] know if this committee has the right to look [17] at it, but earlier it was said that it works [18] with the government, the local and federal [19] governments. I read in the paper just a [20] little bit tonight about how the Brookings [21] City Council voted five to two or so to [22] accept the bypass.

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[1] These are elected officials. I [2] took a petition to a cafe a couple of weeks [3] ago against the bypass. I'm not a very [4] talkative person, I went and sat down with [5] people I usually have coffee with every [6] morning.

[7] There was approximately 50 people [8] in that cafe, probably three-quarters of them [9] were residents of the city of Brookings. I [10] sat the petition down, I

didn't say anything [11] about it, and it just got passed around the [12] cafe and that thing was full and I needed [13] another sheet.

[14] I don't know where they are coming [15] with this is what the people in the city of [16] Brookings want, you know, everyone I talk to [17] just seems like this is kind of an extra [18] expense. I also was a cop for 10 years in [19] this town, the existing track needs help, it [20] needs to be redone, but every road [21] except 22nd Avenue is 25 miles an hour. It's [22] a lot easier to stop for trains at 25 miles

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[1] an hour than it is at 55 miles an hour out on [2] the bypass. Thank you.

[3] **MR. GARDINER:** Thank you. Is there [4] anyone else who hasn't spoken that wants a [5] chance? Did you want to speak again?

[6] **MR. WALDNER:** I have just one point [7] to make. There's been —

[8] **MR. GARDINER:** Can you state your [9] name again?

[10] **MR. WALDNER:** David Waldner. There [11] has been a lot of comment tonight about not [12] favoring a bypass, but favoring the project. [13] I think what we have to come to terms with [14] morally on this is that you cannot support [15] the project and complain about a bypass. [16] There are 260 or 280 miles of land in [17] southwestern South Dakota and northeastern [18] Wyoming.

[19] I have not heard one concern from [20] anybody about those farmers and ranchers [21] whose land will be violated just as your land [22] will be violated. How are we going to stand

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[1] here and say that we don't favor a bypass, [2] but that we support the project? Is it okay [3] to go through the land in southwestern South [4] Dakota and northeastern Wyoming, but not your [5] land?

[6] I certainly don't blame you for not [7] wanting this to go through your land or by [8] your acreage, but it's very hypocritical when [9] you sit here and say you support the project [10] when you know there are going to be people [11] out west that are going to have their land [12] run over, hundreds of them just like you, and [13] if you would like some of their names I would [14] certainly be glad to give them to you.

[15] **MR. GARDINER:** At the risk of [16] turning this into a debate at this time [17] between two sides of the community I'm going [18] to ask that if you have more comments that [19] you direct them up front and the folks who [20] are working the Draft EIS. Is there anyone [21] else who would like to provide comments on

[22] the Draft EIS? I really do not want to turn

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[1] this into a debate.

[2] **MR. HILL:** Marlin Hill is my name. [3] I truly would like an answer to his question. [4] I think that I have one, but I don't know [5] that it's proper or accurate. I feel that as [6] a landowner that I have rights, that because [7] the railroad has a right of way presently [8] that that is different from the situation in [9] western South Dakota and Wyoming and so the [10] rights of eminent domain are different here [11] than they are there, and if I'm wrong I would [12] like that corrected. Thank you.

[13] **MR. GARDINER:** Any new comments? [14] Yes.

[15] **MR. CEC:** Short one, Joe Cech, [16] again, living across the street from the [17] railroad. I did a lot of sound research and [18] all the numbers and decibels and all the [19] sound pressures and stuff that were in the [20] DEIS and the formulas for calculating how [21] loud it would be, most of which left out the [22] constant, so you couldn't calculate anything.

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[1] It's like saying you get the formula to [2] calculate the area of a rectangle, but we're [3] not going to give you the length or the [4] width.

[5] So we need the actual numbers and [6] the best that I can get from your data was in [7] the DEIS from jointed rail out in the country [8] by Washington Springs and the sound levels [9] there, certain distances, I came up with a [10] better explanation of what it would be like [11] in my home in Brookings. Every 21 to 29 [12] minutes, depending on what rate of travel, a [13] blender will go off in my bedroom for 18 [14] hours a day, for several minutes.

[15] The people the next few rows away [16] will hear a vacuum cleaner turning on in [17] their bedrooms in the middle of the night for [18] several minutes while the train goes past and [19] that is not including the loud horns, and the [20] loud horns that they are talking about is [21] like having a chainsaw two feet away from you [22] going wide open in the sound level.

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[1] So if you can imagine your [2] neighbors cutting down a tree with a [3] chainsaw, that's what it's going to sound [4] like for the people along the track.

[5] Now those are approximate sound [6] comparisons, it depends on humidity, [7] pressure, all the variables that are not [8] mentioned in the Draft Environmental study [9] and several of the previous

people would [10] really like to know, and I think the people [11] in the rural areas deserve a similar study so [12] they know if they are within 1000 feet, 500 [13] feet, 200 feet, 100 feet, what the sound [14] level will be in their homes and the [15] vibration levels.

[16] It states that you can have [17] structural damage up to 200 feet away from [18] the track and we have only 100 foot right of [19] way through Brookings. When our houses start [20] falling down and foundations cracking who is [21] going to pay to fix that, along with who is [22] going to pay to clean the coal dust off our

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[1] homes. Thank you very much for your time.

[2] **MR. GARDINER:** Thank you. Others?

[3] **MR. BEHREND:** Mark Behrends again. [4] I think those rural people, a lot of them, [5] that talk about supporting the project, but [6] not wanting a bypass, I think a lot of them [7] are concerned about the other farmers and [8] ranchers out there.

[9] By that I mean, they just want [10] what's fair. They want what's fair for those [11] other farmers and ranchers. I'm sure a lot [12] of them do and they want what's fair for the [13] rural people here. Is what's fair a bypass [14] plan that was just thrust on their neighbors [15] by a community that didn't bother discussing [16] it with them, is that what's fair? These [17] people just want what's fair.

[18] **MR. GARDINER:** We're looking for [19] comments on the Draft EIS.

[20] **MR. TROSEN:** My name is Mike [21] Trosen. I, like Jerry Cope, work for the [22] South Dakota Wheat Growers, my comments will

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[1] be based on the safety aspect of this [2] project. I'm a resident of Miller, South [3] Dakota. Currently we have welded rail [4] through our community. DM&E upgraded that a [5] few years ago. We probably got as good a [6] rail line as you're going to find in the [7] state of South Dakota.

[8] Trains can move through our town at [9] anywhere from 25 to 40 miles an hour [10] depending upon track conditions, time of day, [11] weather, other factors. We currently have no [12] crossings protected with cross arms in the [13] city of Miller. Highway 45 runs south [14] through Miller and constitutes Main Street.

[15] We, like the gentleman earlier, [16] have our community divided with the sports [17] complex on the south side of the tracks, the [18] main body of the town on the north. When a [19] train is going

through Miller, South Dakota, [20] right now you better be looking because all [21] there's going to be is some red lights [22] dinging, but nothing to protect the road.

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[1] We've had numerous close calls where cars and [2] trucks have almost hit the trains.

[3] Part the first things we noticed [4] about this project when the DM&E came out [5] with it was that they were going to upgrade [6] and improve the safety of the crossing [7] through the communities that they serve. [8] This is going to be a vital aspect for small [9] communities as far as safety goes because it [10] isn't going to matter if they run 1 train [11] or 40; if you're on that track when it comes [12] through and you didn't see it, you'll be just [13] as dead. We look at this as a greet [14] improvement to the safety of the rail line of [15] South Dakota. We could argue for the rest of [16] the night, but as far as I'm concerned from a [17] safety aspect this railroad will be much [18] better than it is today. Thank you.

[19] **MR. GARDINER:** Thank you. Any [20] other comments? That will conclude the [21] comments this evening. I definitely [22] appreciate you all coming. Very thoughtful

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[1] comments, very helpful to the team.

[2] Again, if you have written [3] statements or you've been filling out a [4] comment sheet while you've been here feel [5] free to leave it at the table in the back and [6] we certainly welcome your comments any time [7] before January 5th. Thank you very much for [8] coming.

[9] (Whereupon, at 8:30 p.m., the [10] PROCEEDINGS were adjourned.)