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STB DEIS Hearing on DM&E Expansion Proposal

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Good afternoon (evening), I'm Marlene Simons, State Representative from House District One here in the state of WY.

The comments that I am making today are based on a very quick review of the Draft Environmental Impact Statement. The DEIS that we are to comment on weighs more than 30 pounds and is very difficult to read and understand. I am requesting, on behalf of my constituents, that you extend the comment period a minimum of 180 days. To expect citizens and business people to comment on such a gargantuan project in a short time during some of the busiest months of the year is ridiculous. Further, to require commenters to submit 11 copies of comments over 5 pages is putting an unnecessary burden on elderly or lower income people who usually do not have home copiers or staffs. Such requirements discourage full participation by the public. NEPA laws require that the public be allowed full participation in the Environmental process.

I am also formally requesting an extension of time to comment on the Army Corps of Engineers 404 permits. The comment period should be extended to coincide with the comment period on the DEIS. Many people may not even realize that the comment period is more abbreviated because these hearings indicate that comments can be made for both.

These Corps applications are also very lengthy. Many of my constituents live 90 miles or more from any of the libraries (Rapid City and Gillette) that contain complete copies of the documents. When you compare the size of the "state specific" versions with the full copy, you realize that the local versions are simply not adequate for commenting. At a very minimum the map volume should be in each of the local libraries along with the state specific information.

One major concern is for the property rights of the landowners along the route. If this license is issued, DM&E gets the right of eminent domain, which under Wyoming law does not offer adequate protection to the landowner. A railroad that cuts through an operating farm or ranch will cause economic hardship as well as a hefty decrease in quality of life. The working landscapes are an important part of the appeal that Wyoming has for tourists and hunters – other major businesses that will be impacted by continued industrialization of the state.

Another concern is that the coal mining industry is scaling back production so that another railroad is not only unnecessary, but also financially infeasible. For the STB to issue a permit that can "hang open" for a number of years while the Applicant searches vainly for investors is unfair to landowners all along the line, who will not be able to make plans for improvements or additions to their businesses or may make it difficult for them to sell or lease property.

A major defect in the DEIS is the lack of adequate mitigation for landowners. The Applicant picked the Landowner Advisory Board, pays the Advisory Board and the Applicant wrote the document which does nothing more for landowners than the minimum required by Wyoming law. The landowners in my district should not have to sacrifice their land or their lifestyle for the benefit of a privately owned rail company.

The Powder River Basin is presently served by two of the largest railroads in the US who have made expensive up-grades to their coal hauling lines. They actively compete for the business of hauling coal so a third rail line is an unnecessary duplication of service that will unnecessarily impact the National Grasslands and the private lands of the area.

The DEIS is difficult to read because there is so much repetition, there is no index so that a reader can follow a subject through out the document. Many terms that may not be commonly known such as "hydrophytic" are not defined. Even common terms such as "business" need definition, as it appears that ranches and farms are not considered businesses.

The references to various chapters are difficult to follow because of the obscure numbering system and the fact that some pages are not numbered at all. The graphs are mostly illegible due to many of the bars being so close in pattern. Many charts and graphs are located a number of pages away from the reading that explains them. The maps in the DEIS are inadequate. They do not show the existing railroads or the county roads.

The maps in the Corps document are, at first glance, better, as they are in color and delineate the wetlands and streams. Upon closer examination you find that the county roads and even the major highways are mislabeled. In northern Niobrara County and southern Weston County, Highway 85 is labeled as Highway 18! Highway 450 in western Weston County ends at the county line on the Corps documents and is simply not shown on the maps of Campbell County! Other roads in western Weston County are mislabeled making it difficult to understand where the railroad is really projected to be.

None of the maps show the width of the right of way. Since the rail line is projected to cross many major divides and stream drainages, we know there will be massive cuts and fills. Landowners have a right to know how much of their property will be taken. Maps in the DEIS have no mile post markers so the location of sidings cannot be determined.

There are generally inadequate mitigation requirements with much depending on the good will and "environmental sensitivity" of the Applicant. For such a major project and with the limited resources that DM&E presently has, there will be much pressure to cut corners. In fact, the Applicant will have every incentive to minimize costs and therefore, mitigation, wherever possible, in order to compete with UP and BNSF.

I am also concerned that the air quality of the National Parks and Monuments in the area not be further impacted by federal action. These are important to our tourism industry.

The DEIS is incomplete in most areas with many references to "incomplete" information. A second draft should be prepared. A few of the specifics are:

- a. A good archaeological and paleontological survey has not been done along the Alternatives.
- b. The full implications of this project for national energy policy have not been considered.
- c. Alternative D has been dismissed from consideration without full and adequate study.

In conclusion, I want to reiterate my request for a 180 day extension to comment on the DEIS with the Corps of Engineers' comment deadline being on the same schedule. I further request that a second draft be written to correct the deficiencies in this document.

Respectfully submitted,
Representative Marlene Simons

Rep. Marlene Simons