

FD 33407
CG

EO - 837



U.S. DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD
DAKOTA, MINNESOTA & EASTERN RAILROAD

Powder River Basin Expansion Project Historic Structures Treatment Plan

Comment Form

Tuesday, August 14, 2007

Pierre Area Chamber of Commerce, Pierre, South Dakota

Thank you for attending tonight's meeting. Please provide us with your comments on the Dakota Minnesota & Eastern Railroad's Powder River Basin Expansion Project Treatment of Historic Structures. You may submit comments here tonight; mail them to Catherine Glidden, Environmental Protection Specialist, Surface Transportation Board, Section of Environmental Analysis, 395 E Street, S.W., Washington, DC 20423-0001; or fax your comments to 202.245.0454. Comments should be sent by August 24, 2007.

- SAVE + MAINTAIN THE Stone Trestles (culverts)

- Color + face concrete forms to produce concrete pillars, abutments, etc. that match the historic color, + have lines that mimic stacked rock - to fit in character to the historic features

- WHAT ABOUT ORIGINAL CONSTRUCTION CAMPS ALONG THE GRADE? HAVE ANY BEEN RECORDED?

Name: Law Kutter

Phone: _____

Address: _____

E-mail: pavlovK9@gmail.com



U.S. DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD
DAKOTA, MINNESOTA & EASTERN RAILROAD

Powder River Basin Expansion Project Historic Structures Treatment Plan

Comment Form

Monday, August 13, 2007
Wall Community Center, Wall, South Dakota

Thank you for attending tonight's meeting. Please provide us with your comments on the Dakota Minnesota & Eastern Railroad's Powder River Basin Expansion Project Treatment of Historic Structures. You may submit comments here tonight; mail them to Catherine Glidden, Environmental Protection Specialist, Surface Transportation Board, Section of Environmental Analysis, 395 E Street, S.W., Washington, DC 20423-0001; or fax your comments to 202.245.0454. Comments should be sent by August 24, 2007.

Our Ranch Headquarters are located in Sec. 35 West of Wall at the I-90 107 Exit. We have a concern crossing after construction, we need over and under to operate ranch activities. We are also concerned about noise, vibrations, odors, ground water in our water wells and the nearness of the proposed tracks to our home and ranch buildings.

I want discussion about the proposed abandonment of the tracks and property through our ranch. I would like to know that the strip of right-of-way will be turned back to the joining property owner. I would like to have talks to have the severed nearby properties available that they could be joined into the ranch land on the same side of the RR project.

Name: William J. Bielmaier Phone: 605-279-2344

Address: Box 394 Wall, SD 57790

E-mail: billbiel@gwtc.net

Please send a photo copy of this sheet for my records



U.S. DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD
DAKOTA, MINNESOTA & EASTERN RAILROAD

Powder River Basin Expansion Project Historic Structures Treatment Plan

Comment Form

Monday, August 13, 2007
Wall Community Center, Wall, South Dakota

Thank you for attending tonight's meeting. Please provide us with your comments on the Dakota Minnesota & Eastern Railroad's Powder River Basin Expansion Project Treatment of Historic Structures. You may submit comments here tonight; mail them to Catherine Glidden, Environmental Protection Specialist, Surface Transportation Board, Section of Environmental Analysis, 395 E Street, S.W., Washington, DC 20423-0001; or fax your comments to 202.245.0454. Comments should be sent by August 24, 2007.

The City of Wall should be concerned about the planned DM&E staging area on the North, Northwest side of town. The NW prevailing wind will bring noise, coal dust and diesel smells across town continually. The Airport road is expected to be closed to allow the staging area tracks across. Traffic must be expected to cross one mile east to the Cheyenne Road to get into Wall. That traffic is ag. grain, livestock and equipment, it includes school children and all kinds of other necessary trips. That (Cheyenne Road) serves for 30 miles North and areas East and West, it reaches to the River at Pedro and some beyond. Emergency vehicles must cross the tracks coming and going. It is important that there be an elevated crossing where the DM&E crosses the Cheyenne road North of Wall.

Name: William J. Bielmaier Phone: 605-279-2344

Address: Box 394 Wall, SD 57790

E-mail: billbiel@gwta.net

Please send a photo copy of this sheet for my records

Committee for a Safer Brookings
Represented by Dr. Karen Hardy Cárdenas
Statement for the Surface Transportation Board
To Be Considered as Formal Input into the Programmatic Agreement Process
Hearings in Huron, South Dakota
August 15, 2007

Good evening. My name is Karen Cárdenas. I am the Chair of the Committee for a Safer Brookings. For those of you who don't know this area, Brookings is a town of about 20,000 people, approximately 75 miles to the east of Huron on Highway 14.

The Committee for a Safer Brookings (CSB) is a group that was formed in opposition to the Community Partnership Agreement (CPA) between the Brookings City Council and the DM&E railroad. Although there were individuals in our group who opposed the use of coal, who opposed the transportation of coal across our state and/or opposed the loan that the DM&E had requested from the Federal Railroad Administration (FRA), the CSB's primary goal was to bring the CPA to a vote of the people.

The CSB objected to the city signing an agreement (CPA) with the DM&E for three reasons: (1) we didn't think that the terms of the agreement did enough to protect Brookings residents, (2) we didn't think that the agreement was fair in terms of the financial obligation it placed on the city vs. the DM&E, and (3) we objected to the fact that the CPA put the city on record as supporting the business endeavor of a private company.

The activities of the CSB began in the spring of 2006 as we sought to get enough signatures on a petition to refer the CPA to a vote of the people. We succeeded in getting many more than the minimum number of signatures required. We then campaigned to get the CPA rejected by the people and we succeeded in this effort. Despite heavy campaign spending by DM&E's GOTRAC Coalition, the No votes (those who opposed the CPA) were almost 57%.

As a result of the election, the Brookings City Council established the Brookings Railroad Safety Committee (BRSC). That committee was charged with investigating railroad safety issues and with bringing recommendations to the council. I am not at liberty to present the entire report to you this evening. Brookings' Mayor, Dr. Scott Munsterman, has asked that the document not be shared until the City Council has time to consider it. However, I was on the BRSC and I did quite a bit of research that is reflected in that report and that I will be discussing later.

I am here this evening to discuss the bridge/overpass at mile marker 290.70 (or, in Brookings' terms, the 6th Avenue Viaduct) and its historic significance. I also want to make some comments regarding other historic structures and the impact the DM&E Powder River Basin Coal Train Expansion Project will have on the people of Brookings. Let me begin with what is known about the 6th Avenue Viaduct.

The viaduct, in its present form, was constructed in 1937. It is a steel bridge and the STB lists its main span type as "through plate girder." Bridges of this type are not rare; there are 35 of them on the DM&E line. However, they do constitute less than 10% of the 395 bridges that are being considered for replacement.

When I first saw the underpass, I assumed (in part, because of the date) that it was a WPA project. However, that was not the case. Willis Bonesteel of Wagner constructed the viaduct on a contract issued by the South Dakota Highway Commission. Considering that there were very few residences south of the track in 1937, I could not understand why an underpass was necessary.

According to Chuck Cecil, a highly regarded Brookings County historian, the 1937 viaduct may have been built to replace an earlier timber structure. This previous underpass may have been part of the never-completed Sioux Falls-Brookings railroad. It would have allowed the tracks of the smaller railroad to pass under the Chicago-Northwestern line. I have included a copy of a 1909 map showing the two lines in the materials I have provided this committee. I have also included a current map of the city so you can see the location of the railroad in relation to other places in the city.

The 6th Avenue Viaduct is of great historical importance because it serves as a reminder of that period in history when the economic and social lives of communities like Brookings revolved around the railroad. However, this is not its only value. One of the people in the community has suggested that the Viaduct should be preserved because of its importance to the Brookings arts community; it has carried the graffiti of generations of mostly young artists. But, the primary value of the Viaduct at present is simply one of safety.

Six Brookings streets cross the railroad tracks. They are, from east to west: 22nd Avenue, 17th Avenue, Medary Avenue, 6th Avenue, Main Avenue and Western Avenue. With the exception of the 6th Avenue Viaduct, all of these intersections are at-grade crossings. If mile-and-a-half long coal trains should ever come through Brookings, the 6th Avenue Viaduct would be the only way that would allow emergency vehicles to get from one side of the tracks to another.

Since the 6th Avenue Viaduct is so crucial to the safety of Brookings, I was somewhat surprised to see that I could find no mention of it in the 2001 Final Environmental Impact Study (FEIS). It was mentioned in the 2006 document with the disposition "Replaced." But, it is not clear what that indicates. The Viaduct has not been replaced. We assume that the term means that it will be replaced.

Most of the bridges on the DM&E line will apparently need to be replaced in order to allow coal trains to come through. (The most recent report I have received suggests that bridges in South Dakota and western Minnesota are more likely to be replaced than those in eastern Minnesota.) One assumes that this is because of two factors: the age of the bridges and the weight of the coal trains. However, when a historic structure is completely replaced, it is lost forever. The decision to replace bridges, many of which

are eligible for inclusion on the National Register of Historic Places, for the convenience of a private railroad with an abysmal safety record is not one that should be taken lightly. This is particularly true considering the fact that piecemeal replacement of individual bridges destroys the possibility of the entire corridor being eligible for consideration for inclusion on the National Register.

The very fact that bridges need to be replaced raises the question of collateral damage to other structures near the rail lines. The CSB is concerned, specifically, with (1) damage to Brookings' downtown area that is on the National Register of Historic Places and (2) damage to the homes that are within 400 feet of the current DM&E rail line. It is our view that the STB has taken a very cavalier attitude toward both the historic district and the homeowners.

Let me cite several passages from the STB's 2001 FEIS:

"Commenters indicated that the Brookings Commercial Historic District adjacent to the existing line is listed on the National Register of Historic Places (NRHP), and noted that neither the District nor potential effects of the proposed project are mentioned in the Draft EIS. During its initial cultural resources review SEA identified both the Brookings Commercial Historic District and the Chicago and Northwestern Railroad Depot, currently a radio station, as historic. These historic resources were not reported in the Draft EIS, however, because they are not within the existing rail line right-of-way. Thus, SEA reaffirms that no historic resources would be altered or removed as part of the proposed rehabilitation project.

"Commenters also expressed concern for the increased noise and operational impacts of the proposed project, particularly of Alternative B-2, on historic resources within Brookings. The presence of these historic resources along the existing rail line through Brookings can, at least in part, be attributed to the presence of the rail line itself. All these structures were built in the historical context of an operating rail line, and many were constructed after the line or as part of rail operations and service. Therefore, changes in rail operations would have no effect on the character or setting with which these structures exist. In short, SEA believes that the eligibility of structures for inclusion on the NRHP would be unaffected by the proposed project. Rehabilitation or operation of Alternative B-2 also is not expected to have negative impacts on these resources." (pp. 6-16 and 6-17)

Regarding the first statement, I don't want to be unkind. But, excusing the fact that a historic district was not mentioned because it was not on the right-of-way sounds a bit disingenuous. Of course, the historic district was not on the right-of-way. Nothing can be built on the right-of-way.

Regarding the second statement, I will be unkind. To say that buildings in an historical area were "built in the historical context of an operating rail line" and that "changes in rail operations would have no effect on the character or setting with which these structures exist" constitutes either a total and unforgivable lack of pertinent information or a deliberate attempt to deceive.

You don't have to be a scholar to know that, in the 19th Century, towns like Brookings lived and died by the railroad. If you could get the railroad to come through your town, you stood a better chance of survival than if the railroad passed you by. So, towns like Brookings fought to get the railroad to come through their town. In fact, Brookings was established on the Chicago and Northwestern route.

And, in the Brookings County historical records, there are a number of very touching pictures of people gathered at the train station for one reason or another: (1) to welcome back soldiers from the Mexican border in 1916, (2) or, to simply put family members on one of the passenger trains that served the community up until the 1960s. However, the trains that carried the people of Brookings to distant places and that brought them home were pulled by steam locomotives. The weight of the largest steam locomotive ever built (the Big Boy) was 1.2 million pounds. And, it is unlikely that Brookings ever saw a steam locomotive that large since the larger locomotives were reserved for hauling goods through mountainous areas.

Now, consider the difference between these steam locomotives and the coal trains that the DM&E is proposing to bring through Brookings. One single coal car, fully loaded, weighs over 300,000 pounds. Given the length of unit coal trains, they are apt to have over 30 times the weight of the trains that went through Brookings at the time that the downtown historic area was built. I am aware that these coal trains will run on improved track and that 30 times the weight does not mean 30 times the noise and vibration; but, it is still naïve, at best, to say that "changes in rail operations would have no effect on the character or setting with which these structures exist."

The concern with the effect of vibration on the integrity of residences and businesses within 400 feet has led the CSB to plan a community awareness project. This project, which is scheduled to begin in the fall of 2007, is based on the premise that coal trains will cause damage to buildings within 400 feet of the rail line. It is also based on the idea that homeowners need to document the current status of their property (particularly foundations, walls and ceilings) in order to prove that the coal trains are the cause of future cracking.

Damage from vibration is by no means the only concern that the CSB has with the DM&E's coal train project and its impact on Brookings. There is some concern with the decline of the property value of homes near the tracks. The FEIS addresses this concern in 3.2.3.3, as reprinted in the 2006 document (pp. 3-29-3-31); however, it does so in such a manner as to enrage any person who is capable of critical thinking.

The STB goes to great lengths to show that there are many factors that can affect the resale value of a home. And, therefore, according to the STB document, it cannot be proven that the existence of a coal train in one's backyard will necessarily cause one's property value to decline. The document even has the audacity to quote the familiar line: "Location, location, location" to explain how a property could continue to retain, or even increase, its value despite the fact that 34 mile-and-a-half long coal trains a day are passing within 50 feet of one's property line.

Since the publication of the STB's 2001 FEIS, the City of Brookings has changed considerably. As a member of the Brookings Railroad Safety Committee, I was responsible for doing research for the section of the committee's report that dealt with these changes and how they affect the safety of Brookings. I looked at housing, work and voting patterns. I also looked at traffic counts. I have attached this section of the BRSC final report to this document.

Let me give you a quick summary. Of almost 734 housing starts in Brookings in the last 10 years, all but one have occurred south of the railroad tracks. In contrast, according to a recent study, if one totals the number of workers at Brookings' six major employers, one finds that approximately 79% percent of them are employed north of the tracks. At this moment, if one looks at registered voters, the town is almost equally divided between people who live north and south of the tracks. I would like to observe, parenthetically, that this is a drastic change from even fifty years ago when the few Brookings residents who lived south of the tracks proudly called themselves "Southsiders." Finally, a comparison of the traffic counts on the streets that cross the railroad shows that, since the FEIS was published in 2001, the traffic on the streets that cross the railroad has increased from between 33% and 61%. In other words, if the railroad and the proposed Powder River Coal Train Expansion Project constituted a serious issue for Brookings six years ago when the FEIS was published, it constitutes an even more serious issue today.

The work of the Brookings Railroad Safety Committee constitutes only the most recent effort of the City of Brookings to resolve what has long been a serious safety concern in our community. I have attached the full report of the 1998 Mayor's Ad Hoc Committee on Rail Expansion. It is interesting to note that the BRSC report and the 1998 Ad Hoc Committee report touch on many of the same issues. And, the community's efforts have not stopped there. I have personally written numerous letters and e-mails to state and national legislative leaders asking for their help in resolving this issue. I have also written to Victoria Rutson, Chief of the Section of Environmental Analysis of the STB. These letters were written on May 5 and June 14. I have attached them to the materials I am providing this delegation also. Maybe you can bring them to Ms. Rutson's attention since I have never received a reply to either of my letters.

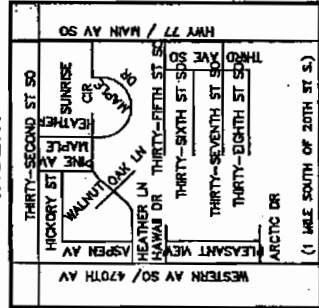
I appreciate the fact that the STB is taking the time to at least look at the many historic bridges that will be destroyed by the DM&E coal train project. It is no doubt doing so because these structures are on the right-of-way. I would urge you to pay the same attention to the people and the structures that are not on the right-of-way and to make sure that their interests are also protected. Thank you.



- [illegible]



INSERT



A segment of the report of the Brookings Railroad Safety Committee, adopted June 27, 2007.

3. Brookings Today

Over the last decade, the community of Brookings has changed significantly. Many of the community related factors considered in the original DM&E, Environmental Protection Agency, Corps of Engineers, Federal Railroad Administration, Surface Transportation Board documents and decisions have changed dramatically in the last ten years. The City of Brookings is increasingly physically divided by the railroad. At the same time the railroad seeks change the city is also changing. Brookings is growing rapidly with more people, new homes, new industries, new jobs, new schools, new shopping, a rapidly growing university, increased traffic, and more safety concerns.

In defense of imposing their will on the people of Brookings, the current railroad and many of its supporters like to argue that the railroad was here first. That is true; the railroad was here first. Originally the railroad was the vital lifeline of the community. Historically that changed. In the Midwest, by 1960 the railroad had discontinued or was discontinuing passenger service over most of its route. Over time, freight shipments dropped to dramatically low levels. In 1968, the Chicago Northwestern Railroad began wholesale abandonment of much of its Midwest track. Traffic decreased so much that by 1970, the Chicago Northwestern Railroad was only running one or two trains a day through Brookings. The railroad was even publicly talking of going out of business, selling off its rolling stock, and taking up the track and selling it as scrap.

At that same time, Brookings was growing rapidly. Brookings grew from 10,558 people in 1960 to 13,717 in 1970. This almost 30% increase was reflected in increased development south of the railroad tracks. Over the years, development continued. By 2000 Brookings reached a population of 18,504 people. Today with the addition hundreds of new homes, Brookings is well on its way to a population of 20,000 people. During all that time, neither city government nor the railroad raised any concerns regarding potential impacts of residential developments south of the track.

Some people blame the City for allowing residential development along the then dying rail line. Others blame the DM&E for not addressing safety issues of the people when they developed their coal train expansion plan. Still others blame the people of Brookings for buying homes in certain neighborhoods. In reality all could assume some blame. However, blame is not the answer. The solution to the situation rests with the government and the railroad recognizing the dangerous safety environment that exists in Brookings and finding a safety solution that protects the well being of the citizens. Federal, state, and local governments recognized the dangers of high speed vehicular traffic on the nation's highways. They solved many of the safety and transportation problems and eliminated numerous dangers by building separate high speed highways and highway bypasses. Today they have further expanded protection and the safety of their citizens by establishing Hazmat routes around cities and security zones.

Over the last decade, changes in Brookings have been numerous. The following four examples provide a quick insight into some of the changes. The four examples are: housing, voting, traffic, and employment.

Residential housing expansion in Brookings has changed in the last ten years. Virtually all new housing in the last decade has been constructed south of the railroad tracks. As the following table (Table 1) shows, since 1998, a total of 733 of the 734 building permits issued for new single family homes were for units constructed south of the track. At the same time, SDSU's enrollment growth of several thousand students has occurred north of the track. With SDSU faculty residing increasingly in homes south of the track and the university growing north of the track, the presence of the railroad becomes a concern for the SDSU campus.

Table 1
New Single Family Building Permits Issued
in the City of Brookings, 1998-2007
(Includes the 3-mile area)

Year	Permits Issued	Permits Issued for Homes South of the Rail Line	
1998	64	63	98%
1999	46	46	100%
2000	40	40	100%
2001	56	56	100%
2002	77	77	100%
2003	51	51	100%
2004	104	104	100%
2005	126	126	100%
2006	130	130	100%
2007*	40	40	100%
Grand Total	734	733	99.8%

Brookings voter registration changes also reflect the impact of the new housing expansion south of the tracks. In recent history the number of voters in Precinct 5 has grown significantly and Precinct 6 had to be added (in 2002) to handle the on going rapid population growth south of the tracks (Table 2). Today, the number of registered voters in Brookings is almost equally divided by the railroad with an estimated 52% (5962 voters) north of the track and 48% (5473 voters) on its south. Considering that most of the new homes have been built by families with children, it is quite likely that there are as many or more residents south of the track than north.

Table 2
Brookings Registered Voters
(April 10, 2007)

Precinct Number	Number of Registered Voters North or South of the Rail Line
Precinct 1	1391 North
Precinct 2	1591 North
Precinct 3	1690 Divided*
Precinct 4	2135 North
Precinct 5	2793 South
Precinct 6	1835 South
Total	11435

*If Precinct 3 voters are divided equally between those who live north and south of the rail line (i.e., 845 voters for each side), Brookings voters would seem to be almost equally divided:

The changes in traffic counts (the number of cars that cross a particular point in a given period) within the City of Brookings reflect not only the growth of the community but also substantial increases in the number of people crossing the railroad track (Table 3). The increases, ranging from 33% to 61% in only a 4-year period, are substantial and reflect an increased potential for car-train problems and safety issues. If the 22nd Avenue crossing falls into that range (data not available), the traffic at that crossing would increase to somewhere between 16,895 to 20,452 vehicles a day.

Table 3
Average Daily Traffic Counts (ADT) at Rail Crossings: A Comparison

Avenue	2001 Final Environmental Impact Study (FEIS)*	2005 Brookings Traffic Count Map	Percent of Increase
22 nd Avenue	12,703	**	**
17 th Avenue	3,025	4,870	61%
Medary Avenue	6,440	8,565	33%
Main Avenue	7,988	11,290	41%
Western Avenue	2,630	4,235	61%

*The Final Environmental Impact Study was published in 2001. **No data is available for 22nd Avenue in the 2005 Brookings Traffic Count report.

Employment opportunities in Brookings are truly excellent. Unemployment consistently ranges within the 1% to 2% level. However, commuting to work creates traffic; and increased traffic increases the potential for accidents. While residential expansion has been south of the track, major employment opportunities are located north of the tracks (Table 4). The result is literally thousands of people crossing the tracks at least twice a day five days a week during their journey to work. Of the six largest employers in the community, four are located north of the tracks and two to the south. About 79% of the employees of the major employers work north of the rail line. In reality, it doesn't matter

exactly where people live, a large majority of the daily commutes to work, shop and to go to school) will require crossing the track.

Table 4
Brookings Six Major Employers*

Name of Employer	Number of Employees	North or South of the Rail Line
South Dakota State University	1700	North
Daktronics	1600	North
3M	775	South
Larson Manufacturing	600	North
Brookings High School	335	South
Rainbow Play Systems	327	North

* From a 2006-2007 City of Brookings telephone survey.

REPORT OF THE BROOKINGS MAYOR'S AD HOC COMMITTEE ON THE DM&E RAIL PROPOSAL

OCTOBER 5, 1998

"South Dakota is more than a state, it is a way of life"
Ann McKay Thompson, President Capital University Center, 1998

INTRODUCTION

Imagine it is December 31, 2001 and just like any other day in Brookings, South Dakota, our Someplace Special. The sun begins to rise in the east. Shortly after 6AM the whistle of a train ricochets through the community, signaling, as it often does, the start of another day. People begin to rise and prepare for a busy day. Soon they begin to depart their homes scurrying back and forth across the community and the DM&E track on their journeys to work, school, and shopping. Later, children begin their treks to school also often crossing the DM&E track. About 8AM another train rolls through the community. Homes vibrate, dishes rattle, and some mothers again face their daily fear for their children who are crossing the track on their way to and from classes. At about 3PM another train comes through Brookings heading east with agricultural products and wood. Around 8PM in the evening a fourth and final train of the day passes through from the east. During that day, approximately 12 engines and 200 railroad cars pass through the city of Brookings. Traveling at a speed of about 17-mph, they block the streets for a total of 16 minutes.

Then imagine it is January 1, 2002. At 6AM the new DM&E coal trains begin moving through the city of Brookings at 30-minute intervals. From this moment on, 18 hours a day, like clockwork, every 30 minutes whistles will blow, homes and furnishings will vibrate, and north-south road traffic will cease. During the next 18 hours 34 trains will pass through the city of Brookings at a speed of 45-50 mph. Approximately 102 engines and 3,910 gigantic coal carrying railcars will rumble through the community during that time. From now on, these trains will block the city streets for a minimum of 102 minutes (1.7 hours) every day. They will do this day in day out. Diesel fumes from 102 engines a day will enter the air. Citizens will be exposed to an increase in sounds and vibrations.

THE MISSION

At the initial March 9, 1998 meeting of the Mayor's Ad Hoc Committee on the Railroad, Brookings Mayor Wayne Hauschild instructed the membership that it was their responsibility to represent the interests of the people of Brookings as they studied the effects of the DM&E Rail Proposal. The committee's mission is to study the issues and determine what the city can and cannot do to protect itself and its citizens from potential impacts of the proposed rail plan. Following that charge, the Mayor's Ad Hoc Committee began a long and at times arduous journey to understand the citizens', the community's, and the railroad's issues and concerns.

In that process, the committee held numerous public meetings seeking to understand the interests of the DM&E and the concerns of the people of Brookings. These meetings sought to provide everyone an opportunity to be heard. The committee has listened to the railroad, received public testimony from the residents of Brookings, read numerous reports and articles, read the DM&E proposal, telephoned people in other communities, and made several visits to other communities. It was apparent that the proposed project conflicted with the wishes of a number of community residents, and not just those living along the railroad tracks. Throughout the process, the goal of the committee has been and continues to be, to bring about a consensus solution to this divisive and painful issue. It is also the committee's responsibility, as a cross section of the community, to reflect the concerns and wishes of the people of Brookings. That is the purpose of this report.

CONCERNS REVIEWED BY THE COMMITTEE

The Mayor's Ad Hoc Committee has reviewed a number of concerns identified by the residents of Brookings. They were examined by two sub-committees and also by individual members of the committee. The concerns are valid and the impact of each needs to be properly addressed and understood by all the residents of Brookings. Some of them are obvious. Others are controversial. In some instances the DM&E will state that the concern is not a problem. At the same time, national experts in some of these areas clearly have developed evidence that the concern is indeed detrimental. This committee is not in a position to be a final authority on these matters. It is however in a position to indicate to the city leaders what these concerns are and warn that they must be addressed as they have the potential to be constructive or destructive to our way of life, our physical and mental health, and our community.

1. Environmental Concerns

- A. Safety-** The Brookings Safety Committee is also addressing this concern. It appears from that committee's reports that it is essentially responding to the plans of the railroad. It is the view of this committee that safety is certainly among the most serious factors facing the community. The DM&E has an established program to bring safety training to schoolchildren. That is a good idea. It should be noted that such a program alone cannot solve the safety problem. Even all the gates, crossing, whistles, bells etc. proposed by the railroad, will not provide safety to our residents. They will only reduce the likelihood of disaster.

For example, in Nebraska alone, from 1988 to 1997, 122 people were killed and another 402 injured at railroad crossings (Appendix A). The safety measures being proposed by DM&E Railroad are not significantly different from what is in place in Nebraska. In order to reduce these losses, the Nebraska railroads are now asking communities to close crossings and construct overpasses.

Perhaps the most important thing to remember about safety is that the greatest threat is to children. We were all kids once and most of us remember taking short cuts. The quickest way across a railroad track is a straight line and train or no train, kids will cross it.

- B. Sound/noise-** Subcommittee A did extensive research relative to this concern. The results of that research is contained in the Environmental Report which is included in the Appendix B. It indicates that train noise in a typical home along the track would exceed OSHA levels and would require protection gear. It also found that if the tracks were depressed and sound berms added noise levels could be contained and reduced to acceptable levels.

It should be noted that at the present time, sounds from the trains are not confined. The sounds do indeed echo across Brookings, and can be quite loud as far as 10 blocks away. Evidence from residents of the Fargo, ND area indicate that while the trains are primarily restricted to a non-residential area, the noises do echo across the entire city. Railroad sounds and noises are going to be

a factor no matter where the tracks are located.

- C. Vibrations-** Most residents of Brookings living within 4 or 5 blocks of the existing DM&E track know about and feel the vibrations that result from trains passing through town. It is the belief of the DM&E that vibrations will be reduced by solid track and more modern railcars.

To understand vibrations, one only needs to stand next to any railroad track and watch the track undulate as railcars pass over it. It is expected that the proposed track and rail beds will be major improvements over the existing road. It must be noted however, that the weight of each car passing over that track will be substantially more than the existing cars. In reality, as far as vibrations are concerned, neither the DM&E nor this committee knows the real impact of such massive units rolling through our community.

The DM&E Railroad will not own most of the coal cars. Instead distant power companies will own them. There is also no way for the DM&E to guarantee that they, their successors, or the power companies will maintain the equipment at peak performance levels. They do however assure us that the equipment is subject to FRA standards and inspections. That provides a partial safeguard for the community. Historically, railroads have not developed an impressive record of high level/quality maintenance.

- D. Speed-** The near tripling of the speed of the trains through the community does present some safety issues. If a train were to impact with another vehicle, it would take longer to stop, cover greater distance and very likely cause more substantial damage. There is also concern that a potential derailment of a train traveling at high speeds could do enormous damage to life and property. Increased speed is simply a reality of improved rail systems. It is essential that communities understand the potential effects of speed and plan accordingly to prevent potential disasters.

It is essential that the City of Brookings understand its rights relative to setting speed limits and maintaining traffic safety.

It should be noted that because of the length of the proposed unit

trains, and number of trains, speed will not help reduce the time our local roads will be blocked.

- E. Coal Dust-** This is a serious concern. Evidence from articles and personal observation indicate that it is indeed something to be concerned about. Coal, like grain or any other material shipped in an open unit, is subject to being blown away. The finer the material, the more likely it will be blown.

In coal shipments the coal fines (minute particles) blow away and in doing so expose larger particles. These particles then roll down hill and expose more coal fines to the wind. The greatest problem with wind-blown coal fines appears to result from crosswinds when two trains pass going in opposite directions. This will occur at some 40 sidings along the proposed route. Presently, we do not know how close to Brookings such a siding will be located.

Coal dust is dirty and creates problems. Among the major concerns are: dirty exteriors for homes and automobiles; windows and door must be kept closed; greasy coating of coal dust often covers exposed items; and occasionally with strong winds, localized coal produced blackouts occur. It should also be noted that coal fines are minute (0.5mm or smaller). Dust smaller than 10mm in size is respirable and can be breathed into our bodies. These minute particles can cause black lung disease and other serious health problems for the people and animals that breath them. Coal car covers are effective in reducing dust, but the DM&E plan does not call for this protection. For additional information see the Environmental Report in Appendix B.

- F. Pollution-** The residents of Brookings are very concerned about potential pollution from the increased number of trains. Their concerns include dust particles, diesel fumes, noise, and combined psychological effects. These concerns need to be addressed and the citizen's rights protected throughout this process. It is essential that as the DM&E application moves to the environmental stage, the City of Brookings convene an Environmental Safety Committee comprised of the top scientists and medical experts in the community. Such a committee is essential to protecting the health and environmental welfare of the citizenry.

During the preparation of this report, a resident of Brookings commented about odor problems related to coal. She indicated that while visiting cities in New Mexico and Texas along coal train routes that the smell of coal permeated the communities. The odor from the coal and coal dust was not just outside, but also inside the buildings and living spaces. She expressed a concern about the detrimental effect of such an odor on our community.

G. Exhaust- The exhaust from diesel burning engines (train or truck)

is a major concern to residents. It has the potential to be a major health hazard to the residents of the community. This potential needs to be understood and addressed by the city so that, at a minimum, federal pollution control and health standards are met. The citizens expect that their air is being protected by the city.

H. Mercury- The mercury levels generated by burning coal could have a significant impact on the feasibility of the proposed DM&E expansion. Environmental concerns may force the power producers to seek alternative sources of energy to replace coal. This happened to atomic power and may well happen to coal.

I. Hazards- Safety hazards were addressed earlier in this document. It should be noted that other hazards exist including derailment, a variety of possible accidents, train crashes, train-auto accidents, and various life threatening events.

J. Derailment- This is a major concern within the community. The DM&E has a poor safety record when it comes to derailment. The proposal certainly indicates expected improvement. What the actual improvement will be still needs to be ascertained. Paper projections are not proof or validation. The Union Pacific and Burlington Northern railroads have experienced coal train derailments. Even the best track and trains in the world have deadly derailments. A recent railroad accident in Germany attests to this concern.

K. Carcinogenics- There is considerable fear among local residents that the planned expansion will subject them to various cancer causing agents. Local industrial development has consistently

focused on attracting clean industries. Existing industries have spent millions of dollars reducing pollutants in our atmosphere. There is serious concern among the population that the city is not taking the necessary steps to position itself to provide residents protection from the potential health threats of coal or diesel fuel. This is one reason the Mayor's Ad Hoc Committee suggest the City establish an Environmental Health Committee.

2. Community & Lifestyle Concerns

- A. Real Estate Values-** This is a major area of concern. Fortunately, or unfortunately, we are not far enough in the process to ascertain the real impact of the proposed expansion on real estate values. It is expected that the expansion will have a negative effect on the property that parallels the track. The railroad asserts that it has not had an impact to date. Real estate history across the county shows it will lower the value of homes considered too close to the track, and negatively impact the real property tax base of the affected communities.
- B. Taxes-** The DM&E often cites the amount of taxes it will be paying. They suggest that the railroad will pay \$1.1 million in taxes in Brookings County. Presently such taxes go to the state not the city or county. Based on discussions with state and local officials, it is not clear exactly how such taxes will benefit the City of Brookings, the Brookings School District, or Brookings County. It needs to be determined if these taxes would be additional monies or simply reduce state aid. This needs to be studied and fully understood by our local governmental units.
- C. Zoning-** This is a major concern within the community. While the railroad track indeed already existed in Brookings, what is planned is a major change. There is some question whether the track itself is zoned. If it is treated in the same manner as a street, the zoning on each side would extend to the center of the track.

When a landowner desires to make improvements, such modifications must conform to zoning and land-use laws. Often, changes do impact property values, the neighborhood, and people's lives. In such cases, neighbor to neighbors dialogues can

collaboratively develop mutual solutions. The people of Brookings ask that the DM&E Railroad as a good neighbors take these factors into account.

D. Economic Impacts- Both positive and negative economic impacts exist with this project. Most city economic development officials contacted by Subcommittee B, supported railroad developments as positive impacts. Residents contacted in such communities do not always agree in that regard.

- 1) Industry- The DM&E believes the project will bring better service to existing industries and attract new industries to Brookings. It has the potential to bring about 2,500 jobs to South Dakota during the two year construction phase. After completion, plans call for 62 direct new jobs in Brookings and 76 indirect jobs. Many of the jobs are expected to be higher paying positions.**

The DM&E also believes that the new track will serve to attract new industries to the community. Yet the CEO of the largest industry in Brookings disagrees with that, believing instead that industries will choose rather to locate in communities with better living environments.

- 2) Commerce- The railroad will create more jobs during the construction phase. It is important that the community and school district plan for the impacts of this phase.**

The railroad also indicates that it intends to buy as many materials as possible locally during the construction. Such purchases would also contribute to tax collections.

- 3) Existing RR Business- The DM&E has assured existing industries and agricultural businesses of on-going service after the upgrade. This is important because the abandonment of rail service to small elevators and industries is presently a major issue in our neighboring states of Nebraska, and North Dakota. It is essential that local industries dependent upon rail service be assured that whatever the plan, service will continue.**

E. Effects on Daily Life and Lifestyle- There is considerable concern Brookings that the proposed expansion will destroy our peaceful

community. Few people in the community want to see it change from "Someplace Special" to "Someplace with Serious Problems." One cannot divide a city in half and block traffic 1.7 hours a day without having a major effect on the daily lives of the people.

What if you lived south of the tracks off Main Street and had a house fire. If a train were crossing, fire engines could sit at the Main Street crossing for 3 or 4 minutes or drive over to the viaduct and back (about 3 or 4 minutes) to avoid the track. In either instance, one's children, home, or self could easily perish while waiting for the train to pass.

What has not been demonstrated in this discussion is why the people of Brookings should let their lives and assets be changed. New jobs and taxes are nice additions to a community. However, do potential jobs and taxes outweigh our homes, our way of life and the community? We need to address these questions in order to support this project.

- F. **Liability-** There are some significant questions relative to the liability of the City of Brookings, the DM&E, real estate developers, and realtors in this process. People bought homes in good faith along the tracks with residential zoning. The rail proposal definitely impacts these properties and early indications are that liabilities will be challenged on several occasions in the judicial system.

There is considerable belief that the City of Brookings helped to create this problem when it zoned land along the right-of-way as residential. At that time, the railroad was facing abandonment. The reality of the situation is that over the years people bought homes along the track in good faith believing that the land would remain residential. One way the city can help correct this situation and assist these people is to provide the leadership and some financial support to solve this problem.

COMMITTEE OVERVIEW

From citizen input, and the examination of the DM&E plan, it is apparent that the Mayor's Ad Hoc Committee on the Railroad lacks the authority to bring about final resolution to this controversy. However, it does not lack a vision of a

workable, compromise or how it can be achieved. There are five potential players who in concert have the power to take significant steps to address the concerns of the people of Brookings and at the same time achieve the goals of the DM&E. They are the DM&E Railroad, the City of Brookings, the State of South Dakota, the judicial system, and the federal government. The members of the Mayor's Ad Hoc Committee believe that it is in the best interest of both the people of Brookings and the DM&E Railroad if an agreed solution can be achieved at the local level, where we as neighbors can better control our destiny.

From discussions that we have participated in over the recent months, it has become clear that the DM&E railroad has been understandably reluctant to vary from the application it has filed and from the track that has already been established. To do so, could raise legal questions and would require additional applications and costs. It is the committee's hope that the railroad, the city and the state would commit to working together to bring about an immediate agreement on a solution that can be presented to STB in support of the proposal.

Recently, Governor William Janklow has publicly expressed his view that the DM&E should bypass both Brookings and Pierre. In recent weeks, the DM&E Railroad in discussions with the Mayor's Ad Hoc Committee on the Railroad has not ruled out discussing alternative routes if that would bring about an acceptable solution to all the parties concerned. A recent survey by Lawrence and Schiller of Sioux Falls clearly shows that 82.2% of the people in Brookings are opposed to the present DM&E plan. Another 5.8% are unsure, and only 12.1% of the local residents support the proposed route through town. A total of 61.1% of the people in the community clearly favor a bypass route around Brookings (Appendix C).

The study commissioned by the City of Brookings and completed by Banner Associates clearly supports the belief of the Mayor's Ad Hoc Committee on the Railroad and the vast majority of the people of Brookings that it is indeed feasible for the DM&E to reroute around the city. Furthermore, it is clear that the costs of such a reroute could easily be less than 1% of the costs of the entire DM&E plan (Appendix D). The Banner Associates study points out some concerns that will need to be addressed. For example, protecting wetlands. However, if wetland can be addressed in the construction of a K-Mart, they can also be successfully addressed in this situation. It should be noted that the Banner study includes several very costly add-ons such as overpasses that are not included as solutions in the DM&E proposal, nor necessarily needed in the final plan. For example, in the Inner North Railroad Bypass Route, over \$2.75 millions of the projected costs are for overpasses, which are not necessarily needed and certainly not called for in the existing DM&E plan. Committee member Fred Seymour addresses these add-ons in Appendix E.

The Mayor's Ad Hoc Committee asked the Brookings City Commission to seek legal counsel from the Attorney General and the City Attorney relative to its rights in the railroad expansion process. The City Attorney will present the Commission with his findings. The Mid-States Coalition for Progress's Brief of Evidence in Opposition to DM&E's Application filed with the Surface Transportation Board on August 31, 1998 provides additional legal references and considerations (Appendix F).

FUNDING SOLUTIONS

The DM&E

The easiest and quickest way for funding concerns to be addressed is for the DM&E Railroad to simply assume the costs of the bypass route. It is an expense that would not exist without the rail plan. It is an expense that the president of the DM&E has stated can be addressed if they believe it is in the best interest of the corporation.

The State of South Dakota

Several years ago, the people of South Dakota were asked to pay a temporary one-cent sales tax to allow the state to purchase rail lines. In that process, citizens from across the state contributed to a creative idea that provided a solution to the needs of specific communities along the affected track. We worked and accepted taxation together to protect our neighbors and state. In the end, the solution proved to be of tremendous value to the communities and the people of South Dakota.

In the various discussions of the impact of the railroad on the economy of South Dakota millions of tax dollars have been dangled before the state. We have heard that the railroad will pay \$20 million dollars in sales taxes during construction. We have read newspaper accounts that they will be paying \$20 million a year in taxes. The DM&E estimates that it will pay \$1 million a year property taxes in every county along its track. A more exact estimate of tax dollars that will potentially be contributed by DM&E needs to be identified by our state and local governments. Once that is accomplished, we can ascertain the amount of money and develop a time frame that could allow those monies to be utilized to bring about a solution to the concerns regarding the costs of a bypass around Brookings.

We propose that a workable solution would be, initially, for all taxes collected from the DM&E expansion to be utilized and dedicated to paying for the bypass solution for Brookings and Pierre. The monies could become part of the general

fund after the bypass costs are met. Obviously, the state can expect that other participants may be required to cover portions of the costs of the bypasses including federal, county and municipal governments and the railroad itself.

The dedication of the collected taxes to solving a problem is not new. We have done this before in South Dakota with the state railroad, highways, and economic development. As an example of a government solving problems with dedicated taxes, just last summer Saint Louis, Missouri proposed utilizing \$3 million of the \$6 million in gaming taxes it collects every year to relocate to a safer mooring the riverboat casino that generates the taxes.

The City of Brookings

The community recently initiated a second penny sales tax to support the construction of buildings and infrastructure necessary to the future of Brookings. The bypass route certainly fits the purposes set forth in establishing that tax. If such moneys can be utilized for a controversial MultiPlex, there is no apparent reason why they cannot be used to protect the homes and investments of the taxpaying people of Brookings and enhance our community.

SOLUTIONS

Recently, an agricultural association official stated that the DM&E Plan will prevent 15,500 truckloads of soybeans a year from driving the streets of Brookings. While this is an interesting statement, it does not correctly address several facts. First, 15,500 truckloads of soybeans a year would not drive the streets of Brookings; they would follow the Highway 14 bypass, which was specifically constructed to protect the city from such an impact. Secondly, he did not state that the plan calls instead for running 1,464,380 engines and railcars a year on the existing railroad route through Brookings. Thirdly, he did not mention that each coal car would be carrying about two and one-half times more tons of coal per unit than a soybean truck. Finally, he did not indicate that when we build interstate and other modern highway systems, planning and government officials utilize bypasses to protect the communities and to build safe, fast, and efficient roads. In order to do this, some people may have to be rewarded to relocate for the good of the society.

The easiest solution would be for the DM&E Railroad to inform the public that in an effort to demonstrate their commitment to being a good neighbor, they have heard the concerns of the residents of Brookings. As a result, they are now willing to amend their application and request approval for a bypass around the city. Also they are committed to working with state and local government to plan and

construct the bypass. Finally, the costs of the bypass will be borne by the DM&E Railroad.

Unfortunately, that is not likely to happen. Therefore, the Mayor's Ad Hoc Committee on the Railroad believes that it is time for the City of Brookings to provide the leadership necessary to bring about a solution acceptable to the people of Brookings. The solution may well involve support from the Governor's Office, the State of South Dakota, and the Federal Government. However, it is the belief of the committee that the City of Brookings and the DM&E Railroad, as good neighbors, can together achieve an acceptable solution.

The railroad has been reluctant to consider any bypass alternative because it already owns the existing track and has filed its application with the STB. Bypasses present additional legal questions; require additional applications, negotiations, and additional costs. The DM&E, the city, and the state need to cooperatively ascertain the legalities that must be addressed to facilitate a bypass route.

Bypasses also impact other people. Their needs and rights must be respected and addressed in any real solution. We do not want to see anyone forced from his or her home or farm. However, a few people may need to be relocated to protect the health and well being of residents of the city. A real solution needs the support of all the people. We believe that the City of Brookings, Brookings County, and the State of South Dakota are in unique positions to help with a bypass solution. We believe the people are concerned about each other and are willing to listen, understand, and work out solutions.

The State of South Dakota could help in various ways. For example, the Bureau of Railroads could become the applicant for the bypasses. In the case of Brookings, there is a significant amount of state owned land that could be utilized with the rerouting. We might also consider utilizing land already dedicated to township roads for the right-of-way, rather than cutting through people's farms. The DM&E might not need to modify its application. The state through its rail authority could commit to fast tracking a bypass solution through the approval process. Once the bypass is authorized and built, the state could lease, sell, or trade the track with the DM&E. What is essential is that the bypass be selected utilizing experienced professional consultants and/or the South Dakota Bureau of Railroads.

RECOMMENDATIONS OF THE MAYOR'S AD HOC COMMITTEE

The Mayor's Ad Hoc Committee on the Railroad recommends that the City of Brookings immediately take the following steps:

- 1. Notify the DM&E Railroad that the City of Brookings seeks to immediately enter into discussions with them, intended to lead to the development of a bypass route around the City.**
- 2. The City of Brookings establish a Railroad Negotiations Advisory Committee and in concert with the Brookings City Commission, set the parameters for negotiations, provide information and select and support to the negotiator. Successful negotiations come from a balance of power. Therefore the Advisory Committee must represent the interests in the community which support an alternative route. The railroad can represent its position.**
- 3. Hire a professional negotiator to represent the City of Brookings in the negotiation process. For a variety of reasons, there is some belief that such a person must be from outside the community. The city has hired professional negotiators before. There are many attorneys, educators, and other professional negotiators in the Upper Midwest.**

It is clearly the desire of the people of Brookings that a bypass route be constructed around the city. In light of the costs presented by the Banner Associates report, it has also been demonstrated that it is affordable. We would remind everyone that Mr. Kevin Schieffer has stated that money is not a major concern, the DM&E is prepared to spend what it takes to get the railroad built.

The Railroad Negotiations Advisory Committee

The Mayor's Ad Hoc Committee on the Railroad proposes that the Railroad Negotiations Advisory Committee be comprised of the following community leaders:

- Col. Dwight Adams, Concerned Resident of Brookings (agreed to serve)**
- Mayor Wayne Hauschild or Mr. Emil Klavetter, or other Brookings City Commission designee.**
- Mr. Dale Larson, Larson Manufacturing Company (agreed to serve)**
- Mr. Orville Schmidt, State Representative (agreed to serve)**
- Ms. Carol Pitts or Brookings County Commission designee (Ms. Pitts will serve if the County Commission so desires)**
- Mr. Robert Jostad, Retired Brookings School Superintendent and former School Board Member (agreed to serve)**
- Dr. Arden Sigl, Professional Engineer (agreed to serve)**