

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Attachment 2

OFFICE OF ECONOMICS, ENVIRONMENTAL ANALYSIS, AND ADMINISTRATION

July 2, 2001

Mr. John Collins
LeBoeuf, Lamb, Greene & MacRae
1875 Connecticut Avenue, N.W.
Washington, DC 20009-5728

Re: Finance Docket No. 34060 - Midwest Generation, LLC Construction of Rail
Line in Will County, Illinois; Request for Waiver of EIS Requirement

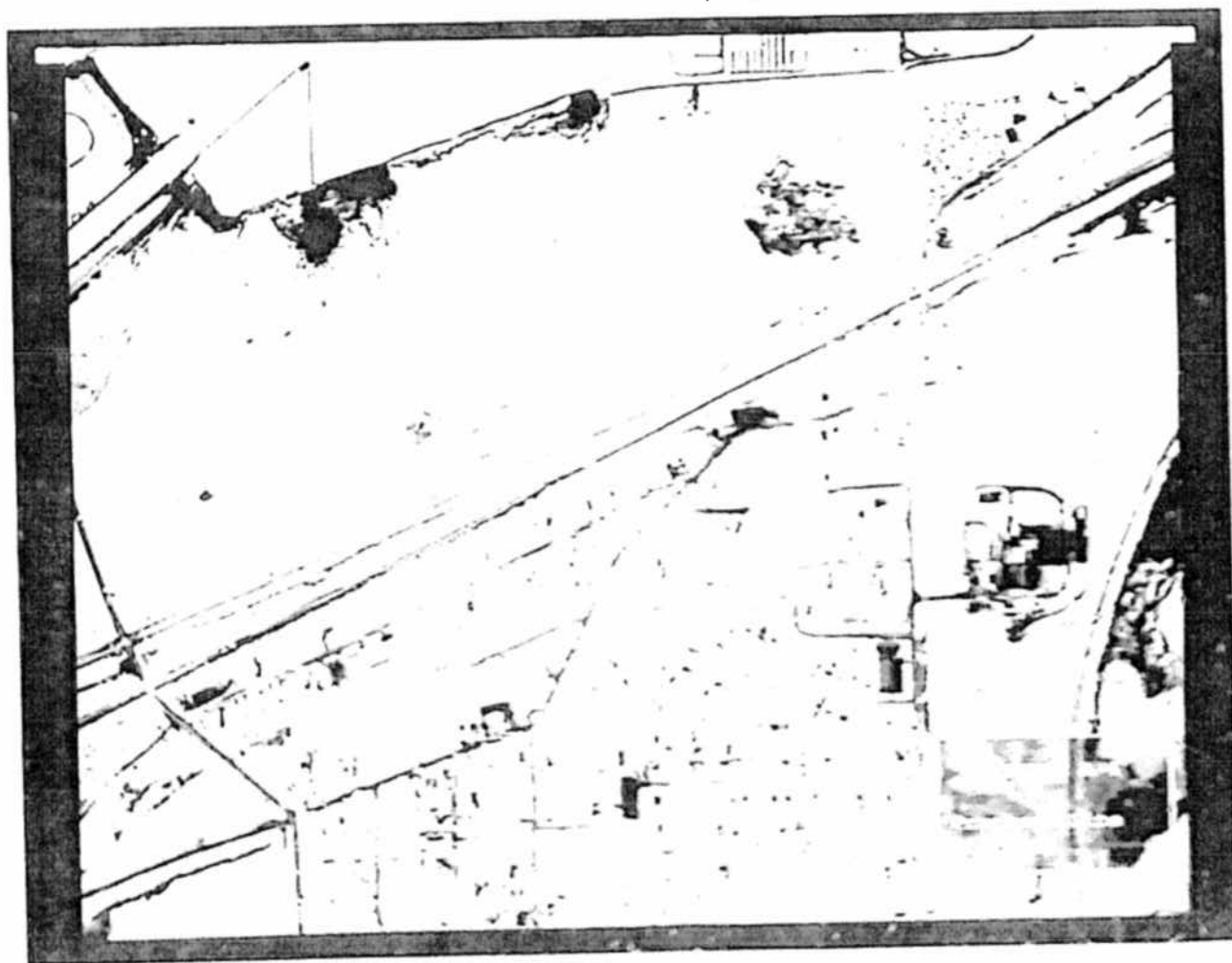
Dear Mr. Collins:

Pursuant to 49 CFR 1103.6(d), we are granting your request of June 28, 2001, for a waiver of 49 CFR 1103.6(a), which generally provides for the preparation of an environmental impact statement for a rail line construction proposal. At this time, we believe that the proposed construction and operation are unlikely to have any significant environmental impact, and therefore, preparation of an environmental assessment is the appropriate level of environmental review.

The project proposed by Midwest Generation, LLC (Midwest) involves the construction of a rail line approximately 4,007 feet in length in Will County, Illinois, to connect Midwest's Joliet Generating Station (Station) to the nearby Union Pacific Railroad Company (UP) track.

You have provided the Section of Environmental Analysis (SEA) with preliminary information about the project as well as possible environmental impacts that may be associated with the proposed construction and operation that would seem to justify the preparation of an environmental assessment rather than an environmental impact statement. Further, as you indicate, staff from Dewberry Environmental Consultants, the approved independent third party contractor that has the responsibility of advising SEA in preparing the environmental analysis and appropriate environmental documents, has conducted a preliminary review of the site and indicated that there do not appear to be significant environmental issues related to the project.

Based on the information available to date, we believe that the environmental impacts of this project will not be significant and, therefore, an environmental assessment is appropriate in this case. We base our determination on the following:



4.8 CULTURAL RESOURCES

4.8.1 Route A

The Illinois Historic Preservation Agency (IEHPA) was contacted regarding the proposed project's potential impacts on historic or cultural resources. IEHPA responded that the proposed construction would have no effect on any Historic Properties and that it has no objection to the undertaking proceeding as planned (Appendix C, Attachment 9). IEHPA stated that its response was evidence of compliance with Section 106 of the National Historic Preservation Act of 1966, as amended. Therefore, construction and operation of Route A would have no impacts on historic or cultural resources.²⁰

4.8.2 Route B

Construction of Route B would have no impacts on historic or cultural resources (Appendix C, Attachment 9).

4.9 RECREATION

There are no public recreation sites in the project area, and construction and operation of neither Routes A nor B would affect access to recreational areas. Therefore, no impacts on recreational resources are expected.

4.10 RESPONSE TO ENVIRONMENTAL ISSUES RAISED IN THE BERGER REPORT

On November 9, 2001, IC submitted to SEA a Field Analysis Report on Environmental Impacts of the Proposed Construction of New Rail Line by Midwest Generation, LLC, near Joliet, Illinois, prepared by The Louis Berger Group, Inc. This report (the Berger report) raised a number of environmental issues which are addressed in the appropriate sections of this Environmental Assessment. This section summarizes the issues raised and briefly restates the response to those issues.

The Berger report made the assumption that the crossing of Sugar Run by the proposed rail line would be done on a culvert, which would basically be an extension of the existing culvert under the UP line. The report presents calculations that such a culvert extension would allow the flow of water through the

²⁰ The proposed Sugar Run bridge would span the existing culvert under the UP rail line and would not modify that structure.

trains (an average of 1.6 per day). Thus, the proposed action would result in an addition of substantially less than the threshold level of three additional train movements per day. In addition, emissions from diesel fuel consumed by trains to and from the Station would still occur in the same localized area; they would simply be shifted to trackage (Route A and track #14) slightly north of the current routing.

If Route A is built, one factor which could reduce air pollutant emissions by Station trains from current levels is the proposed change in placement of the two locomotives powering each train while the trains are being unloaded. Midwest states that current operations involve two locomotives idling in the vicinity of Brandon Road while the train is being unloaded, which normally takes approximately 8-12 hours. Midwest says that based on information provided by UP to Midwest, UP would leave the two locomotives either on the Station equipment spur, on track 16 at the yard, or possibly take them to the Elgin, Joliet, and Eastern yard in Joliet for servicing and refueling (see Appendix A, Figure A-7). According to Midwest, the locomotives would not be left idling at any of the locations. Midwest indicates that it is UP's policy to shut down its locomotives whenever possible to conserve fuel (unless temperatures are near or below zero degrees Fahrenheit).

4.6.2 Route B

According to Midwest, as with Route A, operations over Route B would reduce air pollutant emissions from engine idling while the trains are unloaded because UP's plans indicate that it would not leave the engines idling during that time (except in extreme cold temperatures). However, as noted in Chapter 3, Midwest states that operations over the Route B track configuration would take two additional moves to position each train into the station for unloading. Midwest says that adding these two additional moves per train would increase handling time by 15-30 minutes per train (using Route B as compared to Route A). This could increase air pollutant emissions from operations over Route B as compared to Route A.

4.7 NOISE

4.7.1 Route A

Construction

Noise levels in the area might rise somewhat during construction of the rail line. Vehicles and machinery used for land clearing, road bed construction, and bridge construction would generate temporary increases in noise levels. However,

This determination covers only your project as depicted in the "Site Plan-Sheets 1 and 2 of 2 Proposed U.P. Connection Joliet Station No. 9 Midwest Generation, LLC.", dated October 10, 2001, Revision #3 dated December 16, 2001, prepared by Cornette Engineering Services, Inc..

Measures should be taken to prevent construction materials and/or activities from entering any waters of the United States. Appropriate soil erosion and sediment controls should be implemented on-site to achieve this end. This determination is valid for 5 years from the date of this letter.

This letter is considered an approved jurisdictional determination for your subject site. If you object to this determination, please contact this office to obtain the Request for Appeal (RFA) form.

If you have any questions, please contact Kathy Chernich of my staff by telephone at (312) 353-6400, extension 4039, or email at kathy.g.chernich@usace.army.mil.

Sincerely,


Keith M. Wenzel
Chief, West Division
Regulatory Branch

Enclosures

Copy Furnished w/out Enclosure:

U.S. Fish and Wildlife Service (Bogert)
Illinois Department of Natural Resources (Schaeffer)
Illinois Department of Natural Resources/DNR (Dorosh)
Illinois Environmental Protection Agency (Bachman)

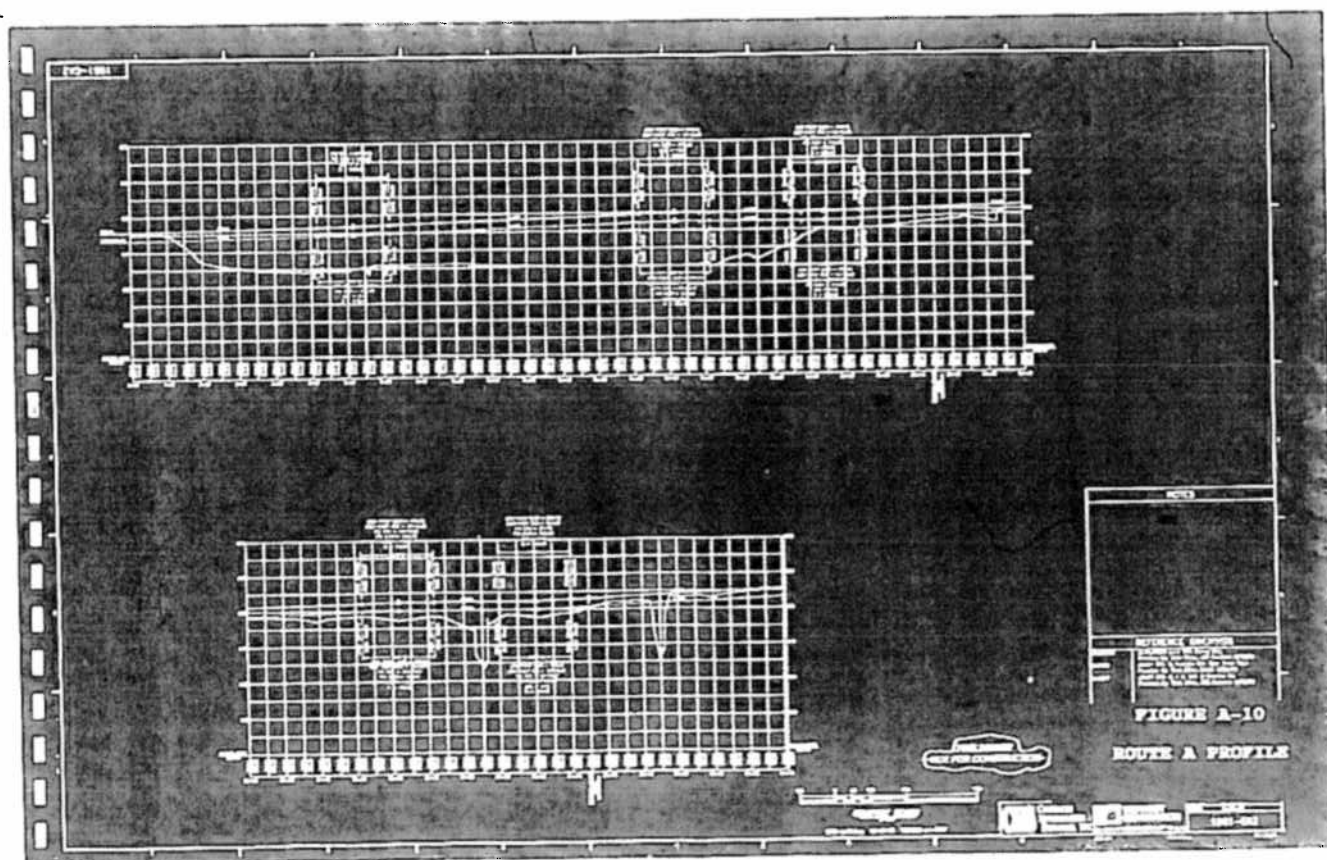
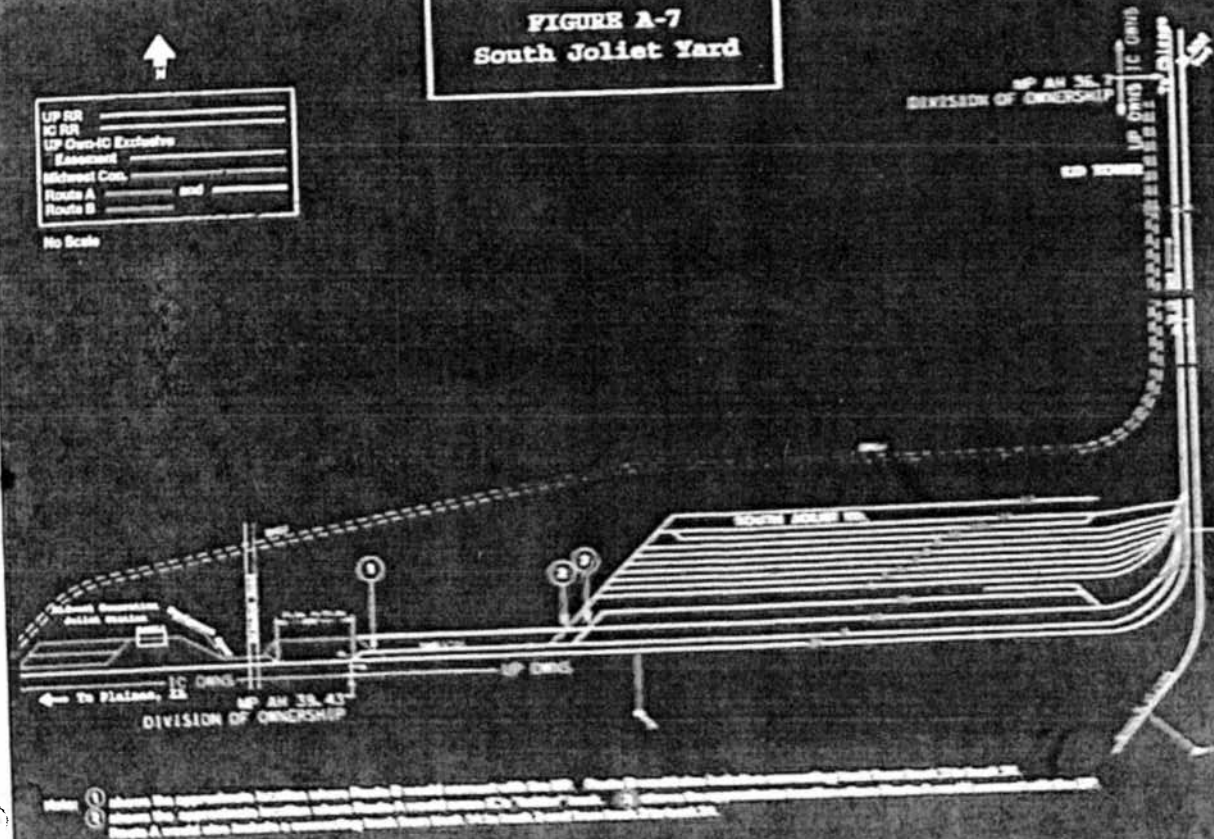


FIGURE A-7
South Joliet Yard



APPENDIX A

Therefore, switching and positioning cars using Route A could result in less air and noise emissions than switching and positioning cars using Route B.

Midwest states that both routes would reduce locomotive idling while trains are being unloaded. Midwest indicates that it is UP's policy to shut down its locomotives whenever possible to conserve fuel (unless the temperatures are near or below zero degrees Fahrenheit). See Section 4.6 for further discussion. Also, all of Route B and the western part of Route A would shift Station train operations to trackage approximately 90 feet farther away from a residential area compared to current operations. Along the eastern part of Route A trains would operate over trackage approximately 30 feet farther away from a residential area; operations east of Route B would be over the current UP line. The shift in train operations away from the residential area could reduce noise from Station trains in the residential area.

Midwest has indicated that it selected Route A as its proposed route because rail operations would be more efficient using Route A than Route B.⁴ Midwest states that use of Route A would assure that sufficient track space is available along an unimpeded route on which to place and remove trains for the Station and that the route would provide a place to hold "bad order" cars,⁵ store spare cars with which to fill out trains, and hold other traffic that may on occasion move into and out of the Station. Midwest states that, while it would not be impossible to serve the Station using Route B, this route would lack the additional tracks necessary to facilitate operations, provide room for future coal requirements, provide a place to hold "bad order" cars, store spare cars with which to fill out trains, and hold other traffic which may on occasion move into and out of the Station.

Although Midwest has designated Route A as its proposed route for the above-mentioned reasons, and Route A may be more operationally efficient than Route B, SEA preliminarily concludes that because of the similarity of environmental impacts of Route

⁴ According to Midwest, it had initially planned to petition the Board for authority to build Route B. During consultations with UP, UP recommended that Route A would better facilitate the movement of trains into and out of the Station. Midwest reviewed UP's recommendation and decided to select Route A as its proposed route.

⁵ A "bad order" car is a car that is found, upon inspection, to need repairs before it can be returned to the mines for reloading with coal. These cars are normally taken to local repair facilities for repair.

LEBOEUF, LAMB, GREENE & MACRAE L.L.P.

Attachment 4

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August 17, 2001

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VIA HAND DELIVERY

Ms. Victoria Ritten, Acting Chief
Section of Environmental Analysis
Surface Transportation Board
1225 K Street, NW
Washington, D.C. 20423

Re: Midwest Generation, LLC - Request That Environmental
Review Be Limited to Preferred Route

Dear Ms. Ritten:

In a letter to your office dated August 2, 2001, Midwest Generation, LLC ("Midwest") requested that the Section of Environmental Analysis ("SEA") limit its detailed review in this proceeding to Midwest's preferred route described in its Petition for Exemption from 49 U.S.C. § 10501 and a Petition for Granting Authority for approval to construct a new line of rail track near Joliet in Will County, Illinois. They were assigned Exemption Docket Nos. 34080 and 34085 (Dkt. No. 1), respectively. By way of this letter, Midwest wishes to supplement its August 2 letter.

As stated previously, the proposed route is the only feasible route that will accomplish the objectives of this Project which are to establish efficient and competitive rail service to Midwest's Joliet Generating Station ("JGS") in Will County, Illinois. Moreover, the proposed route is environmentally preferable, for a number of reasons, to other potential routes such as the shorter, less-expensive route which was originally considered by Midwest.

First, the proposed route will allow a more efficient movement of trains to and out of the Station, as more fully described in the Verified Statement of William F. York, Assistant Vice President/General Director - Energy for Union Pacific Railroad Company ("UP"), which is attached to the August 2 letter. As such, the route taken should allow the tracks existing to the

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Ms. Victoria Rutson
June 28, 2001
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In conclusion, the lack of significant environmental impacts of this proposed rail construction Project warrant the granting of a waiver of 49 C.F.R. § 11.05.6(a) and a preliminary determination that, at this time, an EA is the sufficient level of environmental documentation for this Project. We recognize, of course, that such a determination would be subject to re-examination in the event subsequent developments indicated that the level of expected environmental impacts warranted the preparation of an EIS rather than an EA.

Please do not hesitate to give either one of us a call if you have any questions.

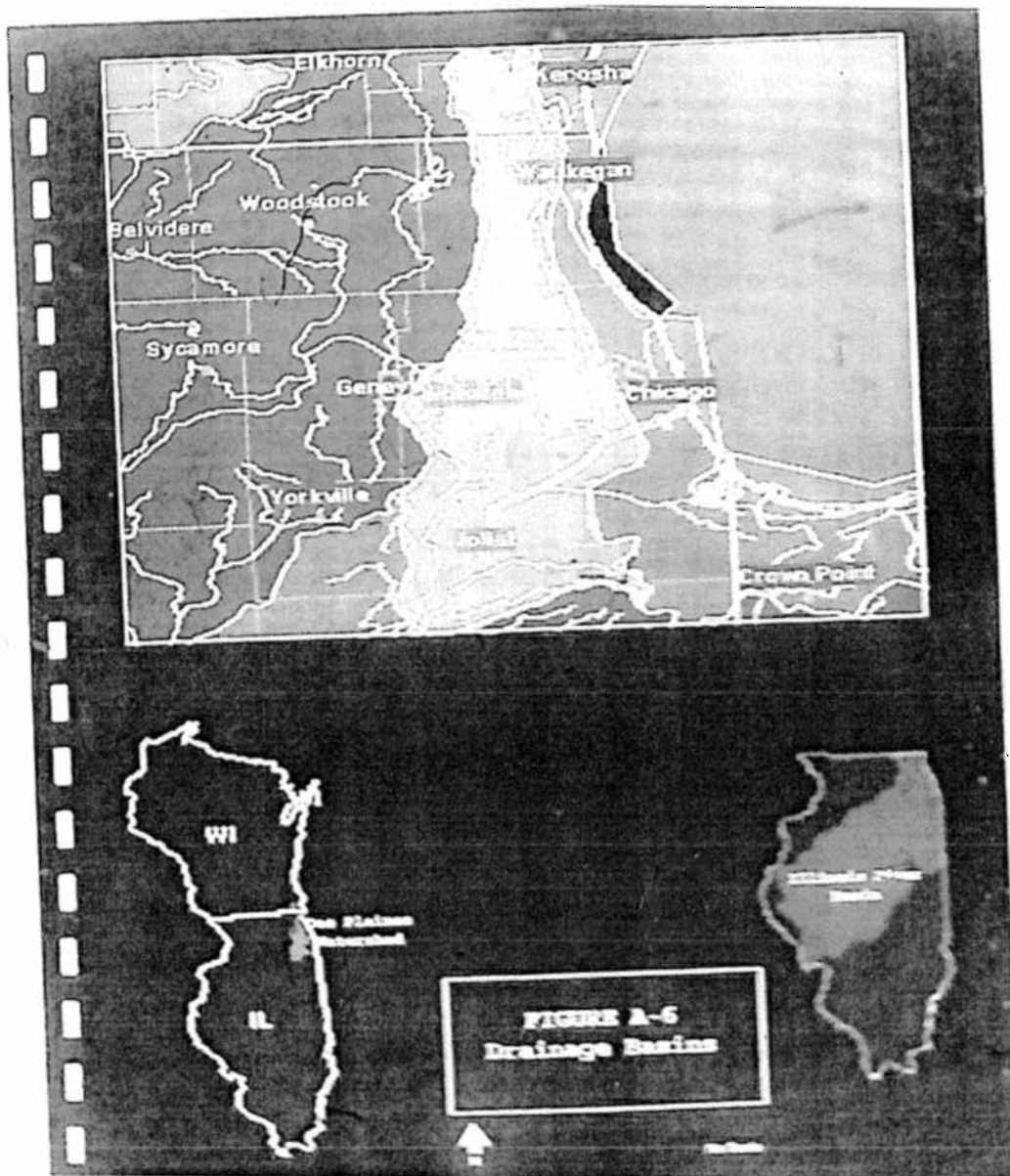
Very truly yours,

Michael F. McBride

Michael F. McBride
John M. Collins

Attorneys for
Midwest Generation, LLC

cc: Robert Opal, Esq.
Myke Tobin, Esq.
Rini Ghosh, Esq.



resources.

4.3.2 Route B

For the same reasons discussed under Route A, construction of Route B should not adversely affect ground or surface water resources.

4.4 BIOLOGICAL RESOURCES

4.4.1 Route A

Project area biological resources are described in Chapter 2, Section 2.5.

Aquatic wildlife is directly affected by water quality and quantity; therefore, the aspects of the proposed rail construction that could affect aquatic wildlife are essentially the same as those that could affect surface water resources. As noted in Section 4.3, these activities are:

- Construction activity in or adjacent to drainageways/wetlands could cause increased siltation of the water resource, with possible effects on vegetation and fish spawning.
- Removal of stream/riparian vegetation, including large trees overhanging streams, could affect water quality and, thus, aquatic wildlife.
- Construction activity in wetlands could uproot and destroy aquatic vegetation.
- Material or structures used to support the rail line as it crosses the drainageway or wetland could permanently remove portions of the resource as habitat.
- Herbicides used in right-of-way vegetation control program could wash into waterways, with a possibly toxic effect on aquatic flora and fauna.
- Operations over the proposed rail line could at some point result in accidents with a potential for contaminant spills into waterways.

Terrestrial wildlife could be affected by the proposed project in the following ways:

- Conversion of land within the right-of-way from its current habitat use.
- The track and supporting structure could act as a barrier to animal movement.
- Operations over the line could sporadically disturb animals in the vicinity, perhaps during critical breeding/feeding periods.

Midwest performed the environmental justice analysis to: (1) determine the presence or absence of environmental justice Communities of Concern surrounding the proposed rail line; and (2) if such a community is present, to determine the presence or absence of disproportionately high and adverse human health or environmental effects on the citizens of that community.

The Hayes report sets forth the steps Midwest took to assess the environmental justice impacts of the proposed project. Figure 1 of the Hayes report in Appendix D summarizes those steps. First, Midwest defined the study area for the environmental justice assessment as the Hillcrest/Patterson Road Community, most of which is within 1,500 feet of Route A (see Appendix A, Figure A-4.) This neighborhood, an area of 191 houses, is the only residential area within the proposed project vicinity.

Midwest then used EPA environmental justice guidelines to assess the demographic characteristics of the study area. The Hayes report provides a comparison of the minority and low-income percentages for the study area with the minority and low-income percentages for the State of Illinois. The comparison shows that 97 percent of the residents living in the Hillcrest/Patterson Road community are minority, but there are lower percentages of the population below poverty level and households earning less than \$15,000 in the study area as compared to the State of Illinois.

Because of the minority composition of the neighborhood, Midwest determined that further environmental justice assessment was needed. According to EPA guidelines, if the minority or low-income population of the study area is significantly higher than the minority or low-income population of the state, it is considered a Community of Concern, and further environmental justice assessment is needed to determine whether the proposed project could potentially cause disproportionate "high and adverse impacts" on the local community.

In order to determine whether the proposed project could cause disproportionate "high and adverse impacts" on the Hillcrest/Patterson Road Community, Midwest performed field surveys and conducted interviews with local public officials and several community leaders to discuss concerns about the proposed project, including both Routes A and B. The findings of Midwest's research are set forth in Table 5 of the Hayes report in Appendix D. The Hayes report indicates that the proposed project could have a potential positive impact on the community in the areas of noise and public safety. The location of the track in Routes A and B would enable trains to pass the local community at a slightly further distance than they do currently. Also, according to Midwest's anticipated operations over the

3.3 INITIALLY CONSIDERED ALTERNATIVES TO THE PROPOSED ROUTE

The Station has received coal by barge in the past; however, this was discontinued prior to 1979 as direct delivery by rail proved to be more cost-effective. Midwest says that, while barge delivery is still possible at the site, it could involve a major dredging of the Illinois Waterway (Des Plaines River) as well as construction of facilities within the floodplain. The area where barges were unloaded is in a relatively quiet section of the Des Plaines River and silting tends to naturally occur in such an area. Midwest states that an underwater survey would probably be needed to see how much dredging would be required to establish a draft of 9 feet, the level maintained by the U.S. Army Corps of Engineers in navigable waterways, but that a significant amount of material would probably have to be dredged and disposed of in a landfill area (spoil from dredging operation must be disposed of in suitable disposal areas and cannot be placed within the floodplain). Although much of the old dock face and concrete dock walls are still in place, Midwest says that a thorough evaluation of the design of permanent facilities for barge unloading would be necessary to determine whether and to what extent additional unloading facilities would need to be constructed in the floodplain. Midwest says that it would thoroughly investigate barge delivery of coal to the Station if there were no other way to assure an adequate supply of coal to meet Station needs but that it might not pursue barge delivery, as the economics are not favorable.

Midwest says there are no mines supplying the required quality of coal within trucking distance of the Station but that it would consider delivery of coal by truck from one of its nearby generating stations, if the alternative were not to have enough coal. At this time, Midwest's plans for barge delivery or truck delivery of coal are speculative.

3.4 ENVIRONMENTALLY PREFERABLE ROUTE

Table 3-2 shows a comparison of Routes A and B based on environmental factors (see Chapter 4 for details). Although Route A is longer than Route B (4,607 feet vs. 3,988 feet), both routes would have minimal and similar adverse environmental impacts. Midwest states that train operations over either route would be 9 weekly in the near term (the same as currently) and possibly up to 12 weekly in 5-10 years. Route A would involve construction of a bridge over a perennial stream and construction of a bridge over a public road. However, as discussed in more detail in Chapter 4, neither bridge construction would cause significant environmental impacts, and SEM's proposed mitigation measures would adequately minimize any potential environmental effects.

the Des Plaines River. The watershed area of this ditch is estimated to be less than 10 acres. The dominant vegetation observed within the ditch was cattails (*Typha* sp., OBL).¹⁰ Data on this area was supplied to the Corps, who indicated that the area was not a "water of the United States" under Corps jurisdiction (Appendix C, Attachment 1).

At Sugar Run a riparian wet meadow is located below the Ordinary High Water elevation (OHW). This meadow is dominated by reed canary grass (*Phalaris arundinacea*, FACW+).¹¹ Other weedy facultative species occurring less frequently include clearweed (*Pilea pumila*), white snakeroot (*Eupatorium rugosum*), and smartweed (*Polygonum* spp.). Mulberry, elm, and hackberry saplings overhang the creek in some areas, although the predominant cover type is herbaceous. The Corps has determined that this area does contain "waters of the United States" (Appendix C, Attachment 2).

There is an area immediately east of Sugar Run where one of the dominant plants is reed canary grass. Although reed canary grass is a wetland plant, it is also very aggressive and can take over disturbed upland as well as wetland areas. The other dominant plants encountered at this location were non-wetland plants: burdock (*Arctium minus*, UPL) and ground ivy (*Glechoma hederacea*, FAC-).¹² In addition, no indicators of wetland hydrology or hydric soils were observed. Therefore, SEA concludes that this area is not a wetland. This data was provided to the Corps.

Potential impacts of the proposed rail line on the above waterways and wetlands are discussed in Chapter 4, Section 4.3.

2.5 BIOLOGICAL RESOURCES

There are no officially designated wildlife refuges or protected areas located within the project site.

¹⁰ OBL: obligate wetland species. Such species are nearly always found in wetlands.

¹¹ FACW+: facultative wetland plants, usually occurring in wetlands but occasionally found in nonwetlands.

¹² UPL: upland plants; FAC-: facultative plants equally likely to occur in wetlands or nonwetlands.

consumption from 3.5 million tons per year currently to 4.5 million tons per year would bring total yearly train trips to and from the Station to 600 (12 per week), using 126-car trains. If train length is increased to 135 cars, transporting 4.5 million tons of coal would generate 550 total train trips per year (11 weekly) at the Station.

According to Midwest's petition, UP or its agents would likely be the sole provider of rail service into the Station over the rail line proposed by Midwest. According to information provided by UP to Midwest, train operating speed over Route A would be less than 15 MPH. Trains would be permitted to operate over the proposed line at any time of the day or night.

Midwest would contract track maintenance and inspection to a firm specializing in this type of service. Vegetation would be controlled by cutting as needed; herbicides would not be used.

ES.3.2 Route B

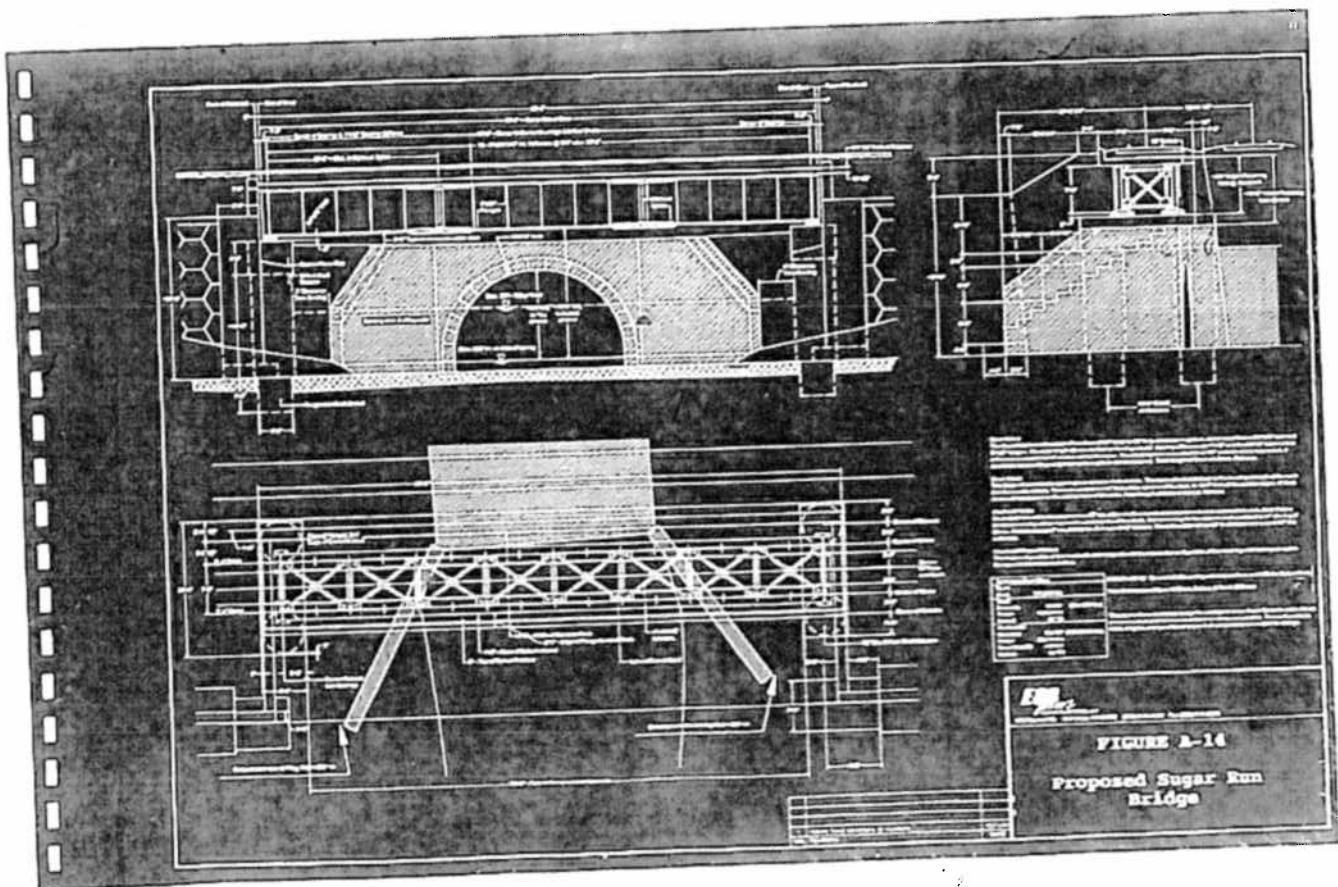
Route B is the route initially planned by Midwest. As Figure A-7 and comparison of Figures A-8 and A-12 in Appendix A shows, Route B is virtually identical to approximately the first 1,600 feet of Route A. At that point Route B begins curving southeast to connect with existing UP yard trackage at approximately Station 19+88 on Route B. Total design length of Route B would be approximately 1,988 feet.

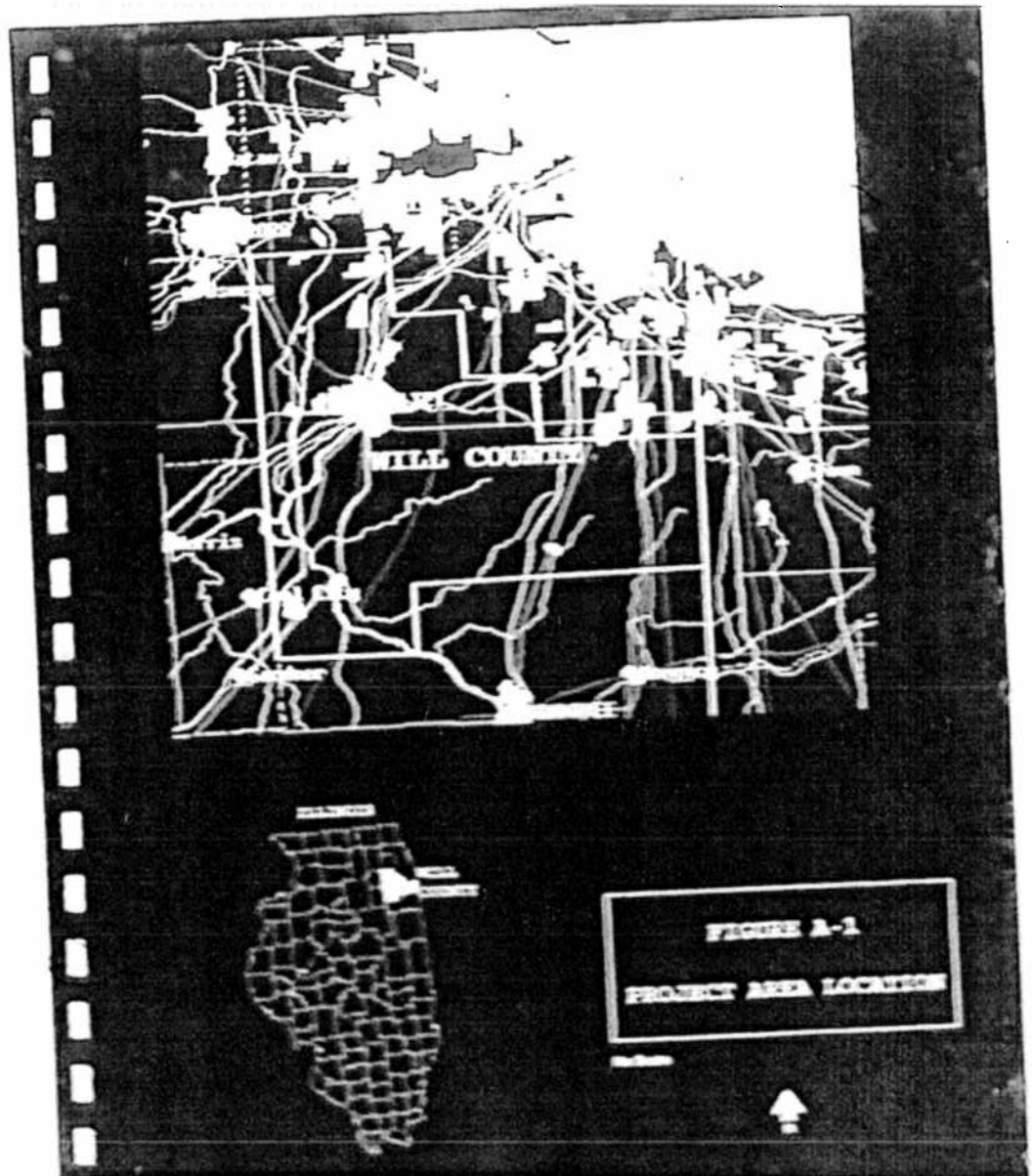
Train operations over Route B would be 9 weekly at current levels of Station coal use and possibly 11 or 12 weekly in 5-10 years, depending upon whether 126-car or 135-car trains are used.³

ES.3.3 Initially Considered Alternatives to Route A and Route B

The Station has received coal by barge in the past; however, this was discontinued prior to 1979 as direct delivery by rail proved to be more cost-effective. Midwest says that, while barge delivery is still possible at the site, it could involve a major dredging of the Illinois Waterway (Des Plaines River) as well as construction of facilities within the floodplain. The area where barges were unloaded is in a relatively quiet section of the Des Plaines River and silting tends to naturally occur in such an

³ Midwest states that Route B could not currently accommodate 135-car trains but that UP has developed a plan in which UP, or possibly Midwest (under a lease agreement) would renovate several tracks in the South Joliet Yard to facilitate movement of 135-car trains over Route B.





deposition. Placement of fill material in a wetland to serve as support for the track structure removes a portion of the wetland from use and could alter the hydrology of that portion of the wetland which is not covered with fill.

Route A would cross Sugar Run, a perennial stream, at station 31+45.93. The crossing structure would be a single span, welded steel plate girder bridge with an 83-foot deck of cast-in-place concrete ballast (Appendix A, Figure A-14). The bridge would be constructed immediately adjacent to the existing arch and wing wall culvert under the UP line. The proposed bridge would span the UP culvert and not modify it. The low cord of the proposed bridge deck would be 5.5 feet above the top of the arch of the UP culvert opening. The abutments for the bridge would consist of two 72-inch diameter drilled shaft caissons on each side of Sugar Run. To avoid direct impacts on the stream, the caissons would be drilled behind the wing walls of the existing culvert, thus placing them above the floodplain. No construction activities would occur within the Sugar Run drainage way.

Construction of Route A is expected to have no floodplain impacts because no new structures or fill would be placed in the existing floodway or below the 100 year flood elevation (331'—see Appendix A, Figures A-8, A-9, and A-15). This includes all construction relating to the Sugar Run bridge. Surface runoff would be passed along and through the proposed embankment; adjacent drainage flowing to the north from the existing railroad right-of-way would be collected in new ditches and passed through the Route A embankment by culverts. Midwest states that silt fences or straw bales would be installed along toes of embankments where disturbed material may erode. Straw bales would be installed along major drainage channels as required. Erosion control would be applied in accordance with the latest edition of Illinois Procedures for Urban Soil Erosion and Sedimentation Control and The Illinois Urban Manual.

Construction of Route A would have no wetland impacts. A drainage ditch within the western part of the proposed right-of-way may be affected by placement of fill; however, the U.S. Army Corps of Engineers (Corps) determined that this is not a "water of the United States" within its jurisdiction and that therefore a Corps permit under Section 404 of the Clean Water Act is not required (Appendix C, Attachment 1).¹⁰

¹⁰ This drainage ditch is located within the site of Midwest's originally proposed construction, Route B. The Corps letter shown in Attachment 1 was an response to Midwest's original proposal.

Basic steps in the construction process would be as follows:

- Site clearing, subgrade preparation, and utility relocation, if necessary.
- Placement of embankment fill material and retaining wall structures.
- Construction of bridges crossing Sugar Creek and Patterson Road.
- Placement of ballast and track materials (ties, plates, rails, switches).
- Connection to existing track on east and west ends.

The proposed rail line construction is expected to take from six to eight months, with the major construction activities as follows:

- | | |
|--|-------------|
| • Clear/grubbing, placement of fill material | Months 1-4. |
| • Retaining wall installation | Months 3-5. |
| • Bridge Construction | Months 4-7. |
| • Rail installation | Months 5-8. |

3.1.2 Operation and Maintenance

Operations

The proposed rail line would bring inbound coal to the Station. Midwest expects no other potential users of the line either now or in the future. No material other than coal is expected to be shipped over the line.

The Station currently uses approximately 3.5 million tons of coal per year. The coal burned at the Station originates from mines in the Powder River Basin of Wyoming. UP moves the coal approximately 1,100 miles from the mines to a point a few hundred yards east of the Station (shown in Appendix A, Figure A-7 as the point just east of Brandon Road where UP ownership changes to IC ownership). Midwest indicates that at this point inbound coal trains must stop so that an IC crew can replace the UP crew; from that point, the unit coal trains are transported by IC a short distance along its track into the plant. According to Midwest, the crew change sometimes results in substantial delays. Construction of Route A would provide an alternate route to access the Station.

Midwest indicates that the Station currently receives approximately 233 loaded unit coal trains each year and that each train consists of 126 railcars. This results in a total of 466 train trips of both loaded and empty trains yearly, which is approximately 9 total train trips per week.

The Illinois Department of Natural Resources' (IDNR) State Water Survey conducted an analysis of water availability from Lake Michigan, inland surface waters, and groundwater, and concluded that, by 2020 there will be some locations with potential water shortages, including Joliet Township in Will County. In the areas that are beyond the likely extent of Lake Michigan water supply systems, future increases in demand will have to be met primarily through increased withdrawals from groundwater sources or inland water sources such as the Fox and Kankakee rivers. However, the deep bedrock aquifer is limited in its capacity to supply inland communities with adequate water, especially in Will and southern Cook counties. Although adequate groundwater might be had through greater use of the shallow Silurian dolomite aquifer, this aquifer is especially susceptible to contamination in some areas. The ESA noted that there is a high potential for contamination of shallow aquifers in the project site area because the sand and gravel or permeable bedrock is directly below land surface. The City of Joliet has recently committed to using the Kankakee River as its water supply and discontinuing the use of its deep wells except for drought emergencies. The Northeastern Illinois Planning Commission notes that this river has a limited quantity of water and relatively poor water quality.

Groundwater at the project site closely approximates and is governed by the adjoining Des Plaines River surface elevation. While the project site may act as a surficial and very localized recharge area (infiltration into the fractured bedrock), based on its location adjacent to the Des Plaines River, the project site is located in a regional discharge area.

2.4.2 Surface Water

The project area is located on the south bank of the Des Plaines River. This river, which originates in Wisconsin, flows south, generally paralleling the Lake Michigan shoreline, and then turns southwest toward Joliet. North of Joliet, the river joins the Sanitary and Ship Canal. South of Joliet, at Brandon Road lock and dam, the canal ends and the Des Plaines, widened and deepened as part of the Illinois Deep Waterway, continues southwest until it joins with the Kankakee to form the Illinois River, which flows southwest across the state to empty into the Mississippi northwest of St. Louis, Missouri. Sugar Run, a perennial stream, flows north across the project site to empty into the Des Plaines (see Appendix A, Figures A-2 and A-4).

The United States Environmental Protection Agency (EPA) has developed a national watershed rating system; the national watershed characterization of the Des Plaines watershed is a score of 5, indicating more serious water quality problems but with a low vulnerability to stressors such as pollutant loadings.

sites (ESA results are discussed in greater detail in Chapter 4).

2.2 SOCIOECONOMIC SETTING

The project area is on the periphery of one of the largest metropolitan areas in the country. Population in the six-county region was 8.1 million in 2000, an increase of more than eleven percent since 1990. Population growth in Will County far outstripped regional growth in that time, growing by 41 percent between 1990 and 2000, to 562,266 people. Joliet's 2000 population was 106,221, up 38 percent since 1990. The Northeastern Illinois Planning Commission expects these significant growth rates to continue. The Commission predicts that the region's population will reach more than 9 million by the year 2020, with the largest gains occurring in Cook and Will counties.

In 2000, 18.2 percent of Will County residents were minority; most of this group were Black (African American), at 10.5 percent of the county total; 8.7 percent of county residents were of Hispanic or Latino origin. Estimated 1997 median household income for the county was \$34,063, which is 31 percent higher than estimated median household income for the State of Illinois. Estimated percentage of county residents in 1997 living below the poverty level was 6.5 percent, compared to 11.3 percent for the state.

The Hillcrest/Patterson Road neighborhood is a minority community; approximately 97 percent of the residents were minority in 2000 (91 percent of the residents were Black). Some 3.7 percent of community residents were Hispanic in 2000. Because of the neighborhood's status as a minority community, an environmental justice study of the area was performed in regard to the proposed project; the results of this study are discussed in Chapter 4.

2.3 PHYSIOGRAPHY

Will County encompasses 843.2 square miles. Elevation in the county gradually declines from northeast to southwest, with elevations generally ranging between 700 and 800-plus feet above mean sea level in the eastern part of the county, between 600 and 700 feet in the central part of the county, and between 500 and 600 feet in the western part and along drainageways. The vertical difference between the highest and lowest elevation in the county (total relief) is 120 feet. The area of lowest elevation, 300 feet above sea level, is at the confluence of the Des Plaines and Kankakee Rivers. The area of highest elevation, 820 feet above sea level, is a hilltop in the eastern part of the county.

CHAPTER 1.0

1.1 PURPOSE AND NEED FOR AGENCY ACTION

On June 19, 2001, Midwest Generation, LLC (Midwest) filed a petition for exemption under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10901 with the Surface Transportation Board (Board) in Finance Docket No. 34060 for authorization to construct a rail line approximately 4,007 feet in length near Joliet, in Will County, Illinois.* Midwest's proposed route would cross an Illinois Central Railroad Company (IC) rail line. Thus, Midwest simultaneously filed a petition for crossing authority with the Board under 49 U.S.C. 10901(d), designated as Finance Docket No. 34060 (Sub-No.1).

In its petition to the Board, Midwest states that if the proposed rail line is constructed it intends to establish an agreement with the Union Pacific Railroad Company (UP) for UP to operate over the proposed rail line. Attachment B to Midwest's petition is the verified statement of William E. Rock, Assistant Vice President/Business Director - Energy for UP. Mr. Rock states that UP "would be willing to provide service over Midwest Generation's newly constructed trackage to serve the Joliet Generating Station on terms to be negotiated between the two parties." However, UP would need to seek separate authority to operate over the line. Because rail operations over the proposed rail line are reasonably foreseeable, they would be directly related to the construction of the proposed rail line, this Environmental Assessment (EA) addresses the potential environmental impacts associated with Midwest's proposed rail line construction as well as future carrier operations.

The proposed rail line would connect Midwest's Joliet Station Number 9 (Station) with UP trackage at Joliet South Rail Yard (Appendix A, Figures A-1 through A-3). Coal is the primary commodity that would be carried over the proposed rail line. Currently, UP transports coal trains from the Powder River Basin in Wyoming and Montana to a point a few hundred yards east of the Station. The coal trains are then transferred by IC a short distance along IC's track to the Station. The proposed construction would provide an alternate route across the

* The Board was formerly the Interstate Commerce Commission (ICC). The ICC Termination Act, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on October 29, 1995, and took effect on January 1, 1996, abolished the ICC and transferred certain rail functions and responsibilities to the Board.

Although UP owns South Joliet Yard, IC has an exclusive easement to serve certain tracks in the yard and has the right to share use of certain other tracks in the vicinity.

The project area is on the periphery of one of the largest metropolitan areas in the country. Will County is part of the six-county Northeastern Illinois region, which includes the City of Chicago. Population in the six-county region was 8.1 million in 2000, an increase of more than eleven percent since 1990. Population growth in Will County far outstripped regional growth in that time, growing by 41 percent between 1990 and 2000, to 502,266 people. This growth is expected to continue.

Dry, shallow-to-bedrock conditions dominate the project area. Substrate at the project site appears to be a manmade terrace cut into the limestone bedrock, upon which there has been very little soil development. Portions of the project site consist of bare rock (10%). The project area is located in the Des Plaines River watershed, which is part of the Illinois River Basin (see Appendix A, Figure A-5). Drainage in the area is to the Des Plaines River or its tributaries.

SEA conducted a biological survey and found no endangered, threatened or otherwise protected plant or animal species in the project area.

Will County is a nonattainment area for the National Ambient Air Quality Standards for ozone. Noise levels at the project site would be heavily influenced by rail and motor vehicle traffic within the surrounding transportation corridors.

The Illinois Historic Preservation Agency has indicated that there are no historic properties within the project area.

ES.3 DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES (See Chapter 3 for details)

ES.3.1 Route A, Midwest's Proposed Route

Midwest's proposed rail line, Route A, would begin just east of Brandon Road on trackage owned by Midwest. It would proceed in an easterly direction for approximately 4,000 feet before connecting with UP track #14 at South Joliet Yard. The proposed line would lie between and parallel to BNSF lines on the north and IC/UP lines on the south. The line would cross Sugar Run on a clear span bridge and cross Patterson Road on a bridge. It would cross IC's track #12 at-grade.

There are currently 466 total train trips yearly (3 weekly) to and from the Station. A proposed increase in Station coal

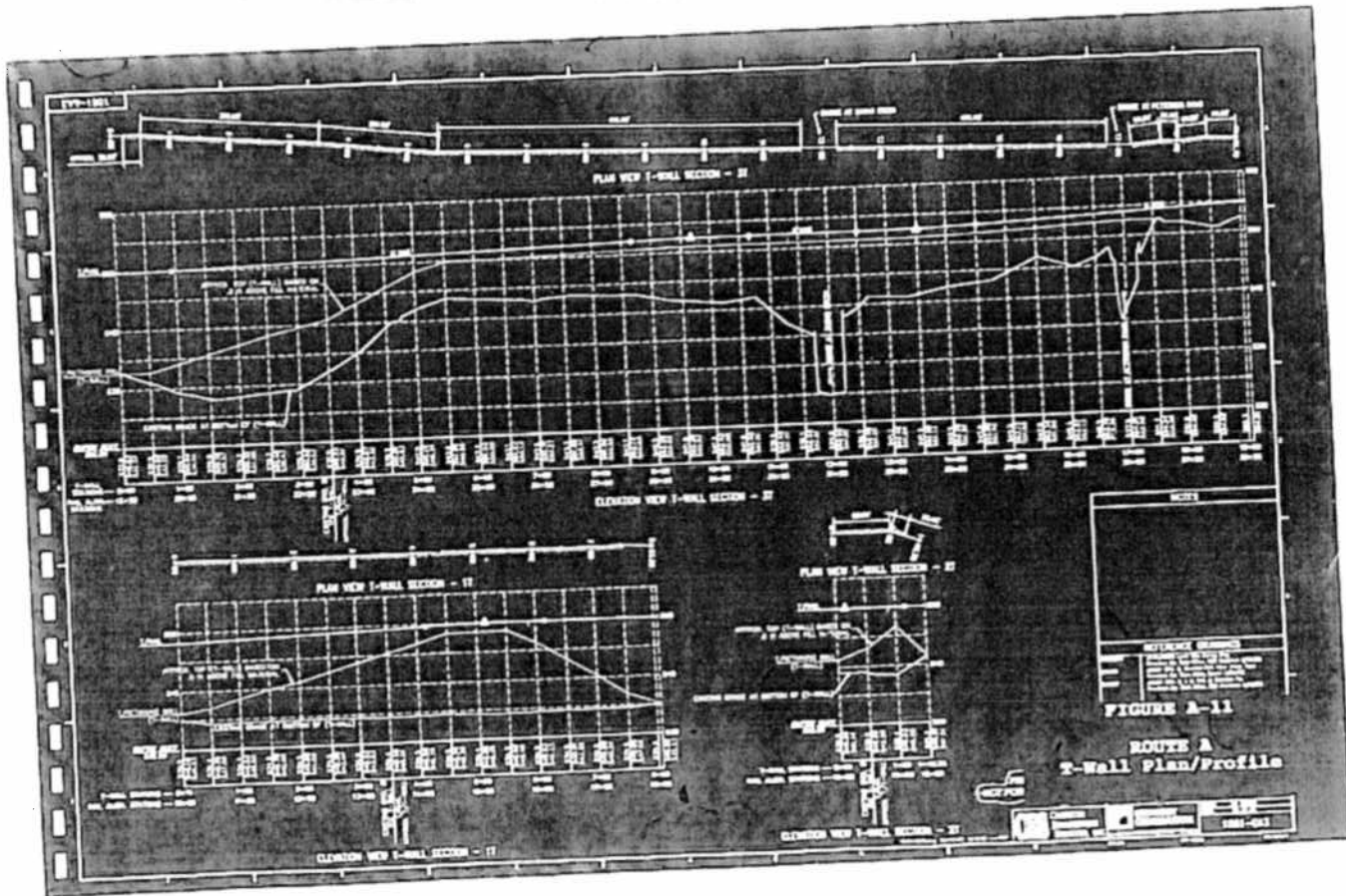
Ms. Victoria Rutson
June 28, 2001
Page 2

The Board's regulations generally require the preparation of an Environmental Impact Statement ("EIS") for rail construction proposals. 49 C.F.R. §1105.6(a). However, the regulations also permit the SEA to exercise discretion in determining that a particular proposal is not likely to have significant environmental impacts and that, therefore, an Environmental Assessment ("EA") rather than an EIS may be the appropriate documentation for the Project. Accordingly, Midwest requests the Board to determine that Midwest's proposed construction Project is not likely to have a significant environmental impact and that preparation of an EA would be the appropriate level of environmental review for the proposed Project.

In support of this request for waiver of the EIS requirement, Midwest states the following:

- (1) The preferred route of the proposed Project is 4,007 feet in length, and is located in an area that is industrial in nature in Joliet, Illinois, with other rail lines in the vicinity. Midwest has had performed a title search of the real estate involved, and has been satisfied that it has title to that property with no impediment to construction of the Project. Consequently, no prime or environmentally sensitive areas will be traversed by the line to be constructed;
- (2) Completion of this Project will have no effect on the thresholds set forth in 49 C.F.R. § 1105.7(a)(4) or (5), because the purpose of this Project is to establish competitive rail access and improved rail service, not commence new coal service to the Station;
- (3) The Project is not expected to have any effect on archeological or architectural resources;
- (4) The Project should have no impact on residential areas, because the Project site is not near any residential areas;
- (5) No threatened, endangered or special concern fish or wildlife species has been found to inhabit the Project area;
- (6) No wetlands are present; and
- (7) Our discussions with Doshier personnel assigned to this Project indicate that their preliminary review of the Project and the Project site confirms that there do not appear to be significant environmental issues associated with this Project.

APPENDIX B



project (see Appendix C, Attachment 6).

The field survey noted above searched for the presence of any threatened or endangered species; however, no occurrences of such species were observed. Among the species searched for were the leafy prairie clover (*Desmodium illinoense* or *Petalostemon foliosus*) and lakeside daisy (*Hymenoxys* or *Actinella herbacea*). Dry, shallow-to-bedrock conditions dominate the project area, as is characteristic of other sites where these species have been found. Although widely scattered occurrences of some prairie species, including big bluestem (*Andropogon gerardii*) and nodding wild onion (*Allium cernuum*), do occur, cohesive prairie remnant communities (even those having a significant woody component), such as those typically found in association with the two species of concern, are not present on the site. Further, plant communities on the site were observed to consist primarily of ruderal species indicative of disturbance.²³

Another species of concern was the Hine's emerald dragonfly (*Somatoclora hineana*). Survey results indicate that the Illinois habitat of this dragonfly consists of complex wetlands having small, shallow spring-fed streams in areas of calcareous bedrock that drain into wet meadows and cattail marshes. These marshes are found primarily along the Des Plaines River drainage in Illinois. The project site is located on calcareous bedrock, but is all upland with the exception of narrow strips of reed canary grass found between the banks of Sugar Run, below the GWR elevation. The field survey found no evidence of groundwater discharge seeps. The floodplain forested wetland along the Des Plaines River north of the project area is located approximately 200 feet north and 20 to 30 feet below the elevation of the proposed rail alignment. In summary, habitat appropriate for the dragonfly of concern does not occur within the project alignment.

Bald eagles (*Haliaeetus leucocephalus*) likely are transients in the project area as they utilize the Des Plaines River corridor, but appropriate nesting and roosting habitat is not available on-site. Woody vegetation along the project alignment consists of shrubs and small trees located more than 300 feet from the river. SEA observed no evidence of past nesting activity on site.

²³ A ruderal species is a plant that grows in disturbed, poor land, or waste.

- (1) The preferred route of the proposed project is 4,007 feet in length, and is located in an area that is industrial in nature in Joliet, Illinois, with other rail lines in the vicinity. Midwest has performed a title search of the real estate involved, and is satisfied that it has title to that property with no impediment to construction of the project. Consequently, no pristine environmentally sensitive areas will be traversed by the line to be constructed.
- (2) Although the project may lead to an increase in rail traffic, the amount of new traffic, if any, will not exceed the Board's thresholds set forth at 49 C.F.R. 1105.7(e)(4) or (5).
- (3) The project is not expected to have any effect on archeological or architectural resources.
- (4) The project should have no impact on residential areas, because the project site is not near any residential areas.
- (5) No threatened, endangered or special concern fish or wildlife species has been found to inhabit the project area.
- (6) No wetlands are present.
- (7) Dawkins Environmental Consultants indicates that there do not appear to be significant environmental issues associated with the project, based upon their preliminary review of the project and project site.

Accordingly, based on the currently available information, preparation of an environmental assessment rather than an environmental impact statement is warranted in this case at this time. As discussed above, the environmental impacts of this project are unlikely to be significant and can be addressed through appropriate mitigation measures.

After the environmental assessment is prepared, it will be made available for public review and comment. The Surface Transportation Board then will consider the environmental assessment, the public comments, and any post environmental assessment recommendations of SEA before making its final decision in this proceeding.

CHAPTER 6.0 CUMULATIVE ENVIRONMENTAL IMPACTS

Cumulative environmental impacts result when the effects of an action on a particular resource, ecosystem, or human community are added to or interact with other effects in a particular place and within a particular time. Cumulative impacts of construction and operation of either Route A or B would include those which may result from an increase in operations at the Station. While environmental impacts from construction and operation of either Route A or B are not expected to be significant, these impacts would be added to similar impacts which may result from increased operations at the Station. However, the primary cumulative impacts would be air and noise, and both rail routes would have possibly beneficial impacts in these areas and thus would probably not have negative cumulative impacts.

existing culvert and extension, thereby resulting in potential flooding upstream of the culvert. The report states that such flooding could have negative impacts on the minority community described in the environmental justice study discussed in Section 4.2.1 of this Environmental Assessment (EA). However, as described in Chapter 3 and further discussed in Section 4.3.1 of the EA, the proposed rail line would not cross Sugar Run on a culvert but on a clear span bridge. As noted in Section 4.3.1, the bridge would not impede the flow of water through the existing culvert and would not increase flooding. The Berger report also stated that placement of fill in the floodplain would reduce flood storage capacity in the area. As noted in Section 4.3.1, no new structures or fill would be placed in the existing floodway or below the 100-year flood elevation. Will County is currently reviewing Midwest's application for a building permit and will not issue such a permit unless it finds that the proposed construction would comply with the County's floodplain ordinance.

The Berger report states that placement of an additional culvert at Sugar Run would negatively affect wetlands at that location. Section 4.3.1 notes that the Corps concluded that the proposed construction, including the Sugar Run bridge, would not place fill within "waters of the United States" and so would not affect wetlands.

The Berger report also states that extension of the existing UP culvert would negatively affect the possible historic character of that culvert. As noted in Section 4.8, the proposed bridge would span the existing culvert and not modify it. The IHRA has agreed that construction and operation of Route A would not impact historic or cultural resources.

off of the proposed site.

In its initial response to a request for comments on the proposed rail construction, Will County stated that it feels the proposed construction would duplicate an existing rail facility when there are other rail facilities that need to be constructed and/or improved within the County (Appendix C, Attachment 11). The County felt that this concern would be heightened if the proposed construction would have floodplain or wetland impacts, which, as discussed in Section 4.3, it would not. The County stated that there may be other rail construction or rail improvement needs within the County that would be better met through a project that would increase the safety or capacity of the existing transportation system.

The Illinois Department of Transportation indicated that it has no comments on the proposed rail construction at this time (Appendix C, Attachment 10).

Based on the above information, construction of Route A would not, in itself, adversely affect existing transportation infrastructure. Potential operational impacts are discussed below.

Operations

There are currently 466 total train trips per year to and from the Station; all of these trains arrive and depart from the Station via the IC line segment shown in Figure A-7. Midwest states that all of this traffic would likely be shifted to Route A. There would be approximately 466 total train movements per year over Route A at the current level of coal consumption at the Station (3.5 million tons per year) and with current 126-car train size. This is approximately nine total train trips per week. If coal consumption rises to 4.5 million tons per year, as Midwest projects, and train size remains at 126 cars, there would be 600 total train trips per year, which would be around 12 total trips per week. If coal consumption rises to 4.5 million tons and train size increases to 135 cars per train, then there would be 550 total train trips per year, which would be around 11 total trips per week.

Midwest states that the proposed shift in train operations to Route A would not change train movements on lines beyond South Joliet Yard except that, over time, the number of total train trips to and from the Station may increase somewhat. Based on the figures above, total train trips to and from the Station on lines beyond South Joliet Yard could increase over time from the current 466 per year to 600 train trips per year or to 550 per year, depending on whether train size remains at 126 cars or increases to 135 cars. This would mean a possible increase in

4.5 TRANSPORTATION AND TRAFFIC SAFETY

The proposed rail line construction and future carrier operations could potentially affect transportation in the following ways:

- Rail line construction can affect local transportation infrastructure.
- Rail line operations can cause traffic delays at grade crossings of roads or other rail lines.
- Rail line operations can cause accidents at grade crossings of roads or other rail lines.
- Rail line operations can result in train derailments.
- There could be a reduction in transportation-related impacts on rail routes or other transportation modes, which might incur a reduction in traffic as a result of the proposed action.

The potential transportation and traffic safety impacts of the proposed project are discussed in detail below.

4.5.1 Route A

Construction

The local road system is described in Chapter 2. Route A would make no at-grade road crossings; it would cross Patterson Road on a bridge to be built adjacent to the existing UP bridge over the road (see Appendix A, Figures A-9); the proposed bridge design is shown in Appendix A, Figure A-16. The Illinois Commerce Commission and Joliet Township have indicated that permits would be required prior to the proposed bridge construction. Midwest is in the process of obtaining those permits.

Route A would make an at-grade crossing of a track over which Illinois Central Railroad Company (IC) has an exclusive easement to operate (see Appendix A, Figures A-7 and A-9); the crossing would be a diamond interchange. Midwest has filed with the Board a petition for line crossing authority.

The Route A overpass of Patterson Road would cross over public utilities buried in the Patterson Road right-of-way beneath the existing UP railroad bridge; it may be necessary to bury these deeper before starting any foundation excavation for the proposed Patterson Road Bridge. Route A would also cross under an existing overhead power line at stations 35+50 and 4+00; the power line would not require relocation. There are utility poles in the western part of the project site that hold railroad signal wires; these are not public utilities. Midwest states that if these signal wires are active, they would be relocated.

The Corps determined that the Route A project boundaries do include waters of the United States at Sugar Run and its adjacent wetlands. The wetland at Sugar Run is below the Ordinary High Water (OHW) mark; the proposed bridge abutments would be behind the wing walls of the existing UP culvert and above the OHW mark and floodplain. The Corps determined that the proposed construction would not discharge fill material into these waters of the United States and therefore would not require a Corps permit (Appendix C, Attachment 2). The Corps did request soil erosion and sediment controls to prevent construction materials and/or activities from entering waters of the United States.

As noted earlier, the Will County Land Use Department has indicated that a building permit would be required prior to the construction of the proposed Sugar Run bridge. Midwest is in the process of obtaining the building permit. Before issuing the permit, the County must obtain from the Illinois Department of Natural Resources' (IDNR) Office of Water Resources (OWR) an engineering review and approval of the hydraulic evaluation for the bridge. The results of OWR's review are shown in Appendix C, Attachment 7. OWR concluded that the proposed bridge would not reduce the waterway opening of the existing UP culvert and would not increase headloss of the existing culvert.²⁹ OWR agreed that the proposed bridge would have insignificant impacts on the regulatory water surface elevations. OWR has notified Will County of its findings. The County is currently reviewing Midwest's building permit application.

The Illinois Environmental Protection Agency was contacted regarding the proposed rail line construction and indicated that it has no comments or objections to the proposed project at this time (Appendix C, Attachment 8).

Operation and Maintenance. An accident during train operations over the proposed line could result in a spill of contaminant (such as diesel fuel) into a waterway or wetland. However, the likelihood of a train accident is minimal due to the projected low traffic level on the line and also to the planned maintenance program for the rail line. In addition, diesel fuel for the locomotives, which is the primary potential contaminant to be carried over the proposed rail line, would only be present in limited quantities.

Herbicides would not be used in right-of-way maintenance; therefore maintenance activities should not affect area water

²⁹ Culvert headloss is the loss of energy for flowing water due to increased friction in the culvert. The loss of energy slows the water flowing through the culvert, resulting in a backup of water upstream of the culvert.

CHAPTER 2.0 DESCRIPTION OF THE AFFECTED ENVIRONMENT

The purpose of this chapter is to give a brief overview of the affected environment in the project vicinity. Potential environmental impacts of the proposed action, as well as permitting requirements, are discussed in Chapter 4.

2.1 LAND USE

As shown in Appendix A, Figure A-1, the proposed rail line would be located in northeastern Illinois, in the west central part of Will County. Will County is part of the six-county Northeastern Illinois region, which includes the City of Chicago.

The project area is located in an unincorporated part of the county on the south bank of the Des Plaines River and is encompassed to the north and east by the City of Joliet (see Appendix A, Figure A-2). Joliet is approximately 35 miles from Chicago.

The project site is located in a mixed-use, commercial, residential, and industrial area. The project site consists of undeveloped land flanked by multiple railroad tracks: Illinois Central Railroad Company (IC) and Union Pacific Railroad Company (UP) tracks on the south and Burlington Northern Santa Fe Railway Company (BNSF) tracks on the north. The western half of the project site is undeveloped, with common vegetation and several dirt roads running through it. The eastern half is within the existing UP right-of-way, which contains the UP rail embankment, existing rail lines, and existing crossings of Sugar Run and Patterson Road.

Approximately 200 feet north of the project site is a floodplain forested wetland along the Des Plaines River, while south of the site is the Hillcrest/Patterson Road community, the only residential area in the project vicinity (see Appendix A, Figure A-4). There are numerous residential and vacant properties on Woodruff Road, as well as commercial facilities. The site is flanked on the east by the rail trackage of South Joliet Yard, open land, and a quarry, while to the west, across Brandon Road, is Joliet Station (see also Appendix A, Figure A-3).

The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) performed an Environmental Site Assessment (ESA) to identify possible hazardous waste sites within the proposed right-of-way. SEA reviewed existing databases to identify historical spill information and took soil samples at seven locations. SEA identified no hazardous waste

A and Route B, neither route can be designated at this time as clearly environmentally preferable to the other. However, as stated in the analysis throughout this EA, neither Route A nor Route B would have significant environmental impacts.

The primary environmental distinctions between the two routes are as follows: Route A would offer a reduction in time for switching operations, leading to a possible reduction in air and noise emissions, and would present a slightly greater shift in rail operations away from a residential area (30 feet); Route B would involve construction of a shorter route and would not involve construction of a bridge over a perennial stream or a bridge over a public road. SEA concludes that based on the information available to date, these distinctions are not sufficient to designate one route as environmentally preferable to the other. SEA specifically requests comments on this issue from all interested parties and the public.

ES.3.5 No-Build Alternative

If neither Route A nor Route B is built, environmental impacts associated with construction and operation of those rail lines would not occur. These potential impacts include: (1) conversion of 2.8 acres of Midwest-owned land to rail right-of-way under either route; (2) construction of a bridge over Sugar Run (Route A); (3) conversion of land within the footprint of the rail bed and elimination from habitat use; (4) construction of a bridge over Patterson Road (Route A); (5) potentially beneficial impacts on air pollutant emissions due to reduction in locomotive idling during train unloading (both routes); (6) potentially beneficial impacts on noise levels in the Hillcrest/Patterson Road area, due to a shift in train operations along the western part of Route A and also along Route B to a line about 90 feet further away from the neighborhood, and to a shift in operations along the eastern part of Route A to a line about 30 feet further away from the neighborhood; and (7) potentially beneficial impacts on noise levels due to reduction in locomotive idling during train unloading (both Routes A and B).

Midwest indicates that if alternate rail access to the Station does not become available, and if it cannot obtain enough coal under the current rail operation process to increase Station coal consumption and power output, it would consider moving to barge delivery of coal, although it says the economics of this are not favorable. Midwest states that it may consider delivery of coal by truck from one of its nearby generating stations, if the alternative were to not have enough coal. At this time, Midwest's plans for barge delivery or truck delivery of coal are speculative.

area. Midwest states that an underwater survey would probably be needed to see how much dredging would be required to establish a draft of 9 feet, the level maintained by the U.S. Army Corps of Engineers in navigable waterways, but that a significant amount of material would probably have to be dredged and disposed of in a landfill area (spoil from dredging operations must be disposed of in suitable disposal areas and cannot be placed within the floodplain). Although much of the old dock face and concrete dock walls are still in place, Midwest says that a thorough evaluation of the design of permanent facilities for barge unloading would be necessary to determine whether and to what extent additional unloading facilities would need to be constructed in the floodplain. Midwest says that it would thoroughly investigate barge delivery of coal to the Station if there were no other way to assure an adequate supply of coal to meet Station needs, but that it might not pursue barge delivery, as the economics are not favorable. At this time, Midwest's plans for barge delivery of coal are speculative.

Midwest states that there are no mines supplying the required quality of coal within trucking distance of the Station but that it would consider delivery of coal by truck from one of its nearby generating stations, if the alternative were to not have enough coal. At this time, Midwest's plans for truck delivery of coal are speculative.

ES 3.4 Environmentally Preferable Route

Table 3-2 shows a comparison of Routes A and B based on environmental factors (see Chapter 4 for details). Although Route A is longer than Route B (4,907 feet vs. 2,988 feet), both routes would have minimal and similar adverse environmental impacts. Midwest states that train operations over either route would be 9 weekly in the near term (the same as currently) and possibly up to 12 weekly in 5-10 years. Route A would involve construction of a bridge over a perennial stream and construction of a bridge over a public road. However, as discussed in more detail in Chapter 4, neither bridge construction would cause significant environmental impacts, and SEA's proposed mitigation measures would adequately minimize any potential environmental effects.

Midwest states that, based on information provided by UP, Route A would be more operationally efficient than Route B. Specifically, Midwest says that Route A would require fewer switch moves, and thus less locomotive operating time, than would operations over Route B. Midwest states that trains operating over Route B would require two additional switch moves to be positioned for loading and estimates that these additional moves would require 15-20 minutes of handling time per train.

CONCLUSION

This Environmental Assessment (EA) considers the potential environmental impacts of construction of a rail line approximately 4,007 feet in length proposed by Midwest Generation, LLC (Midwest), in Will County, Illinois, as well as a shorter alternate route. The proposed construction would create an alternate route for direct rail service to Midwest's Joliet Generating Station Number 9, which is currently served solely by an Illinois Central Railroad Company rail line.

The EA preliminarily concludes that if either Midwest's proposed route or the shorter alternate route is built, this proposal would not significantly affect the quality of the natural or human environment provided the recommended mitigation measures set forth in Chapter 7 are implemented. Accordingly, the Board's Section of Environmental Analysis (SEA) recommends that, if the Board approves this project, Midwest be required to implement the mitigation contained in Chapter 7. SEA will consider all comments received in response to the EA in making its final recommendations to the Board.

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June 28, 2001

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VIA HAND DELIVERY

Ms. Victoria Rutson
Project Leader
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423



**Re: Finance Docket No. 34052; Midwest Generation, LLC Construction of
Rail Line in Will County, Illinois; Request for Waiver of EIS Requirement**

Dear Ms. Rutson:

This letter is submitted on behalf of Midwest Generation, LLC ("Midwest"), which on June 19, 2001, filed a Petition for Exemption pursuant to 49 U.S.C. § 10502 in the above-captioned docket for authority to construct an approximately 4,007 foot-long track in Will County, Illinois to connect Midwest's Joliet Generating Station ("Station") to the track of the Union Pacific Railroad Company.

In conjunction with the Petition for Exemption, various measures have been taken by Midwest and Dawkins Environmental Consultants ("Dawkins"), the third-party consultant approved by the STB to assist in the preparation of environmental documentation, to commence the STB's environmental review process. Specifically, (1) on April 4, 2001, a meeting was held in your office to brief the Section of Environmental Analysis ("SEA") on the proposed Project; (2) Dawkins was selected as the third-party consultant for this Project; (3) a Memorandum of Understanding governing the environmental review process was prepared and is in the process of being ratified by the STB, Midwest and Dawkins; and (4) Dawkins conducted a preliminary review of the Project on June 1, 2001.

construction noise emissions would be of short term duration and would be confined to the 6-8 month construction period.

Operations

Train operations over Route A should not adversely affect noise levels in the project area.

The Board applies a threshold level of rail traffic increase for determining whether to quantify noise that would be generated by rail traffic over a new rail line proposed for construction. This threshold is contained in 49 CFR 1105.7(e)(6). If the proposed action would add eight or more trains per day to the line to be constructed, noise to be generated by operations over the line must be quantified and sensitive receptors may have to be identified. As projected train operations over Route A fall substantially short of this threshold, SEA has not quantified the potential increase in noise levels due to such operations.

However, several factors may render proposed rail operations beneficial regarding noise impacts: operations over the western part of Route A would represent a shift in Station train movements of about 90 feet north of the current routing through the area and operations over the eastern part of Route A would shift Station train movements approximately 30 feet north of the current routing. This shift would be away from the Hillcrest/Patterson Road residential area and so would tend to reduce noise in that neighborhood from Station train movements. Also, as noted above, Midwest has indicated that UP would not leave the locomotives idling during train unloading, as is currently done, except in extreme cold temperatures; this would reduce noise impacts from this source.

4.7.2 Route B

Construction noise emissions would be of short term duration and would be confined to the 4-6 month construction period. Train operations over Route B should not adversely affect noise levels in the project area. As with Route A, Midwest has indicated that UP would not leave the locomotives idling during train unloading, as is currently done, except in extreme cold temperatures; this would reduce noise impacts from this source. However, Route B may have somewhat less beneficial noise impacts than would Route A: operations over the UP line east of Route B would not shift Station train movements further away from the Hillcrest/Patterson Road area. Also, the 15-30 minutes extra time required to position each train into the Station for unloading under Route B operations as compared to Route A operations could have somewhat more negative noise impacts.

weekly total train trips to and from the Station on lines beyond South Joliet Yard from the current 9 per week to 12 per week or 11 per week, depending on train size.

Route A would make no at-grade public road crossings. Trains to and from the Station make at-grade public road crossings in their movements beyond the project area; however, the projected level of traffic increase from the Station on these lines should not have a significant impact on grade crossing accident or delay in these areas.

Route A would cross an IC exclusive easement track at-grade. This track, which IC terms its "ladder" track, is shown as track #12 in Figure A-7; the crossing point is shown as point "2" in the figure. IC has submitted filings to the Board opposing Midwest's petition that indicate that the ladder track is currently inactive but that it has the potential to be reactivated in the future. IC states that the ladder track serves as its only means of access to the western side of South Joliet Yard and that the track would serve as a conduit for IC traffic that might move between South Joliet Yard and points west of the yard. IC has expressed great concern that construction and operation over Route A could interfere with future IC operations at South Joliet Yard and could limit IC's ability to make full use of the yard in the future. IC states that UP may plan to park trains along Route A and track #14 for extended periods of time. IC states that it must, at the very least, be assured that the proposed construction and crossing of the ladder track would not limit or restrict IC's future use of all of South Joliet Yard. If the Board issues a final decision granting Midwest construction authority, it will then address Midwest's petition for crossing authority and the transportation aspects of the proposed crossing.

Midwest indicates that, as is currently the case, access to South Joliet Yard will continue to be coordinated with the Union Depot ("UD") Tower that operates the Chicago Metra commuter rail system. Midwest states that the only time IC operations would be impaired by operations over Route A would be while trains are actually being removed from or placed at the Station and are moving across the intersection of Route A and the ladder track. Midwest says that UP has developed a plan to place loaded cars awaiting placement into the Station in such a way that IC would continue to have unimpeded access both to its exclusive easement tracks in the yard and to track which it actually owns going west toward Plaines (see Appendix A, Figure A-7).

Any instance of train operation over a rail line involves at least a limited potential for derailment. However, track safety inspections would be conducted according to Federal Railroad Administration standards. The inspection program should detect

Although Midwest has designated Route A as its proposed route for the above-mentioned reasons, and Route A may be more operationally efficient than Route B, SEA preliminarily concludes that because of the similarity of environmental impacts of Route A and Route B, neither route can be designated at this time as clearly environmentally preferable to the other. However, as stated in the analysis throughout this EA, neither Route A nor Route B would have significant environmental impacts.

The primary environmental distinctions between the two routes are as follows: Route A would offer a reduction in time for switching operations, leading to a possible reduction in air and noise emissions, and would present a slightly greater shift in rail operations away from a residential area (30 feet); Route B would involve construction of a shorter route and would not involve construction of a bridge over a perennial stream or a bridge over a public road. SEA concludes that based on the information available to date, these distinctions are not sufficient to designate one route as environmentally preferable to the other. SEA specifically requests comments on this issue from all interested parties and the public.

3.5 THE NO-BUILD ALTERNATIVE

If neither Route A nor Route B is built, environmental impacts associated with construction and operation of those rail lines, although insignificant, would not occur. These potential impacts include: (1) conversion of 2.6 acres of Midwest-owned land to rail right-of-way under either route; (2) construction of a bridge over Sugar Run (Route A); (3) conversion of land within the footprint of the rail bed and elimination from habitat use; (4) construction of a bridge over Patterson Road (Route A); (5) potentially beneficial impacts on air pollutant emissions due to reduction in locomotive idling during train unloading (both routes); (6) potentially beneficial impacts on noise levels in the Hillcrest/Patterson Road area, due to a shift in train operations along the western part of Route A and also along Route B to a line about 90 feet farther away from the neighborhood, and to a shift in operations along the eastern part of Route A to a line about 30 feet farther away from the neighborhood; and (7) potentially beneficial impacts on noise levels due to reduction in locomotive idling during train unloading (both Routes A and B).

Midwest indicates that if alternate rail access to the Station does not become available, and if it cannot obtain enough coal under the current rail operation process to increase Station coal consumption and power output, it would consider moving to barge delivery of coal, although it says the economics of this are not favorable. It states that it may consider delivery of

are pollutant-specific, which means that an area may fall into both categories for different pollutants. Will County is nonattainment for ozone and is in attainment for the other five criteria pollutants.

The project area is not in or near a Class I area.¹⁴

2.8 NOISE

As shown in Appendix A, Figure A-3, the project site is surrounded on all sides by transportation corridors: BNSF and the UP/IC lines on the north and south, respectively, South Joliet Yard trackage on the east, and Brandon Road to the west. Noise levels at the project site would be heavily influenced by rail and motor vehicle traffic within these corridors.

2.9 CULTURAL RESOURCES

The Board contacted the Illinois Historic Preservation Agency (IHPA) to request a Section 106 review of the site from the IHPA in order to determine the presence of any artifacts of archaeological/historical significance. The IHPA responded that the project would have no effect on any Historic Properties (Appendix C, Attachment 9).

2.10 RECREATION

There are no public recreational areas or wildlife refuges in the project area.

¹⁴ Amendments to the Clean Air Act had the intention of protecting air quality by setting aside "Class I" areas for pristine air quality. Class I air quality areas are generally locations such as national parks and wilderness areas.

The Illinois Environmental Protection Agency (IEPA) maintains a comprehensive surface water monitoring and assessment program, which is designed to evaluate and protect a variety of water resource "designated uses" including: general use; public and food processing water supplies; secondary contact; and indigenous aquatic life. IEPA has classified waters all over the state as either good, fair, or poor, depending upon whether they can attain their designated uses. The Des Plaines River throughout the project area is classified as "fair" and is subject to a fish consumption advisory. Fair means water quality has been impaired and the waterbody meets some, but not all, of its designated uses.

The 100-year flood elevation in the project area is 531 feet. The immediate project site is located outside this flood hazard area (see Appendix A, Figures A-8, A-9, and A-15).

SEA assessed the project site for the presence of wetlands. Wetlands are valuable because they provide habitat for a variety of wildlife species and because they filter overland runoff, serve as stormwater storage basins, and stabilize stream banks. Under normal circumstances the 1987 U.S. Army Corps of Engineers (Corps) Wetland Delineation Manual requires that an area have the following to be considered a wetland: greater than 50% of the dominant vegetation is hydrophytic, wetland hydrology, and hydric (wetland) soils.

The floodplain forested wetland along the Des Plaines River north of the northernmost existing rail embankment is located approximately 200 feet north and 20 to 30 feet below the proposed project site. Within the area of both Routes A and B the wetland assessment identified an intermittent ditch between the proposed route and the BNSF tracks to the north. This ditch was excavated for storm water conveyance through Sogan Loam (Lithic Haplustolls), a somewhat excessively drained soil. The ditch is approximately five feet wide, runs parallel to the existing and proposed railroad tracks, and conveys storm water runoff from the project site, the surrounding railroad tracks, and Brandon Road, to a culvert near the northwest corner of the project site toward

Hydrophytic vegetation is macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. Wetland hydrology is determined by the presence of permanent or periodic inundation, or soil saturation to the surface, during at least a certain portion of the growing season. Hydric soils are those that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic (oxygen-deficient) conditions in the upper part.

Average slope in the county is 4 percent.

Elevation near the project site ranges from around 600 feet at the southern edge of the Hillcrest/Patterson Road area down to around 515 feet in the forested wetland along the Des Plaines River north of the project site. The ESA notes that topography at the project site east of Brandon Road through approximately station 17+50 (see Appendix A, Figure A-8) is relatively flat with an elevation difference estimated to be less than five feet across the property. Topography along the remainder of the project site is built up with a maximum elevation difference estimated to be approximately 10-16 feet above the native geology.

Dry, shallow-to-bedrock conditions dominate the project area and dolomitic bedrock is at or very near the surface. Substrate at the project site appears to be a manmade terrace cut into the limestone bedrock, upon which there has been very little soil development. Portions of the project site consist of bare rock (10%). At the eastern end of the site the manmade bedrock terrace is less prominent and topsoil is thickest.

The project area is located in the Des Plaines River watershed, which is part of the Illinois River Basin (see Appendix A, Figure A-6). Drainage in the area is to the Des Plaines River or its tributaries.

Data from the Illinois State Climatologist indicates that for the period 1961-1990, average annual precipitation in Will County was 36-37 inches. The average annual high temperature was 59-61 degrees; average annual low temperature was 33-35 degrees. Average annual snowfall in the project region was 28 inches. The average length of the growing season was 165-175 days.

2.4 WATER RESOURCES

2.4.1 Groundwater

Water supply sources currently being used within the six-county northeastern Illinois region are Lake Michigan, inland surface waters, and underground sources (aquifers). Four major aquifer systems primarily serve the groundwater needs of Kane, McHenry, and Will counties as well as other communities in the region: unconsolidated aquifers (local surficial sand and gravel aquifers); the shallow bedrock or "Kishwaukee dolomite" aquifer; the deep bedrock or "Cambrian-Ordovician" aquifer; and the very deep Elmhurst-Mount Simon bedrock aquifer. The deep bedrock aquifer system is the region's major groundwater resource.

Station.⁷

On March 21, 2002, the Board granted conditional approval of Midwest's petition, subject to the Board's further consideration of the anticipated environmental impacts of the proposal. Upon completion of the environmental review, the Board will issue a further decision addressing those matters and making the petition effective at that time, if appropriate. However, Midwest cannot begin construction of the proposed rail line until also obtaining authority from the Board to cross IC's track.

On June 28, 2001, Midwest submitted a request to the Board's Section of Environmental Analysis (SEA), the office responsible for conducting the environmental review, for a waiver of the requirement that SEA prepare an Environmental Impact Statement (EIS) on the proposed rail line construction (Appendix B, Attachment 1). In its response of July 2, 2001, SEA granted the waiver (Appendix B, Attachment 2). In its letter, SEA found that the proposed construction would be unlikely to involve significant environmental impacts and that an EA, rather than an environmental impact statement (EIS), is appropriate in this proceeding. SEA based its conclusion on a number of factors, including: (1) consultations with appropriate government agencies and with Midwest; (2) site inspection of the project area; and (3) the proposed line's expected minimal environmental impacts on wetlands, threatened or endangered species, and residential areas.⁸

SEA prepared this EA in accordance with the National Environmental Policy Act (NEPA) and with the Board's regulations implementing NEPA and other environmental laws at 49 CFR 1105. This EA assesses the environmental effects of the proposed action and alternatives. By letter dated August 2, 2002, Midwest requested that SEA limit its detailed review in this proceeding to Midwest's route as now proposed, stating that the proposed route is the only feasible route that would accomplish the project objectives (Appendix B, Attachment 3). Midwest further supplemented this request in an August 17, 2002, letter to SEA (Appendix B, Attachment 4). In its response of September 12,

⁷ In its petition to the Board, Midwest states that UP would likely transport 100 percent of the coal traffic into the Station over the proposed rail line. Thus, the proposed construction would eliminate the move over the IC track and enable UP to move the coal the entire distance to the Station.

⁸ On August 22, 2002, IC requested that SEA reconsider its waiver of the EIS requirements. In its response of September 17, 2002, SEA reaffirmed its earlier decision to grant the waiver. (Documents are available in the public docket for this proceeding.)

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August 7, 2001

Attachment 3

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Ms. Victoria Ruben, Acting Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423

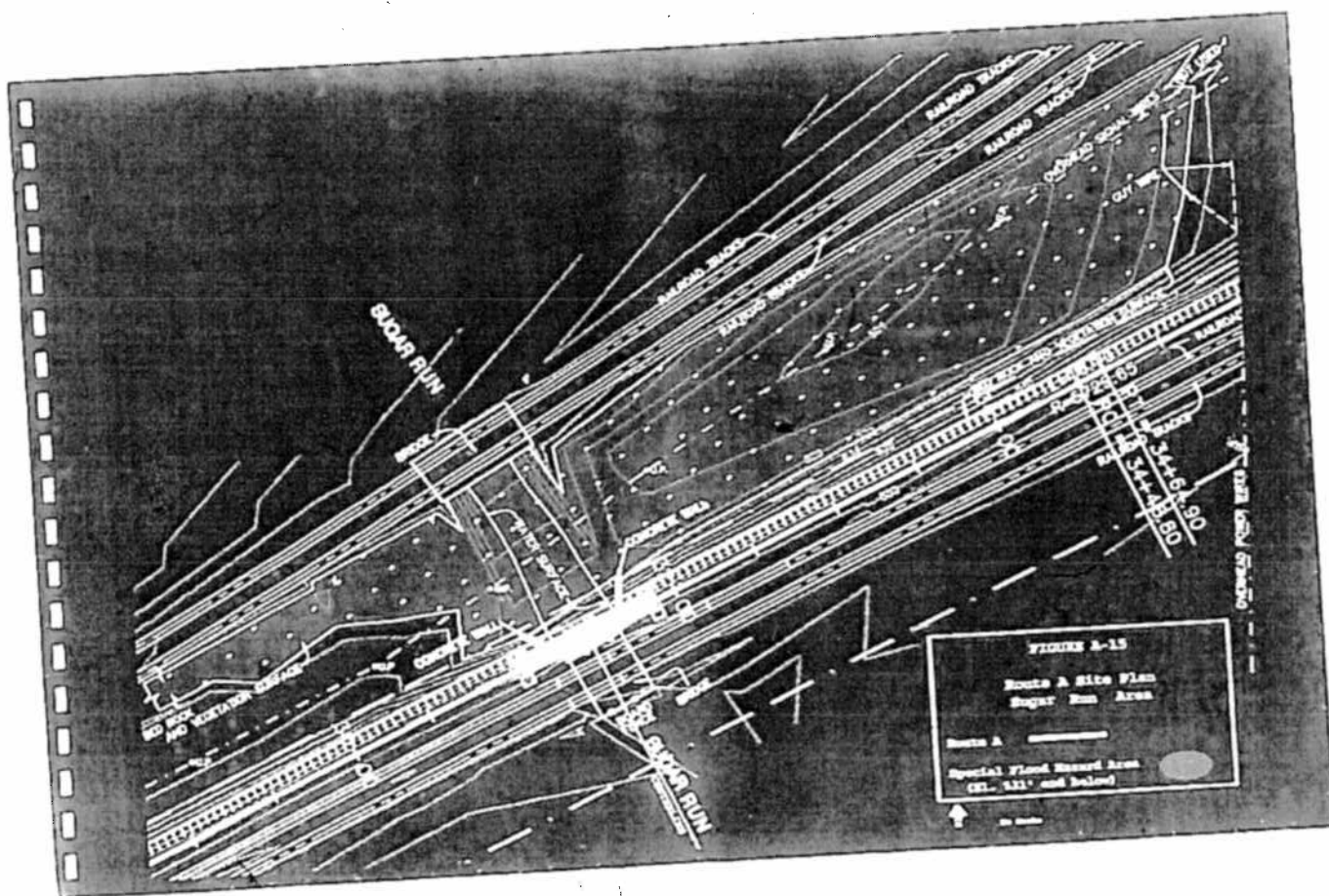
Re: Midwest Generation, LLC - Request That Environmental
Review Be Limited to Preferred Route

Dear Ms. Ruben:

On June 19, 2001, Midwest Generation, LLC ("Midwest") filed a Petition for Exception from 49 U.S.C. § 10901 and a Petition for Crossing Authority for approval to construct a new line of rail track near Joliet in Will County, Illinois. They were assigned Finance Docket Nos. 34060 and 34060 (Sub-No. 1), respectively. On July 2, 2001, the Section of Environmental Analysis ("SEA") determined that, with the information provided by Midwest to date, an Environmental Assessment ("EA") is the appropriate level of environmental review for the proposed construction. For reasons more fully stated below, Midwest requests that SEA limit its detailed review in this proceeding to Midwest's preferred route described in the Petitions and indicated on the map attached to those Petitions. For your convenience, a copy of that map is attached to this letter.

The proposed route is the only feasible route that will accomplish the objectives of this Project which are to establish efficient and competitive rail service to Midwest's Joliet Generating Station ("Station") in Will County, Illinois. The preferred route of the proposed Project is 4.507 feet in length and is located in a largely unpopulated industrial area in Joliet, Illinois, situated among other rail lines. The proposed rail line will be compatible with existing track and traffic patterns while also enabling the movement of coal and grain in and out of the Station.

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any potential problems with the physical condition of the line at an early stage, which would minimize derailment potential.

4.5.2 Route B

Route B would not make any rail or public road crossings. The route would cross under an existing overhead power line at station 6+00; the power line would not require relocation. If the railroad signal wires noted above are active, they would be relocated off of the Route B site. Construction of Route B would not, in itself, adversely affect existing transportation infrastructure.

Midwest indicates that UP has plans to modify certain of its South Joliet Yard Trackage to enable Route B to accommodate 135-car trains. Therefore, if coal consumption by the Station increases to 4.5 million tons per year, there could be a total of 600 yearly train trips over Route B, or 12 per week, using 126-car trains, or 550 train trips per year (11 weekly) using 135-car trains. Route B would not cross IC trackage.

4.6 AIR QUALITY

4.6.1 Route A

Dust control during construction of the rail line would be maintained by using water suppression sprays and covered haul trucks, as required.

Operations over the proposed rail line could affect air quality through emission of air pollutants from locomotive diesel fuel combustion.

The Board typically applies a threshold level of rail traffic increase for determining whether to quantify the air pollution that would be generated by rail traffic over a new rail line proposed for construction. This threshold is contained in 49 CFR 1105.7(e)(5). If the line proposed for construction would affect a Class I or nonattainment area, air pollutant emissions from rail traffic will be quantified only if the proposed action would add three or more trains per day to the line to be constructed.

The project area is not in or near a Class I area. Will County is nonattainment for ozone. If Station coal consumption remains at current levels, rail traffic over Route A would be 9 train movements per week, or an average of 1.3 train movements per day. If coal consumption rises to 4.5 million tons per year, train movements would be 12 per week at current train size (an average of 1.7 per day) or 11 per week with slightly longer

The project site appears to be in the process of succession from bare rock toward a forested condition. Wildlife and fisheries habitat functions are also in the developing stage and are limited in value.

The proposed rail line proposal should have only minimal impacts on aquatic wildlife. Use of silt fences and straw bales should prevent erosion during placement of fill for the rail line. No wetlands would be affected by construction. There would be no construction activities below the O&W mark of Sugar Run. Herbicides would not be used in right-of-way maintenance. An accident during train operations which could release contaminants into drainageways is unlikely; also, the amount of potential contaminants (such as diesel fuel) on board the trains would be relatively small.

Conversion of land within the proposed right-of-way to rail use would have only minimal impacts on wildlife. Although the right-of-way offers habitat for songbirds and small mammals; it is thought to be too open for use as a travel corridor for larger mammals. In addition, the amount of acreage to be converted to rail use is relatively small (2.8 acres). The site is flanked by multiple railroad tracks on both sides. Thus rail operations would have only minimal impacts on wildlife which might be present within the proposed right-of-way, particularly as planned operations over the proposed rail line would basically represent only a shift of existing operations to nearby parallel trackage.

As discussed in Chapter 2, field surveys and consultation with United States Fish and Wildlife Service (USFWS) and IBER found no indication of the presence of threatened, endangered, or other special concern species within the project area. USFWS stated that the project is unlikely to adversely affect any Federally threatened or endangered species or adversely modify critical habitat of such species and there is no further need for consultation on this project site in accordance with section 7 of the Endangered Species Act of 1973, as amended (Appendix C, Attachment 3). IBER indicated that there are no threatened/endangered species known to be located within the vicinity of the alignment; the consultation process with IBER on the project was terminated with its approval of the Agency Action Reports (Appendix C, Attachments 5 and 6).

4.4.2 Route B

Construction of Route B would also have minimal impacts on biological resources and no impacts on species of special concern.

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If you have any questions please contact Ms. Kathy G. Chernich of my staff by telephone at (312) 151-6400, extension 4039. You may also visit our website at www.lrc.usace.army.mil/co-r for information on our program.

Sincerely,


Keith L. Worniak
Chief, West Section
Regulatory Branch

MITCHELLA SOE
Chief, Regulatory Branch

Enclosure

Copy Furnished:

Natural Resources Consulting Services (Reg'l/era)
Illinois Department of Natural Resources/COR (Cereb)

TABLE 3-2
Environmental Comparison of Routes A and B

Impact	Route A	Route B
Acres converted for new right-of-way	2.8	2.8
Wetland impacts	none	none
Floodplain impacts	none	none
Construction of a bridge over a stream	yes	no
Construction of a bridge over a public road	yes	no
Impacts on aquatic wildlife	none	none
Conversion of land from wildlife habitat	minimal	minimal
At-grade public road crossings	none	none
At-grade rail crossings	one (IC)	none
Increase in total train trips per week compared to current operations	no increase in near term; 2-3 additional trips weekly in 5-10 years	no increase in near term; 2-3 additional trips weekly in 5-10 years
Reduction in air emissions due to reduction in locomotive idling while trains being unloaded	yes	yes
Number of switch moves Midwest states would be needed to position trains for unloading	2	4

SEA walked the entire proposed rail alignment (on June 1 and September 24, 2001) to develop a general inventory of plant and animal communities that could be affected by the proposed project. The survey results are summarized below. Conclusions regarding the biological resource impacts of the proposed construction are discussed in Chapter 4, Section 4.4.

2.5.1 Flora

Substrate at the site is dolomitic bedrock, with very little soil development; around ten percent of the site is bare rock. Cover types within the proposed rail alignment include early successional upland meadow (55%), shrub (25%) and forest (10%) as well as riparian wet meadow communities (<1%). Each one is described below, along with its associated wildlife habitat elements.

Dominant species of the upland meadow community include Kentucky bluegrass (*Poa pratensis*), quackgrass (*Agropyron repens*), teasel (*Dipsacus* sp.), tall boneset (*Eupatorium altissimum*), Queen Anne's lace (*Danucus carota*), frost aster (*Aster pilosus*), burdock, and tall goldenrod (*Solidago altissima*). Co-dominants include reed canary grass (*Phalaris arundinacea*), ragweed (*Ambrosia trifida* and *A. artemisiifolia*), bouncing bet (*Saponaria officinalis*), evening primrose (*Oenothera biennis*), mullein (*Verbascum* sp.), wild parsnip (*Pastinaca sativa*), foxtail grass (*Setaria* sp.), spurge (*Euphorbia* sp.), plantain (*Plantago* sp.), bromegrass (*Bromus inermis* and *B. latiglumis*), poison ivy (*Rhus radicans*), and butter and eggs (*Linaris* sp.). Widely scattered clumps of big bluestem grass (*Andropogon gerardi*) and wild onion (*Allium acuminatum*) were among the only prairie species observed. The areas of bare rock are found interspersed with the upland meadow community and are sometimes partially covered with a spreading sedum (*Sedum* sp.).

Shrubs and saplings occur in small, scattered groupings within the meadow community, but more commonly occur in a more or less continuous zone approaching the base of the adjacent railroad embankment to the south, where soils are slightly better developed. Dominant species include boxelder (*Acer negundo*), hackberry (*Celtis occidentalis*), mulberry (*Morus* sp.), sumac (*Rhus* sp.), wild grape (*Vitis* sp.), elm (*Ulmus americana* and *U. pumila*), pokeweed (*Phytolacca americana*), hop tree (*Ptelea trifoliata*), honeysuckle, cherry (*Prunus serotina* and *P. virginiana*), white ash (*Fraxinus americana*), buckthorn (*Rhamnus cathartica*), and raspberry (*Rubus* sp.).

The largest grouping of trees occurs at the eastern end of Route A, where the massive bedrock terrace is less prominent and topsoil is thickest. Dominant species include cottonwood

ES.4 SUMMARY OF ENVIRONMENTAL IMPACTS OF CONSTRUCTION AND OPERATION OVER ROUTES A AND B (see Chapter 4 for details)

ES.4.1 Route A

The part of the proposed right-of-way located on Midwest property encompasses less than 2.8 acres; the remainder of the right-of-way is owned by UP. There are no existing structures within the proposed rail right-of-way, except for the existing UP rail embankment and rail lines, and existing crossing structures for Sugar Run and Patterson Road. No property owners would lose access as a result of the proposed construction. There are no known hazardous waste sites within the proposed right-of-way.

The U.S. Environmental Protection Agency requested that the Board consider environmental justice impacts in its environmental review. SEA conducted an environmental justice analysis (see Section 4.2) that concluded that there is an environmental justice Community of Concern in the area but that "no high and adverse impacts" on that community would occur as a result of the proposed project.

Construction and operation of Route A should not affect groundwater quantity or quality. The route would have no impacts on designated wetlands and no floodplain impacts. There would be no construction within the floodplain or below the Ordinary High Water Mark of Sugar Run.

The proposed construction would have no impacts on threatened or endangered species and only minimal impacts due to conversion of land within the footprint of the railbed from use as habitat.

Route A would make no at-grade road crossings. It would cross IC's yard track #12 at-grade. IC has submitted filings to the Board stating that this track is not currently in use but that it could be used in the future. IC claims that proposed operations over Route A could interfere with IC's future use of the track. If the Board issues a final decision granting Midwest construction authority, it will then address Midwest's petition for crossing authority and the transportation aspects of the proposed crossing.

Proposed operations over Route A would reduce locomotive idling time from current levels while the coal trains are being unloaded; this would have a beneficial impact on air pollutant emissions and on noise levels. Proposed operations over the western part of the route would also shift Station train movements to a track about 90 feet farther away from the

Ms. Victoria Rutson, Acting Chief
August 2, 2001
Page 2

The new track will cross a short, unused rail track of Illinois Central Railroad ("IC") and parallel to another IC rail line. The crossing will be located in an area that minimizes the interference to IC's operations over its line. IC has acknowledged in pleadings in this matter that the line Midwest proposes to cross is currently unused. See Reply of IC to Petition for Crossing Authority at 6.

The proposed new track would facilitate the movement of westbound, loaded coal trains on the UP track onto the Station track, and the movement by UP of eastbound, empty trains on the Station track to UP's track. It is Midwest's intention that UP would provide the rail operations over the newly constructed rail track pursuant to a trackage rights agreement or other appropriate agreement with Midwest. For its part, UP has expressed its willingness to provide coal transportation service to the Station. The preferred location for the rail construction was actually recommended by UP after reviewing Midwest's initial plans for a shorter "build-out."

Midwest had initially planned to build a shorter, less expensive track that did not involve crossing IC's short, unused rail line. However, after consulting with UP, which obviously has greater expertise in matters of railroad operations than Midwest, Midwest agreed with UP's proposal for a longer track which is now before the Board. As described in the Verified Statement of William E. Nock, Assistant Vice President/Business Director - Energy for UP, which was submitted with Midwest's Petitions and attached hereto for your convenience, UP reviewed Midwest's original construction proposal and recommended a longer track. It was determined by UP that, in order to facilitate the movement of trains in and out of the Station, the length of the "build-out" needed to be longer and would need to cross an unused IC rail line. UP advised Midwest that its recommendation was the most operationally sound "build-out" option for the Station. After independently reviewing UP's recommendations, Midwest concurred.

According to UP's Mr. Nock, the effect of the proposed "build-out" will improve the coordination and efficiency of the train movements allowing for further growth in coal volumes used at the Station and better utilization of the equipment used in the movement. Coal movements from the southern Powder River Basin to the Station via the UP have grown from 354,000 tons in 1993 to an expected 4.5 million tons this year. The Station is not operating at its capacity but its coal usage is expected to grow to over 5 million tons annually in the very near future.

As shown on the map and described in the Petitions, the proposed track is located among a grid of other rail tracks and the construction of the track crossing IC's short, unused section of track is designed to limit and minimize any interference with IC's rail operations. Moreover, Dackman Environmental Consultants, the third-party consultant approved by the Board to assist in

TABLE 3-1
Proposed Midwest Generation
Rail Line Design Specifications

Maximum curvature	8.0 degrees minimum radius
Maximum grade	0.45 percent
Minimum weight of rail	115 lb., minimum
Tie length	8 feet 6 inches
Tie size	7" x 9"
Grade of ties	Industrial grade
Ties per mile	3,000 +/-
Turnout track size	#10
Top ballast depth	8 inches
Subballast depth	6 inches
Subgrade width	24 feet
Minimum depth of drainage ditch	2'6" at 16' from Centerline
Cut and fill slopes	2:1
Depth of maximum cut	1 foot
Height of maximum fill	15 feet

Midwest states that, based on information provided by UP, Route A would be more operationally efficient than Route B. Specifically, Midwest says that Route A would require fewer switch moves, and thus less locomotive operating time, than would operations over Route B. Midwest states that trains operating over Route B would require two additional switch moves to be positioned for handling and estimates that these additional moves would require 15-30 minutes of handling time per train. Therefore, switching and positioning cars using Route A could result in less air and noise emissions than switching and positioning cars using Route B.

Midwest states that both routes would reduce locomotive idling while trains are being unloaded. Midwest indicates that it is UP's policy to shut down its locomotives whenever possible to conserve fuel (unless the temperatures are near or below zero degrees Fahrenheit). See Section 4.6 for further discussion. Also, all of Route B and the western part of Route A would shift Station train operations to trackage approximately 90 feet farther away from a residential area compared to current operations. Along the eastern part of Route A trains would operate over trackage approximately 30 feet farther away from a residential area; operations east of Route B would be over the current UP line. The shift in train operations away from the residential area could reduce noise from Station trains in the residential area.

Midwest has indicated that it selected Route A as its proposed route because rail operations would be more efficient using Route A than Route B.¹⁹ Midwest states that use of Route A would assure that sufficient track space is available along an unimpeded route on which to place and remove trains for the Station and that the route would provide a place to hold "bad order" cars, store spare cars with which to fill out trains, and hold other traffic that may on occasion move into and out of the Station. Midwest states that, while it would not be impossible to serve the Station using Route B, this route would lack the additional tracks necessary to facilitate operations, provide room for future coal requirements, provide a place to hold "bad order" cars, store spare cars with which to fill out trains, and hold other traffic which may on occasion move into and out of the Station.

¹⁹ According to Midwest, it had initially planned to petition the Board for authority to build Route B. During consultations with UP, UP recommended that Route A would better facilitate the movement of trains into and out of the Station. Midwest reviewed UP's recommendation and decided to select Route A as its proposed route.

If you have questions regarding this EA, you should contact Rini Ghosh, the environmental contact for this case, by phone at (202) 565-1539, fax at (202) 565-9000, or e-mail at ghoshr@stb.dot.gov.

Recent events involving a principal postal facility within Washington, D.C., may affect for a period of time the receipt of materials mailed to the Board, as well as customer receipt of reply mail sent from the Board. Until the timely delivery of mail has been reestablished, SEA requests that individuals filing comments regarding this or other environmental assessments take the following additional steps to ensure receipt of their correspondence during the comment period:

1. Telephone or e-mail the environmental contact indicated above prior to the close of the comment period and inform them that you have mailed a comment.
2. If the comment has not been received, the environmental contact will discuss alternative modes of delivery.
3. Retain a copy of your comment for your records should alternative modes of delivery be necessary.

SEA is committed to carrying out its duties to the public and regrets any inconvenience these new procedures may cause.

Date made available to the public: April 12, 2002.

Comment due date: May 10, 2002.

**ES.5 SECTION OF ENVIRONMENTAL ANALYSIS' RECOMMENDATIONS FOR
MITIGATION**

Recommended Mitigation

Based on SEA's review of all information available to date, and its independent analysis of the proposed rail line construction and operation, all the comments and mitigation requested by various Federal, state, and local agencies, as well as other concerned parties, and the mitigation offered by Midwest, SEA preliminarily recommends that, if the Board grants final approval of the proposed construction, such approval be subject to the following mitigation measures:

Land Use

1. Midwest shall develop all sites related to the proposed rail construction, including staging areas, borrow/spoil sites, and haul roads, in accordance with all applicable environmental regulations.
2. Midwest shall dispose of all waste material generated during construction in accordance with applicable Federal, state, and local regulations.
3. Should hazardous wastes be encountered in the project area during the proposed construction, Midwest shall handle and dispose of such wastes in accordance with applicable Federal, state, and local regulations.
4. As agreed to by Midwest, Midwest shall obtain the required Will County building permit prior to initiating construction activities covered by the permit and shall comply with all conditions attached thereto.

Water Resources

5. Midwest shall install silt fences or straw bales along tops of embankments where disturbed material may erode and straw bales along major drainage channels as required. Midwest shall apply erosion control measures in accordance with the latest edition of Illinois Procedures for Urban Soil Erosion and Sedimentation Control and The Illinois Urban Manual.
6. Midwest shall implement measures to prevent construction materials from entering and construction activities from affecting any waters of the United States.

construction would provide an alternate route to access the Station.³

On March 21, 2002, the Board granted conditional approval of Midwest's petition, subject to the Board's further consideration of the anticipated environmental impacts of the proposal. Upon completion of the environmental review, the Board will issue a further decision addressing those matters and making the petition effective at that time, if appropriate. However, Midwest cannot begin construction of the proposed rail line until also obtaining authority from the Board to cross IC's track.

The Board's Section of Environmental Analysis (SEA), the office responsible for conducting the environmental review, prepared the EA based on its independent analysis of the project, the comments and mitigation requested by various Federal, state, and local agencies, as well as other concerned parties, and all the information available to date. The EA assesses the potential environmental effects of construction and operation of the proposed route (Route A), an alternate route (Route B), and other alternatives, including the "no-build" alternative. SEA has served the EA on the public, which has been invited to submit comments on the document. SEA will consider all the comments received in making its final recommendations to the Board. The Board will consider the entire environmental record, SEA's final recommendations, including final recommended mitigation measures, and the environmental comments in making its final decision.

ES.2 OVERVIEW OF THE AFFECTED ENVIRONMENT (See Chapter 2 for details)

The proposed rail line would be located in northeastern Illinois, in the west central part of Will County, approximately 35 miles from the City of Chicago.

The project area is located in an unincorporated part of the county on the south bank of the Des Plaines River and is encompassed to the north and east by the City of Joliet (see Appendix A, Figure A-2). The project site is located in a mixed-use, commercial, residential, and industrial area and consists of undeveloped land flanked by multiple railroad tracks: IC and UP tracks on the south and Burlington Northern Santa Fe Railway Company (BNSF) tracks on the north.

In its petition to the Board, Midwest states that UP would likely transport 100 percent of the coal traffic into the Station over the proposed rail line. Thus, the proposed construction would eliminate the move over the IC track and enable UP to move the coal the entire distance to the Station.

for the rail line. However, the proposed action is not expected to have either of these effects. While the project area may act as a surficial and very localized recharge area (infiltration into the fractured bedrock), based on its location adjacent to the Des Plaines River, the project area is located in a regional discharge area. In addition, the footprint of the fill area is relatively small.

Groundwater quality could be affected if a spill or release of contaminants were to occur during rail line construction or operation and penetrate the aquifer, thereby contaminating it. The likelihood of such a release is extremely small due to the fact that fuels and oils, the items most frequently associated with spills, would not be present in large quantities.

Surface Water

A rail line does not have to actually cross a waterway to affect it; however, generally speaking, the surface water resources of most concern are those a rail line would actually cross. The following discussion of impacts deals first with potential impacts of building the proposed rail line, and then with impacts of operating and maintaining it.

Construction. The actual process of constructing a rail line could affect drainageways and wetlands in the following ways:

- Soil/Debris Deposition. Soil or debris could be deposited into a waterway or wetland while rail construction activities are taking place in or near the waterway or wetland. Disturbance of the streambed by instream construction activities could also increase siltation. In addition, soil could erode into the waterway/wetland over time after completion of construction activities as a result of steep cut or fill slopes or as a result of inadequate revegetation procedures. Soil or debris deposition could adversely affect water quality.
- Interference with Surface Drainage. This could occur if placement of fill material were to block surface drainageways or if bridge or culvert openings were not large enough to accommodate waterflow, causing the drainageway to overflow its channel. This is a particular concern if any part of the proposed rail construction is to be located in a floodway, in which case the concern is that the railway structure not block movement of floodwaters to the extent that floodwater heights and velocities would be increased.
- Wetland Impacts. Wetland vegetation could be destroyed by work occurring in the wetland and also by adverse effects on water quality due to soil or debris

CHAPTER 4.0 ENVIRONMENTAL IMPACTS OF
CONSTRUCTION AND OPERATION OF THE PROPOSED RAIL LINE

4.1 INTRODUCTION

This chapter addresses environmental impacts of constructing and operating over Routes A and B. The issues raised by the various respondents to the consultation process are discussed in the appropriate sections of this chapter. Chapter 7 presents the Section of Environmental Analysis' (SEA) recommended mitigation.

4.2 LAND USE/SOCIOECONOMICS

4.2.1 Route A

Land Use

The potential for land use impacts from construction of a rail line generally arises from acquisition of land for the right-of-way and associated uses, as well as from effects on property adjacent to the right-of-way due to such things as restriction of access. The extent to which such impacts actually occur depends on the circumstances of the particular case.

The project site is located in a mixed-use, commercial, residential, and industrial area. Approximately the western half of the project site itself is undeveloped, while the eastern half is within the right-of-way of the existing Union Pacific (UP) rail line. That part of the proposed right-of-way located on Midwest Generation, LLC (Midwest), property (station 0+00 through approximately station 17+50) encompasses less than 2.8 acres; the remainder of the right-of-way is owned by UP.

There are no existing structures within the proposed rail right-of-way, except for the existing UP rail embankment and rail lines, and existing crossing structures for Sugar Run and Patterson Road. No property owners would lose access as a result of the proposed construction. Impacts on the Hillcrest/Patterson Road community, the only residential area in the project vicinity are discussed in the next section.

Vegetation and construction debris cleared from the construction site would be removed by the responsible contractor. SEA conducted an Environmental Site Assessment (ESA) for the project to document conditions that could be encountered during any required excavation at the project site. The ESA included a review of database information to identify properties in the project area with reported environmental conditions on a Federal, state or local level based on Federal and state standards. The

provide a place to hold "bad order" cars,¹⁴ store spare cars with which to fill out trains, and hold other traffic which may on occasion move into and out of the Station.

Midwest states that construction of Route A would make it possible to move a loaded train from the yard onto Midwest Generation tracks in two push moves.

As noted above, there are currently 466 total train trips yearly (9 weekly) to and from the Station. Increasing Station coal consumption from 3.5 million tons per year currently to 4.5 million tons per year in the future would bring total yearly train trips to and from the Station to 600 (12 per week), using 126-car trains. If train length is increased to 135 cars, 4.5 million tons of coal would mean 550 total train trips per year (11 weekly) at the Station.

Trains operate with two locomotives; typical length of a 126-car train is 6,800 feet. Midwest expects that UP or its agents would likely be the sole provider of rail service into the Station. Based on information provided by UP to Midwest, train operating speed over Route A would be less than 15 MPH, much of that between barely moving and 5 MPH. Trains would be permitted to operate over the proposed line at any time of the day or night depending upon when the trains arrive in the Joliet area from the mines.

Maintenance

Midwest would contract track maintenance and inspection to a firm specializing in this type of service. Inspections would include: checking track gauge, alignment elevations, and condition of the rail, as well as condition of ties, ballast, and any deterioration of fasteners. Vegetation would be controlled by cutting as needed; herbicides would not be used.

3.2 ROUTE B

3.2.1 Construction

Route B is the route initially planned by Midwest. As comparison of Figures A-8 and A-12 in Appendix A shows, Route B is virtually identical to approximately the first 1,600 feet of Route A. At that point Route B begins curving southeast to

¹⁴ A "bad order" car is a car that is found, upon inspection, to need repairs before it can be returned to the mines for reloading with coal. These cars are normally taken to local repair facilities for repair.

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Transportation

7. As agreed to by Midwest, if Route A is built, Midwest shall obtain the required approvals from the Illinois Commerce Commission and Joliet Township prior to beginning construction of the Patterson Road bridge and shall comply with all conditions associated with the permits.

Air Quality

8. Midwest shall use water suppression sprays and covered haul trucks to minimize dust emissions during construction.

Utilities

9. If Route A is built, Midwest shall consult with the owners of the public utilities under the Patterson Road right-of-way and take appropriate measures to ensure the safety and integrity of the utilities prior to construction of the Patterson Road bridge.
10. As agreed to by Midwest, Midwest shall determine whether the utility poles in the western part of the project site that hold railroad signal wires are active prior to construction. If the utility poles are active, Midwest shall relocate the signal wires off of the proposed site.

Conclusion and Request for Comments

The EA preliminarily concludes that if either Route A or Route B is built, this proposal would not significantly affect the quality of the natural or human environment provided the recommended mitigation measures set forth in Chapter 7 are implemented. Accordingly, SEA recommends that, if the Board approves this project, Midwest be required to implement the mitigation contained in Chapter 7.

SEA specifically invites comments on all aspects of this EA. SEA will consider all comments received in making its final recommendations to the Board. The Board will consider the entire environmental record, SEA's final recommendations, including final recommended mitigation measures, and the environmental comments in making its final decision in this proceeding.

If you wish to submit comments on this EA, please send an original and 10 copies to the Office of the Secretary, Attn: Bill Chosh, Environmental Review, Surface Transportation Board, 1925 K St. NW, Washington, D.C. 20423. Comments should refer to the docket number of this proceeding: Finance Docket No. 34562.

Hillcrest/Patterson Road area and along the eastern part of the route would shift Station train movements to a track about 30 feet further away from the neighborhood.

Route A would have no cultural resource or recreational resource impacts.

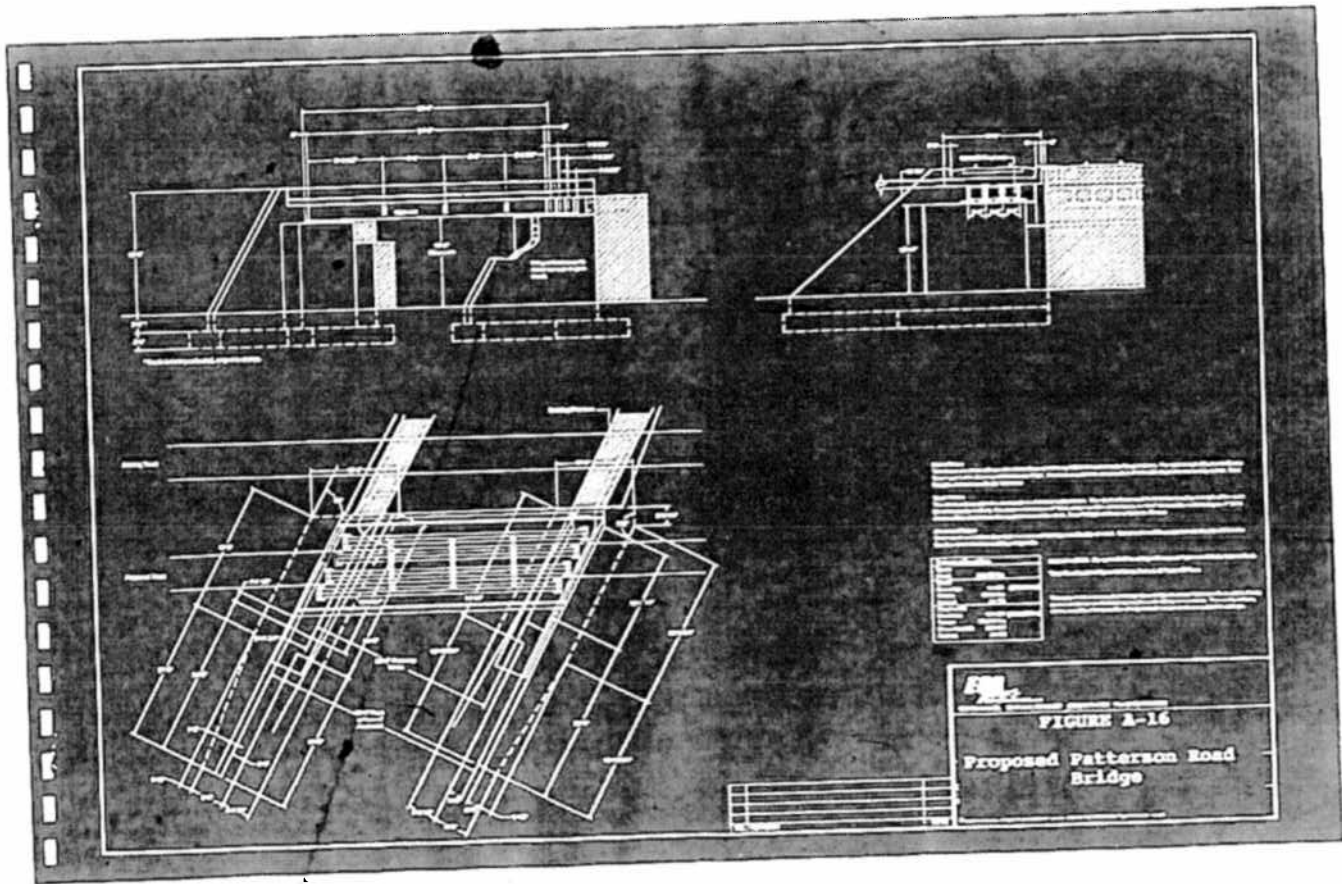
On November 9, 2001, IC submitted a report raising a number of environmental issues related to the proposed rail construction. Most of these issues stemmed from IC's belief that the proposed line would cross Sugar Run on a culvert, which would be basically an extension of the existing culvert under the adjacent UP line. However, as the proposed crossing would be on a clear span bridge, the proposed project would not cause the potential environmental impacts identified in the report (see Section 4.10).

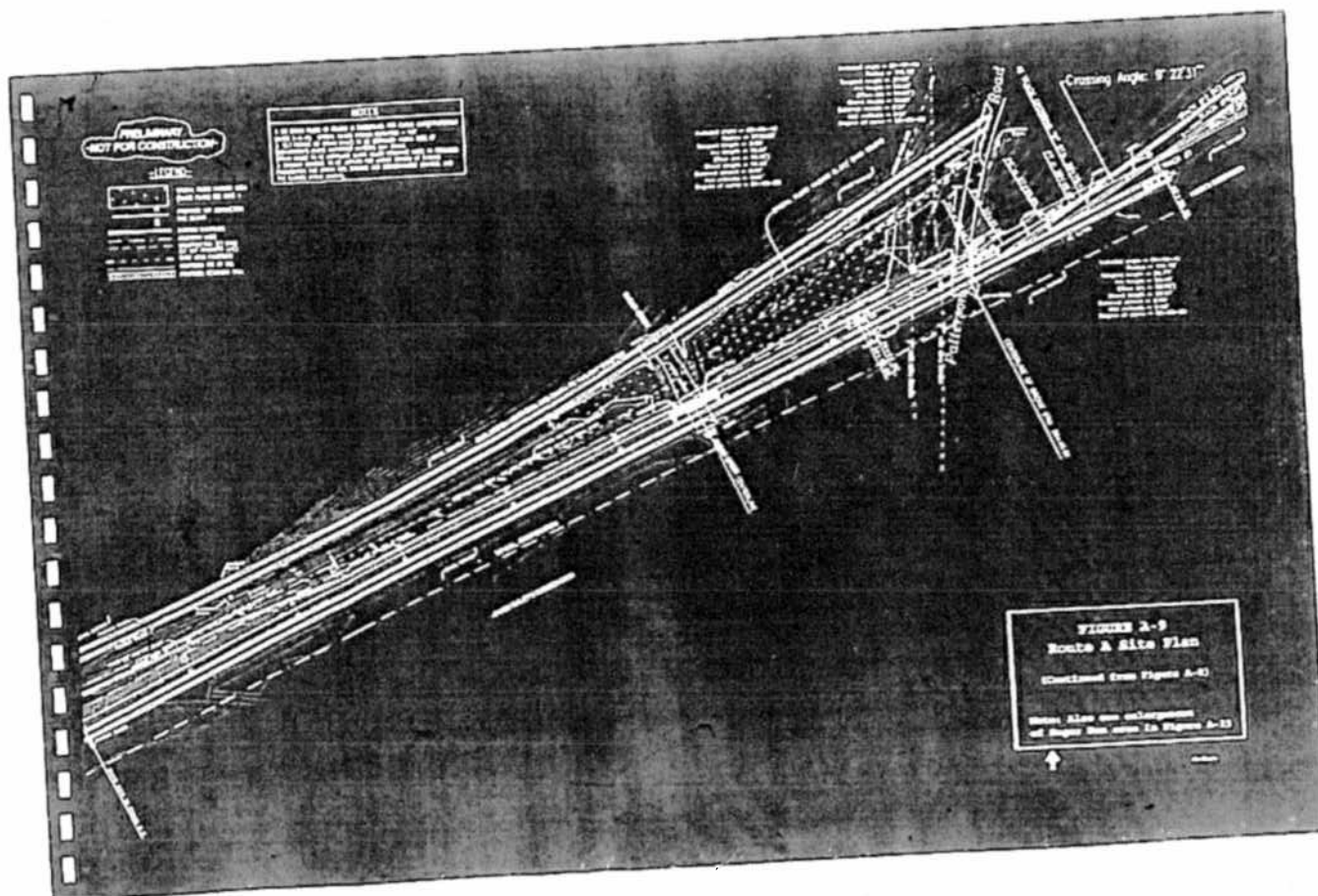
ES.4.2 Route B

Route B would be located almost entirely on property owned by Midwest. It would require 2.8 acres of land for new rail right-of-way. It would have no wetland, floodplain, or aquatic wildlife impacts. There would be only minimal impacts due to conversion of land from current use as habitat. There would be no at-grade road crossings. It would not cross IC's yard track. Operations over the route would reduce locomotive idling time from current levels, with a beneficial impact on air emissions and noise levels. Station trains along Route B would operate approximately 90 feet further away from a residential area compared to current operations. Station trains east of Route B would operate over the same track as currently, which is around 30 feet closer to the residential area than the eastern portion of Route A. Midwest states that use of Route B would require two more moves to position trains into the Station for unloading than would Route A. The extra moves could increase air emissions and noise levels. The route would have no cultural resource or recreational resource impacts.

ES.4.3 Conclusion and Recommendation

The EA preliminarily concludes that if either Route A or Route B is built, this proposal would not significantly affect the quality of the natural or human environment provided the recommended mitigation measures set forth in Chapter 7 are implemented. Accordingly, SEA recommends that, if the Board approves this project, Midwest be required to implement the mitigation contained in Chapter 7. SEA will consider all comments received in response to the EA in making its final recommendations to the Board.





any potential problems with the physical condition of the line at an early stage, which would minimize derailment potential.

4.5.2 Route B

Route B would not make any rail or public road crossings. The route would cross under an existing overhead power line at station 6+00; the power line would not require relocation. If the railroad signal wires noted above are active, they would be relocated off of the Route B site. Construction of Route B would not, in itself, adversely affect existing transportation infrastructure.

Midwest indicates that UP has plans to modify certain of its South Joliet Yard Trackage to enable Route B to accommodate 135-car trains. Therefore, if coal consumption by the Station increases to 4.5 million tons per year, there could be a total of 600 yearly train trips over Route B, or 12 per week, using 126-car trains, or 550 train trips per year (11 weekly) using 135-car trains. Route B would not cross IC trackage.

4.6 AIR QUALITY

4.6.1 Route A

Dust control during construction of the rail line would be maintained by using water suppression sprays and covered haul trucks, as required.

Operations over the proposed rail line could affect air quality through emission of air pollutants from locomotive diesel fuel combustion.

The Board typically applies a threshold level of rail traffic increase for determining whether to quantify the air pollution that would be generated by rail traffic over a new rail line proposed for construction. This threshold is contained in 49 CFR 1105.7(e)(5). If the line proposed for construction would affect a Class I or nonattainment area, air pollutant emissions from rail traffic will be quantified only if the proposed action would add three or more trains per day to the line to be constructed.

The project area is not in or near a Class I area. Will County is nonattainment for ozone. If Station coal consumption remains at current levels, rail traffic over Route A would be 9 train movements per week, or an average of 1.3 train movements per day. If coal consumption rises to 4.5 million tons per year, train movements would be 12 per week at current train size (an average of 1.3 per day) or 11 per week with slightly larger



DEPARTMENT OF THE ARMY
CHICAGO DISTRICT, CORPS OF ENGINEERS
111 NORTH CANAL STREET
CHICAGO, ILLINOIS 60606-7204

RECEIVED
ATTENTION OF

Construction-Operations Division
Regulatory Branch
200200100

Attachment 2

SUBJECT: No Objection Letter for a Railroad Track Alignment for
Joliet Station No. 9 located at Sugar Run Creek Between Union
Pacific Tracks, Illinois Central Tracks to the South, Burlington
& Santa Fe Tracks to the North, 75 East of Brandon Road, and 350
Feet East of Patterson Road, near Elwood, Will County, Illinois.

Christopher Nagel
Midwest Generation ENE LLC
440 South LaSalle, Suite 3500
Chicago, Illinois 60605

Dear Mr. Nagel:

This is in response to your November 7, 2001 request that the
U.S. Army Corps of Engineers complete a jurisdictional
determination for the above-referenced site. The subject project
has been assigned number 200200100. Please reference this number
in all future correspondence concerning this project.

Following a review of the U.S. Fish and Wildlife Service
National Wetland Inventory, U.S. Geological Survey Hydrologic
Atlas, U.S.D.A. Natural Resources Conservation Service Soil Survey
for Will County, your wetland delineation report dated November
1, 2001 for the subject site, prepared by Natural Resources
Consulting, Inc., and the information you submitted to this
office on November 1, 2001, this office has determined that the
subject property contains "waters of the United States". Sugar
Run Creek and adjacent wetlands are situated within the project
boundaries but do not appear to be impacted by the project plans.

Enclosed, please find the basis for the Corps' jurisdiction
for the subject property.

Pursuant to Section 404 of the Clean Water Act, this office
regulates the discharge of dredged or fill material into waters
of the United States. A Department of the Army (DA) permit is
required for any work involving such a discharge. However, based
on the information you furnished, your project does not appear to
entail a discharge into an area within the jurisdiction of this
office. Therefore, a DA permit is not required for your work.

APPENDIX C

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August 17, 2001
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loaded or unloaded would be minimized, thereby reducing air and noise pollution. The proposed longer track is designed to ease rail traffic and, as a result, lessen the environmental consequences of overloading a shorter rail line. In addition, the proposed longer route now before the Board provides rail carriers greater freedom of movement to load and unload more expeditiously and, in doing so, reduces the amount of time the trains are down on the track in that area, further minimizing any environmental effects (such as noise) of the new line.

Secondly, the proposed route is actually slightly further away from populated areas than the initially considered shorter route because the proposed route does not repeat the Illinois Central's Pequot main which is immediately adjacent to populated areas. As such, the environmental effects, if any, from the proposed rail line are further minimized by the proposed route's greater distance from populated areas as compared to the initial shorter route.

In comparison to the original route, the proposed route would require slightly more industrially zoned land for the new rail right-of-way and would require extension of a bridge over a stream. However, the environmental impacts of this would be minimal or non-existent; the environmental consequences related to identical potential wetland impacts will be in consultation with the U.S. Army Corps of Engineers regarding any necessary permitting. Although Midwest Generation anticipates no significant mitigation to be required by the Corps, it would undertake to coordinate and abide by any conditions the Corps might determine to be necessary.

Based on our August 2 letter and the foregoing, Midwest believes that the proposed route currently before the Board is the environmentally preferable route. As such, Midwest requests that NEA designate it as the preferred route for the detailed EA study.

If you should have any questions or require additional information, please do not hesitate to contact John Collins (202) 985-8254 or me.

Very truly yours,

Michael F. McBride

Michael F. McBride
John M. Collins

Attorney for Midwest Generation, LLC

Ms. Victoria Ratson, Acting Chief
August 2, 2001
Page 3

the preparation of the Environmental Assessment has conducted a site inspection of the proposed route and did not identify any areas of environmental significance. Also, the preferred route would not require relocation of or be in close proximity to any residences; in fact, the route would be located entirely on existing industrial land zoned for industrial use. No wetlands are being crossed and the route involves crossing a single railroad track of B.C. at only one location.

Based on the foregoing, Midwest believes that the proposed route currently before the Board is the environmentally preferable route. As such, Midwest expects that SEA Designate, as the preferred route for the detailed EA study, the route designated by the red line on the attached map.

If you should have any questions or require additional information, please do not hesitate to contact John Collins (phone 906-4250) or me.

Very truly yours,

Michael F. McBride

Michael F. McBride
John M. Collins

Attorney for Midwest Generation, LLC

Enclosure

project site did not show up on the databases, although several properties located within 1/8-1/4 mile did. However, because of the distance of these properties from the project site they are not expected to be a concern for the proposed construction.

In addition, soil samples were taken at seven locations, two each at the proposed crossings of Sugar Run and Patterson Road and three distributed elsewhere along the proposed construction route. Laboratory analysis of the samples identified detectable concentrations of volatile organic compounds, semi-volatile organic compounds, and total priority pollutant metals. These are compounds that the Illinois Environmental Protection Agency (IEPA) regulates. If they are released into the environment the IEPA has restrictions and limitations (TACO Tier 1 remediation objectives) concerning how much are allowed to exist in soil and water before cleanup is required. However, none of the compounds detected in the samples exceed TACO Tier 1 soil remediation objectives for commercial/industrial properties or construction workers and so there is no regulatory requirement for remediation.

On November 30, 2001, Will County issued to Midwest a Site Development Permit which provides for site clean-up and brush removal in preparation for project survey and construction, including earthwork and retaining wall. The Will County Land Use Department has indicated that a building permit would be required prior to the installation of ballast and track and construction of bridges. Midwest is in the process of obtaining the building permit.

Socioeconomics

Environmental Justice. In its comments on the proposed rail construction, the United States Environmental Protection Agency (EPA) requested that the Surface Transportation Board (Board) consider environmental justice impacts as part of its environmental review (Appendix C, Attachment 4).

Presidential Executive Order No. 12896, "Federal Actions to Address Environmental Justice in Minority and Low-Income Populations" directs individual Federal agencies to develop approaches that address environmental justice concerns in their programs, policies, and procedures. Midwest submitted an environmental justice report to SEA, prepared by Midwest's contractor, Hayes Planning Associates, Inc. SEA reviewed and interpreted the analysis presented in the Hayes report and presents the results below. Appendix D contains the full text of the Hayes report, as reviewed and edited by SEA.

connect with existing UP yard trackage at approximately Station 19+88 of Route B. Total design length of Route B would be approximately 1,988 feet. Figure A-12 shows the Route B site plan, while Figure A-13 shows the rail line profile. This route would also involve fill for embankment and retaining walls; the route would make no drainageway, road, or rail crossings. Route B would also involve construction of a connecting track from track 3 to track 34 (see Appendix A, Figure A-7). Design specifications would be the same as for Route A. The basic steps in the construction process would also be the same, except that there would be no bridge construction. Construction of this route would take 4-6 months.

3.2.2 Operation and Maintenance

Midwest states that operations using Route B would require two additional moves (in comparison to Route A) to position the loaded cars into the Station. These additional moves would be pulling loaded cars approximately 1/4 mile, making a connection, and then moving the cars an additional 1/2 mile towards the central business district of Joliet. Midwest states that adding these two additional moves per train would increase handling time by 15-30 minutes per train (using Route B as compared to Route A).

Midwest indicates that the track configuration using Route B is not currently capable of handling 135-car trains but that UP has developed a plan in which UP (or Midwest, under a lease agreement) would renovate certain of UP's South Joliet Yard tracks so that Route B could accommodate 135-car trains. Midwest states that, while it would not be impossible to serve the Station using Route B, this route would lack the additional tracks necessary to facilitate operations, provide room for future coal requirements, provide a place to hold "bad order" cars, store spare cars with which to fill trains out, and hold other traffic which may on occasion move into and out of the Station.

Operations over Route B would mean 466 yearly train trips of 126-car trains over the route, at current levels of Station coal consumption, and 600 yearly train trips of 126-car trains or 550 yearly train trips of 135-car trains if Station coal consumption increases to 4.5 million tons per year. Train speed and time of operations would be the same as for Route A. Right-of-way maintenance procedures would be the same as for Route A.

(*Populus deltoides*), hackberry, oaks (*Quercus* spp.), American elm, and silver maple (*Acer saccharinum*). The canopy is generally open, with a dense understory consisting of many of the species listed in the shrub/sapling community description.

The riparian wet meadow, located below the OHW of Sugar Run, is dominated by reed canary grass. Other weedy facultative species occurring less frequently include clearweed (*Pilea pumila*), white snakeroot (*Eupatorium rugosum*), and smartweed (*Polygonum* spp.). Mulberry, elm and hackberry saplings overhang the creek in some areas, although the predominant cover type is herbaceous.

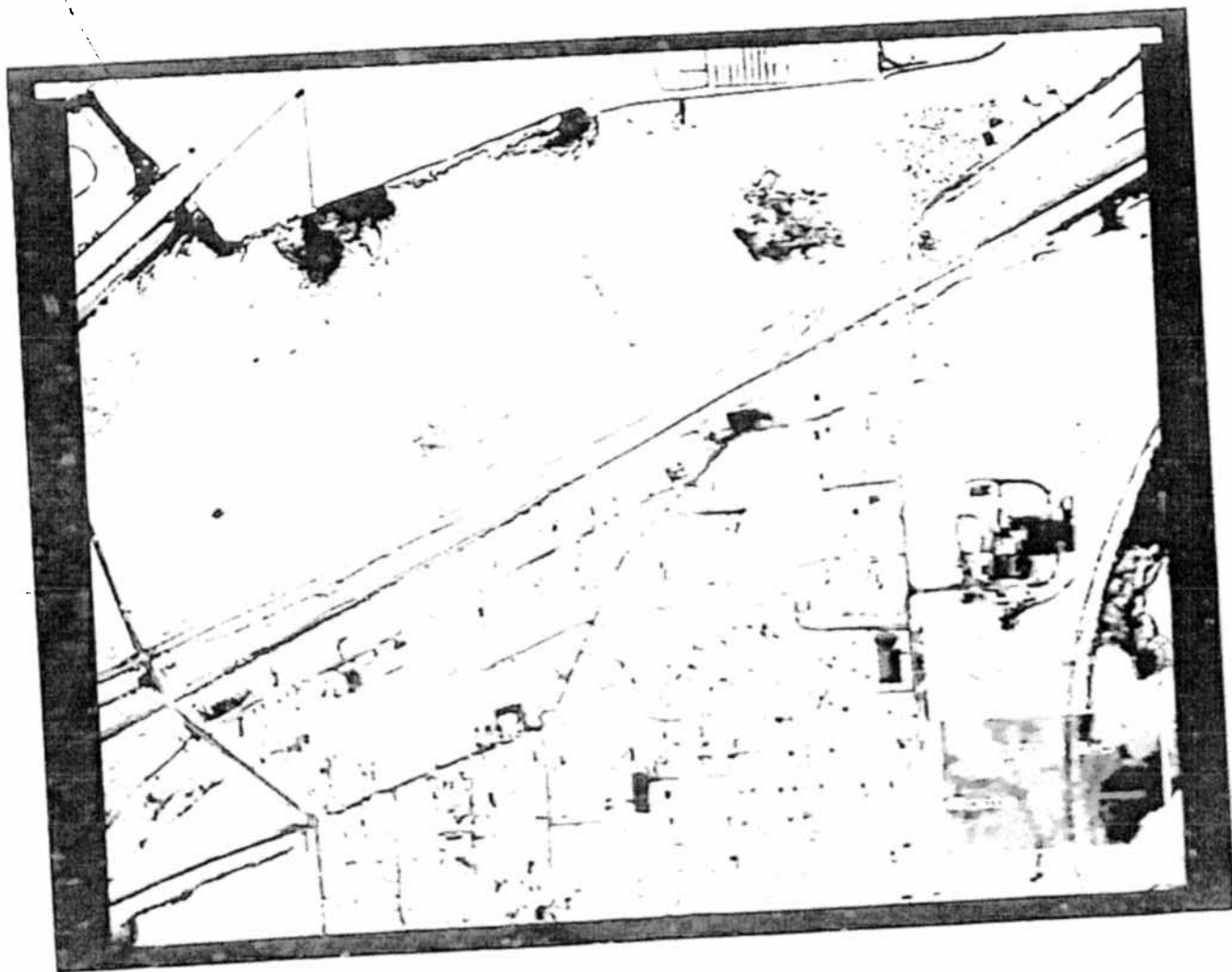
2.5.2 Fauna

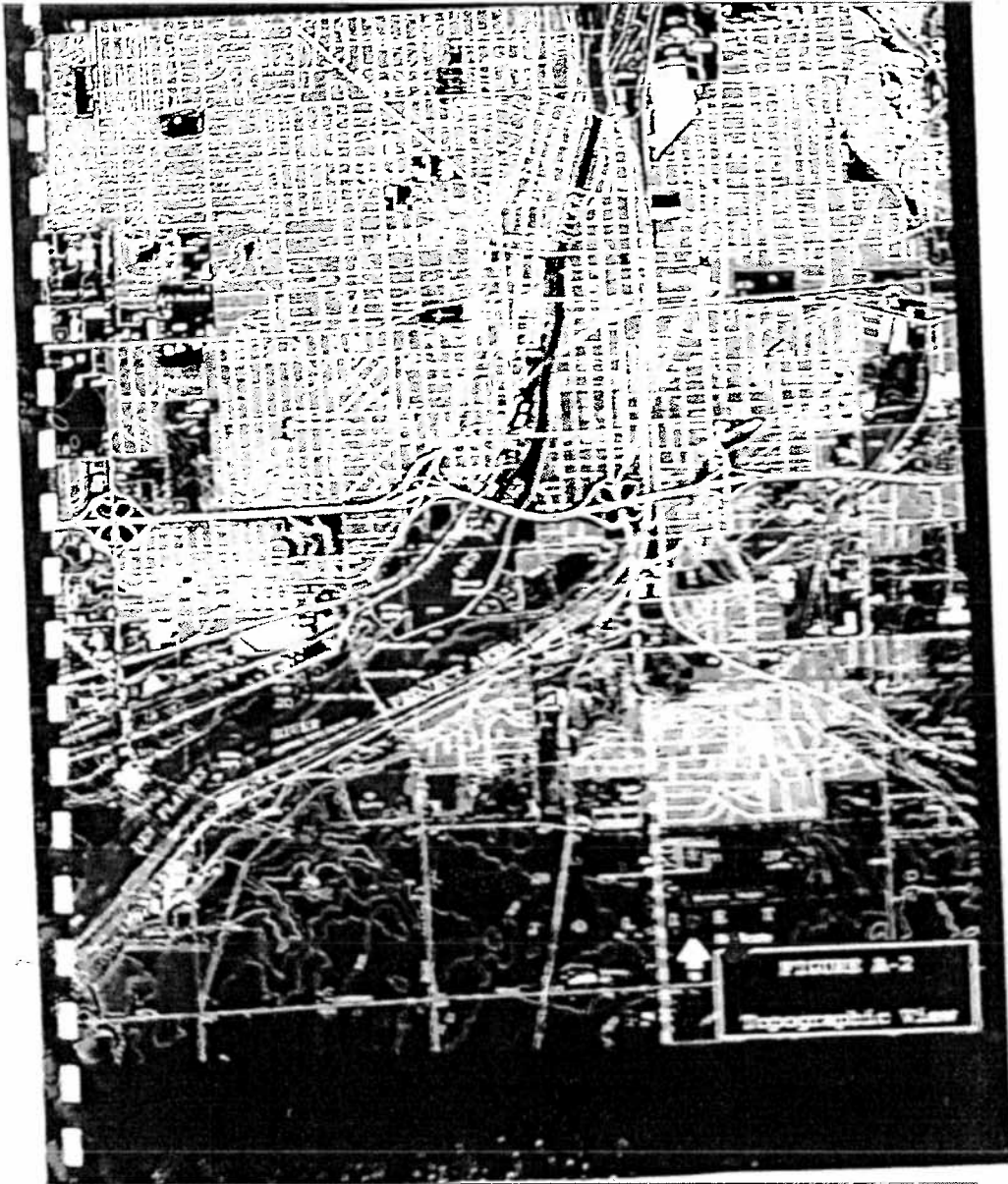
The juxtaposition of the various cover types at the site offers habitat for songbirds and small mammals. However, the substrate is unsuitable for burrowing animals. In addition, the site is likely too open for use as a travel corridor for larger mammals, as no sign of deer, coyote or raccoon was observed. These species would likely prefer the adjacent floodplain forest edges to the north.

The riparian and aquatic habitat along Sugar Run, though limited in extent, appears adequate (from a structural standpoint) to support a variety of warmwater forage fish and other aquatic species, as well as providing limited feeding and resting opportunities for waterfowl, raccoons, and the like. Although SEA observed no fish in the creek during the field survey and the water was milky in appearance, SEA observed an unidentified turtle in a pool approximately 100 feet upstream. The creek is 20 to 30 feet wide and 8 to 24 inches deep with a cobble/silt substrate and overhanging shrub growth for shade. The channel is somewhat braided, with low vegetated islands. The banks consist of steeply sloping bedrock and lack undercut streambank habitat.

2.5.3 Threatened and Endangered Species

Both the U.S. Fish and Wildlife Service (USFWS) and the IIRB were consulted regarding the potential presence in the project area of threatened or endangered species. USFWS said it did not believe that there are any such species in the vicinity of the project site and that the need for further consultation in accordance with section 7 of the Endangered Species Act of 1973, as amended, is precluded (see Appendix C, Attachment 3). IIRB stated that its records indicate no known occurrences of threatened or endangered species in the project area vicinity (Appendix C, Attachment 5). IIRB approved the Endangered Species Consultation Program Agency Action Reports submitted to it for the project, thereby terminating its consultation process on the





CHAPTER 7.0 SECTION OF ENVIRONMENTAL ANALYSIS' RECOMMENDATIONS
FOR MITIGATION

Based on SEA's review of all information available to date, and its independent analysis of the proposed rail line construction and operation, all the comments and mitigation requested by various Federal, state, and local agencies, as well as other concerned parties, and the mitigation offered by Midwest, SEA preliminarily recommends that, if the Board grants final approval of the proposed construction, such approval be subject to the following mitigation measures:

Land Use

1. Midwest shall develop all sites related to the proposed rail construction, including staging areas, borrow/spoil sites, and haul roads, in accordance with all applicable environmental regulations.
2. Midwest shall dispose of all waste material generated during construction in accordance with applicable Federal, state, and local regulations.
3. Should hazardous wastes be encountered in the project area during the proposed construction, Midwest shall handle and dispose of such wastes in accordance with applicable Federal, state, and local regulations.
4. As agreed to by Midwest, Midwest shall obtain the required Will County building permit prior to initiating construction activities covered by the permit and shall comply with all conditions attached thereto.

Water Resources

5. Midwest shall install silt fences or straw bales along toes of embankments where disturbed material may erode and straw bales along major drainage channels as required. Midwest shall require its construction contractor to apply erosion control measures in accordance with the latest edition of Illinois Procedures for Urban Soil Erosion and Sedimentation Control and The Illinois Urban Manual.
6. Midwest shall implement measures to prevent construction materials from entering and construction activities from affecting any waters of the United States.

coal by truck from one of its nearby generating stations, if the alternative were to not have enough coal. At this time, Midwest's plans for barge delivery or truck delivery of coal are speculative.

CHAPTER 4 ENVIRONMENTAL IMPACTS OF CONSTRUCTION
AND OPERATION OF THE PROPOSED LINE

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CHAPTER 5 UNAVOIDABLE ADVERSE ENVIRONMENTAL
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CHAPTER 6 CUMULATIVE ENVIRONMENTAL IMPACTS-----

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APPENDIX B	CORRESPONDENCE
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APPENDIX D	ENVIRONMENTAL JUSTICE REPORT
APPENDIX E	LIST OF PREPARERS
APPENDIX F	BIBLIOGRAPHY

EXECUTIVE SUMMARY

On June 19, 2001, Midwest Generation, LLC (Midwest) filed a petition for exemption under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10901 with the Surface Transportation Board (Board) in Finance Docket No. 34060 for authorization to construct a rail line approximately 4,007 feet in length near Joliet, in Will County, Illinois.² Midwest's proposed route would cross an Illinois Central Railroad Company (IC) rail line. Thus, Midwest simultaneously filed a petition for crossing authority with the Board under 49 U.S.C. 10901(d), designated as Finance Docket No. 34060 (Sub-No.1).

In its petition to the Board, Midwest states that if the proposed rail line is constructed it intends to establish an agreement with the Union Pacific Railroad Company (UP) for UP to operate over the proposed rail line. Attachment B to Midwest's petition is the verified statement of William E. Rock, Assistant Vice President/Business Director - Energy for UP. Mr. Rock states that UP "would be willing to provide service over Midwest Generation's newly constructed trackage to serve the Joliet Generating Station on terms to be negotiated between the parties." However, UP would need to seek separate Board authority to operate over the line. Because rail operations over the proposed rail line are reasonably foreseeable and would be directly related to the construction of the proposed rail line, this Environmental Assessment (EA) addresses the potential environmental impacts associated with Midwest's proposed rail line construction as well as future carrier operations.

ES.1 PURPOSE AND NEED FOR AGENCY ACTION

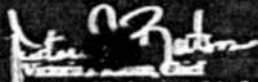
The proposed rail line would connect Midwest's Joliet Station Number 9 (Station) with UP trackage at the Joliet South Rail Yard (Appendix A, Figures A-1 through A-8). Coal is the primary commodity that would be carried over the proposed rail line. Currently, UP transports coal trains from the Powder River Basin in Wyoming and Montana to a point a few hundred yards east of the Station. The coal trains are then transported by IC a short distance along IC's track to the Station. The proposed

² The Board was formerly the Interstate Commerce Commission (ICC). The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 23, 1995, and took effect on January 1, 1996, abolished the ICC and transferred certain rail functions and proceedings to the Board.

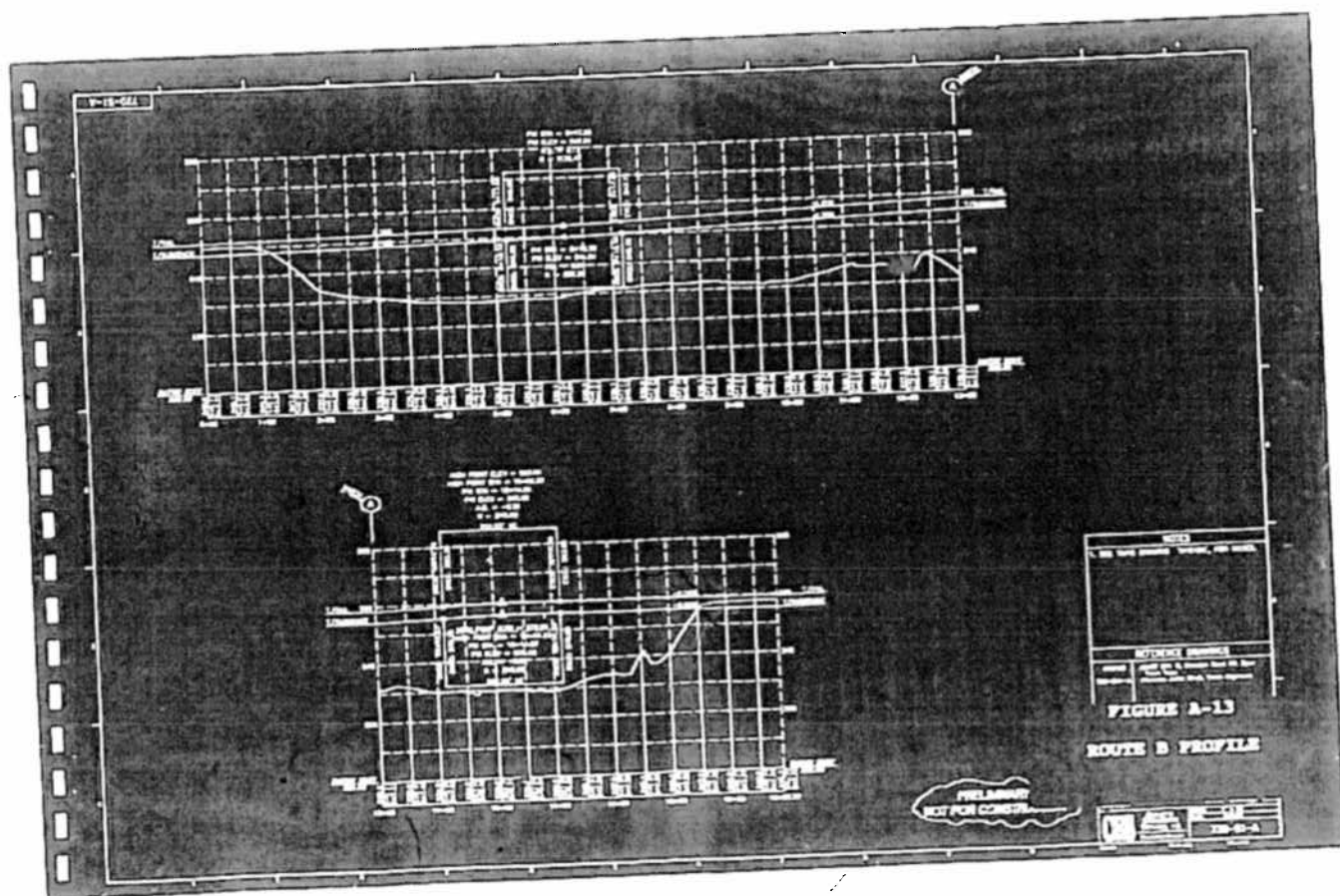
the results of SEA's environmental analysis.

As noted above, SEA believes denial of Midwest's request to limit detailed analysis in the EA to its preferred route will not substantially alter the scope or contents of the EA, and will provide all parties with useful information. If you have any questions, please do not hesitate to contact me or Rini Ghosh of my staff at (202) 565-1538.

Sincerely,


Victoria A. Adams, Chief
Section of Environmental Analysis

cc: Jo Carole Daskin, Daskin Environmental Consultants





CHAPTER 5.0 UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS

Both Routes A and B would result in conversion of approximately 2.8 acres of land to use as new rail right-of-way. There would be some minimal removal of land within the footprint of the railbed from use as wildlife habitat. Although the right-of-way offers habitat for songbirds and small mammals, it is thought to be too open for use as a travel corridor for larger mammals.

Reduction in noise
due to reduction in
locomotive idling
while trains being
unloaded

yes

yes

Shift of Station
train operations
further away from
residential area

90 feet further away
along western part
of route; 30 feet
further away along
eastern part

90 feet further away
along Route B; no
further away along
UP east of Route B

Cultural resource
impacts

none

none

Recreational
resource impacts

none

none

CHAPTER 3.0 DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES

3.1 ROUTE A, MIDWEST GENERATION, LLC'S, PROPOSED ROUTE

3.1.1 Construction

Midwest Generation, LLC (Midwest), proposes to build a rail line connecting its industrial spur line at Joliet Generating Station Number 9 (Station) with Union Pacific Railroad Company (UP) trackage at South Joliet Yard. The proposed rail line would begin just east of Brandon Road on trackage owned by Midwest. It would proceed in an easterly direction for approximately 4,007 feet before connecting with UP track #14 at South Joliet Yard. The proposed line would lie between and parallel to Burlington Northern Santa Fe Railway Company (BNSF) lines on the north and Illinois Central Railroad Company (IC)/UP lines on the south. The initial approximately 1,600 feet of the proposed line would lie about 75-90 feet north of the IC line and would then veer southeast to parallel UP yard track #3 at a distance of about 23 feet until connecting with track #14.

Construction would include a fill embankment and retaining walls. In Appendix A, Figures A-8 and A-9 show the site plan of the proposed construction; Figures A-10 and A-11 show profiles of the line and retaining wall structure. The proposed line would cross Sugar Run on a clear span bridge (Appendix A, Figures A-8, A-14, and A-15). It would make a grade-separated crossing of Patterson Road, a public road, at Station 36+45.81 (see Appendix A, Figure A-9); the crossing would be on a bridge shown in Figure A-16. The line would cross an IC exclusive easement track (track #12—see Appendix A, Figure A-9) at Station 38+78.42 using an at grade diamond intersection railroad crossing. The proposed construction would also involve construction of two crossover tracks (see Appendix A, Figure A-7).

The proposed rail line would be built on Midwest-owned property and on existing UP right-of-way. Approximately the first 1,600 feet of the line would be located on property owned by Midwest; from that point east for about another 800 feet the line would be located partly on Midwest property and partly on the existing UP right-of-way. Then, at a point approximately 2,400 feet east of its beginning, the proposed line would be entirely within existing UP right-of-way. The right-of-way required on the Midwest property has a maximum width of 70', minimum width of 30', and typical width of 50'. The existing UP right-of-way is 100' wide. Table 3-1 at the end of this chapter shows the design specifications of the proposed construction.

SURFACE TRANSPORTATION BOARD

Attachment 5

Washington, DC 20423

OFFICE OF ECONOMICS, ENVIRONMENTAL ANALYSIS, AND ADMINISTRATION

September 12, 2001

Mr. John Collins
LeBoeuf, Lamb, Greene & MacRae
1875 Connecticut Avenue, N.W.
Washington, DC 20009-5723

Re: Finance Docket No. 34968 - Midwest Generation, LLC Construction of Rail
Line in Will County, Illinois; Request that Environmental Review Be Limited to
Preferred Route

Dear Mr. Collins:

This responds to your letter dated August 2, 2001 (letter 1) and August 17, 2001 (letter 2), in which you request that an in-depth environmental analysis (EA) be prepared only for the applicant's preferred route. After careful consideration of all information applicable to date, including all material received, the Section of Environmental Analysis (SEA) believes that its environmental review of Midwest Generation's (Midwest) proposal could be considered inadequate if it were narrowed to one alternative. Therefore, in the interest of conducting a legally defensible environmental analysis, SEA is denying your request.

The project proposed by Midwest involves the construction of a rail line in Will County, Illinois, to connect Midwest's Joliet Generating Station (Station) to the nearby Union Pacific Railroad Company (UP) track. The new track is intended to facilitate the movement of westbound, loaded coal trains on the UP track onto the Station track, and the movement by UP of eastbound, empty trains on the Station track to UP's track.

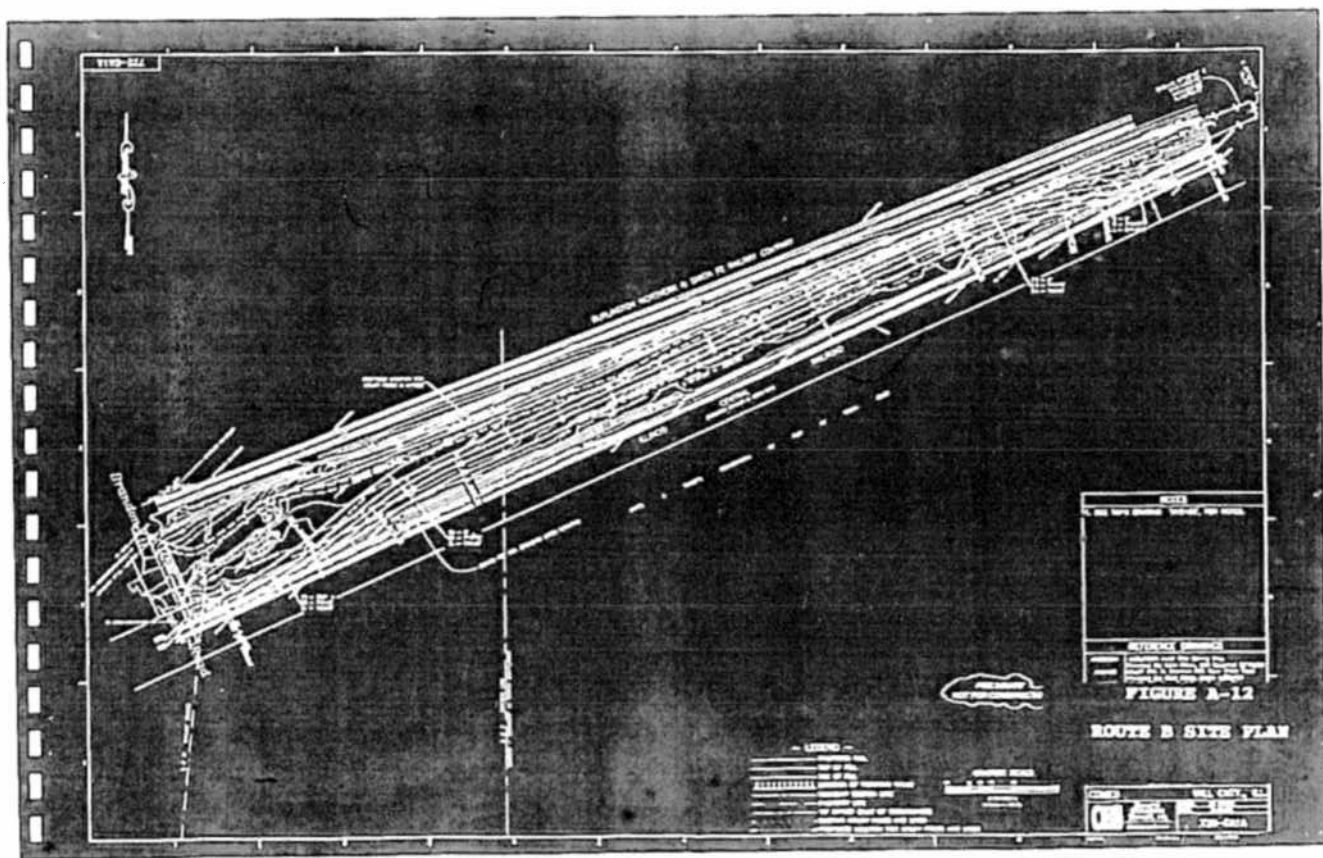
Midwest's preferred route (4,817 feet) does not appear to be the only feasible route. In fact, as you state in letter 1, Midwest had initially planned to build a shorter track (about 1,500 feet). Midwest's preferred route was developed after UP indicated that a longer route would better facilitate the movement of trains into and out of the Station. Based on information provided by Midwest, SEA understands that the longer route would provide trains with more efficient access into and out of the Station, due to directly connecting to UP's yard. This would enable UP to simultaneously send a loaded train into the Station and receive an empty train from the Station. However, evidence to date indicates that the initially proposed, shorter route could

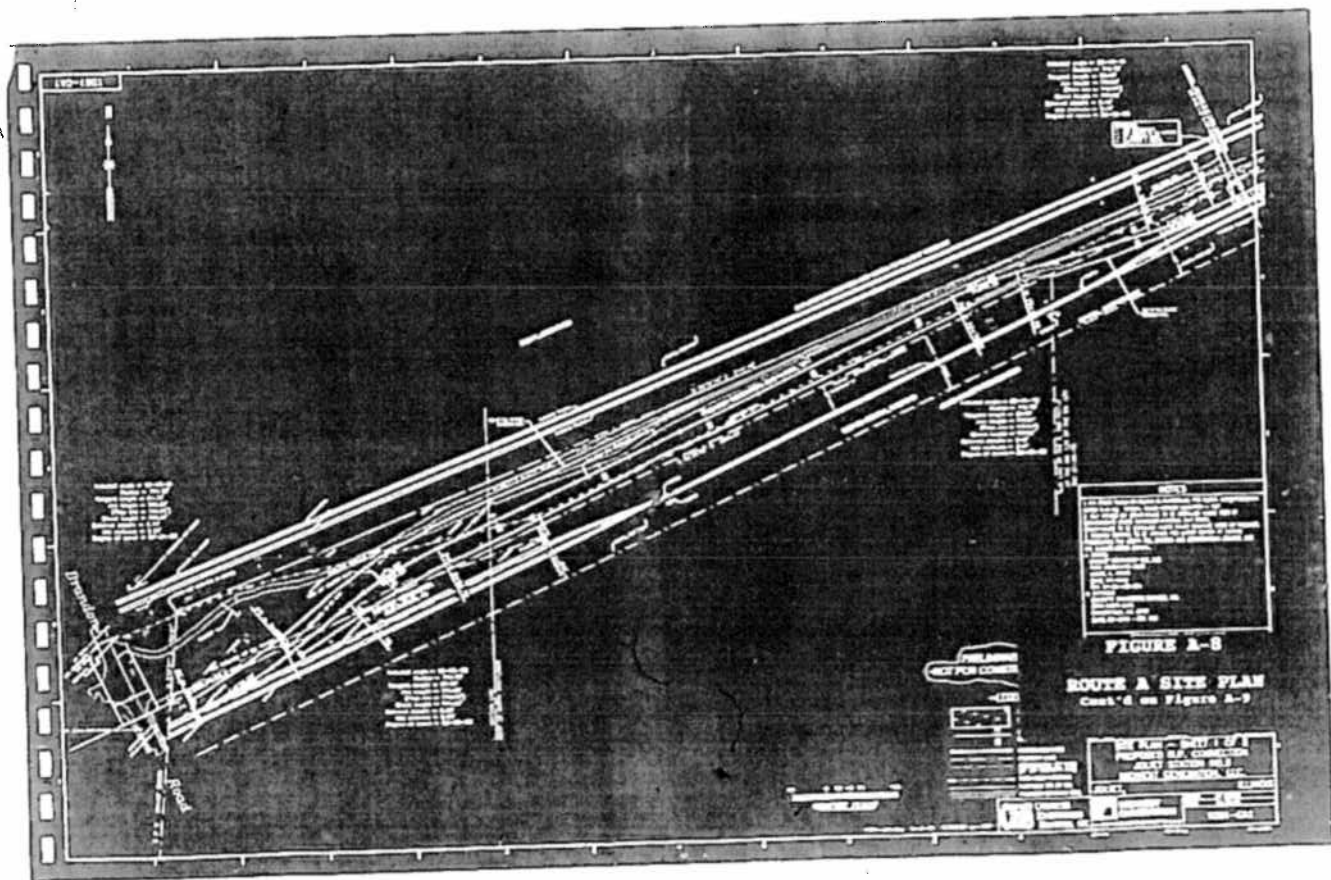
Of course, should the environmental assessment process disclose anticipated impacts that are significant, we will require the preparation of an environmental impact statement at that time. If you have any questions, please do not hesitate to contact me, or Kim Ghosh of my staff at (202) 563-1539.

Sincerely,

Vincent J. Ritten, Acting Chief
Section of Environmental Analysis

cc: Carole Daskin, Daskin Environmental Consultants





If you have questions regarding this EA, you should contact Rini Ghosh, the environmental contact for this case, by phone at (202) 565-1539, fax at (202) 565-9000, or e-mail at ghoshr@stb.dot.gov.

Recent events involving a principal postal facility within Washington, D.C., may affect for a period of time the receipt of materials mailed to the Board, as well as customer receipt of reply mail sent from the Board. Until the timely delivery of mail has been reestablished, SEA requests that individuals filing comments regarding this or other environmental assessments take the following additional steps to ensure receipt of their correspondence during the comment period:

1. Telephone or e-mail the environmental contact indicated above prior to the close of the comment period and inform them that you have mailed a comment.
2. If the comment has not been received, the environmental contact will discuss alternative modes of delivery.
3. Retain a copy of your comment for your records should alternative modes of delivery be necessary.

SEA is committed to carrying out its duties to the public and regrets any inconvenience these new procedures may cause.

Date made available to the public: April 12, 2002

Comment due date: May 10, 2002

Transportation

7. As agreed to by Midwest, if Route A is built, Midwest shall obtain the required approvals from the Illinois Commerce Commission and Joliet Township prior to beginning construction of the Patterson Road bridge and shall comply with all conditions associated with the permits.

Air Quality

8. Midwest shall use water suppression sprays and covered haul trucks to minimize dust emissions during construction.

Utilities

9. If Route A is built, Midwest shall consult with the owners of the public utilities under the Patterson Road right-of-way and take appropriate measures to ensure the safety and integrity of the utilities prior to construction of the Patterson Road bridge.
10. As agreed to by Midwest, Midwest shall determine whether the utility poles in the western part of the project site that hold railroad signal wires are active prior to construction. If the utility poles are active, Midwest shall relocate the signal wires off of the proposed site.

Conclusion and Request for Comments

The EA preliminarily concludes that if either Route A or Route B is built, this proposal would not significantly affect the quality of the natural or human environment provided the recommended mitigation measures set forth above are implemented. Accordingly, SEA recommends that, if the Board approves this project, Midwest be required to implement the mitigation contained in this chapter.

SEA specifically invites comments on all aspects of this EA. SEA will consider all comments received in making its final recommendations to the Board. The Board will consider the entire environmental record, SEA's final recommendations, including final recommended mitigation measures, and the environmental comments in making its final decision in this proceeding.

If you wish to submit comments on this EA, please send an original and 10 copies to the Office of the Secretary, Arthur Rini, Gen. Environmental Review, Surface Transportation Board, 2005 K St. NW, Washington, D.C. 20423. Comments should refer to the docket number of this proceeding: Finance Docket No. 24052.

line, both Route A and Route B would reduce train idling, which would decrease train noise for community residents and reduce the possibility of joyriders driving unattended locomotives. The Hayes report also states that the proposed project would not change existing land use, would not require any property acquisition, would not require any residential or business relocation, would not affect the community structure or area floodplains, would not create any road grade crossings, would not involve the transportation of hazardous materials, and would not change the aesthetics of the neighborhood.

Based on the above information, the Hayes report concluded that construction of either Route A or B would have "no high and adverse impacts" on the Hillcrest/Patterson Road Community. After independently reviewing the report, SEA concurred with the conclusion. As will be discussed in the following subsection of this chapter, neither route would cause flooding in the neighborhood, and as discussed in sections 4.6 and 4.7, neither route would cause adverse air and noise impacts on the community.

4.2.2 Route B

Land Use

The proposed Route B right-of-way is undeveloped land with no existing structures. It would occupy approximately 2.8 acres on land currently owned by Midwest. No hazardous waste sites were identified on the property. No adjoining property owners would lose access as a result of construction of Route B. Land use permitting requirements would be the same as for Route A.

Socioeconomics

As discussed above, construction of Route B would have "no high and adverse impacts" on the Hillcrest/Patterson Road Community, which is an environmental justice Community of Concern.

4.3 WATER RESOURCES

4.3.1 Route A

Groundwater

Rail line construction could theoretically affect groundwater quantity in two ways: (1) if placement of the line were in some way to interfere with infiltration of water through the earth's surface into the aquifers where groundwater is stored, or (2) if movement of water through the aquifer were to be interfered with due to severance of the aquifer by excavation

According to Midwest, it normally takes 8-12 hours and sometimes a full day to unload a train, trains often do not arrive at the same time every day after being transported over 1,000 miles, and Midwest cannot always unload a train as soon as it arrives. Midwest says that as a result, there are many times when two trains are present at the Station, either one already unloaded and the second to be unloaded or one to be unloaded when a second loaded train arrives.

The Station currently operates at approximately 55 percent of capacity. Midwest indicates that, as future demand for electricity in the Chicago area increases, the Station will routinely receive more coal. Midwest expects to operate at about 70 percent of capacity possibly 5-10 years in the future; however, this depends upon electric load growth in its service area. An increase in Station operations from 55 percent of capacity to 70 percent of capacity would raise Station coal consumption from the approximately 3.5 million tons per year at present to around 4.5 million tons per year.

Midwest states that the Station's coal unloading facilities are presently capable of handling 135-car trains. Although current IC operations could handle 135-car trains, coal for the Station currently moves in 126-car trains. However, Midwest states that it and UP may wish to lengthen the trains in the future in order to handle increased volumes into the Station and, therefore, Midwest wants an alternate rail line that could handle the longer trains. It also says that increasing the Station's capacity factor from 55 percent to over 70 percent may occasionally cause three trains to be at the station simultaneously.²³ Midwest says that UP has indicated that they would need longer tracks to store trains, pending unloading or returning to the mines or both, if its capacity factor increases. Midwest says that use of Route A would assure that sufficient track space is available along an unimpeded route on which to place and remove trains for the Station and that the route would

²³ Midwest says that when a loaded train arrives, there is usually an empty train waiting to be removed, and it cites several factors contributing to the possibility of a third train also being at the Station at the same time: bunching of trains, congestion on area rail lines (freight rail lines in the Chicago area are used mostly for commuter purposes from 5:30 AM until 8:30 AM, and 4-6:30 PM, Monday-Friday, with only limited access during those hours to freight trains); equipment breakdowns (such as the plant coal dumper); weather delays; failure of locomotive power; and crew shortages.

2.6 TRANSPORTATION AND TRAFFIC SAFETY

In Appendix A, Figure A-7 shows a diagram of the South Joliet Yard and nearby trackage. The yard, which is owned by UP, originally belonged to a predecessor of IC. As a result of subsequent sales transactions, IC does not own the yard but has an exclusive easement to serve certain tracks in the yard and has the right to share use of certain other tracks, as shown in the diagram. Yard trackage over which IC has a right to operate connects to its track west to Plaines, Illinois. Also shown in the diagram are the UP/IC line toward Chicago and the UP line south to St. Louis, as well as the BNSF line between Chicago and Galesburg, Illinois, and points beyond.

Public roads in the project area include Brandon Road, Patterson Road, and Woodruff Avenue (see Appendix A, Figures A-2 and A-4). Brandon Road is a two-lane road running generally north and south that crosses the Des Plaines River near the Brandon Lock and Dam. It begins on the north in the Village of Rockdale, Illinois, and ends at West Millsdale Road in rural Will County. Patterson Road is a two-lane road that runs southwest from State Route 53 on the north side of the railroad tracks, crosses the BNSF tracks at grade and then underpasses and runs parallel with the UP line until intersecting Brandon Road. Although at that point a bridge is out of service, Patterson Road turns south to end at West Noel in rural Will County. Woodruff Avenue begins at Patterson Road and runs east-west to Brandon Road, a distance of three or four blocks. It parallels the UP and IC tracks for its entire length. Although traffic counts are not available for these roads, Brandon Road is the most heavily traveled, as it is a crossing over the Des Plaines River. Patterson Road is an industrial road from its northern end until it intersects with Brandon Road. Woodruff Avenue is a low-use, mostly residential street.

Transportation and traffic safety impacts are discussed in Chapter 4, Section 4.5.

2.7 AIR QUALITY

EPA has established National Ambient Air Quality Standards for six principal air pollutants, called "criteria" pollutants: ozone, lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, and respirable particulate matter. The standards were established to protect the public from exposure to harmful amounts of pollutants. When the pollutant levels in an area have caused a violation of a particular standard, the area is classified as "nonattainment" for that pollutant. Likewise if emissions do not exceed the maximum allowed levels, the region is an "attainment area" for the specific pollutant. The designations

2001, SEA denied Midwest's request, stating that Midwest's currently proposed route (Route A) does not appear to be the only feasible route (Appendix B, Attachment 5). SEA determined that this EA should include an in-depth analysis of both Route A and of a shorter route, which Midwest had initially considered (Route B). SEA also stated that this EA would discuss all considered alternatives, including the no-action alternative.

Chapter 2 of this EA describes the affected environment in the project area, Chapter 3 describes the proposed action and alternatives, Chapter 4 identifies the potential environmental impacts of the proposed action, Chapter 5 summarizes unavoidable, adverse impacts of the proposed action, Chapter 6 addresses the proposed project's cumulative impacts, and Chapter 7 identifies SEA's preliminary recommendations for mitigation. The Board has served the EA on the public, which has been invited to submit comments on all aspects of this environmental analysis.

1.2 FRAMEWORK FOR THE ENVIRONMENTAL ASSESSMENT PREPARATION

In the process of preparing this EA, SEA consulted with a number of Federal, state, and local governmental organizations to solicit their comments on the proposed project and environmental issues that should be addressed in this document. Appendix C contains the responses of the agencies to this consultation process. This EA addresses the issues raised by the respondents, as well as requested mitigation.

Dawkins Environmental Consulting (Dawkins), the independent third-party consultant in this case, has assisted in the preparation of the EA, with SEA's oversight, guidance, and approval. In effect, Dawkins has served as an extension of SEA's staff in the preparation of the independent environmental analysis. Throughout the process, SEA has provided appropriate oversight and guidance to Dawkins. Petitioners retain third-party consultants subject to SEA approval. (See Policy Statement on Use of Third-Party Contracting in Preparation of Environmental Documentation, 66 Fed. Reg. 16,975 (2001).) SEA approved the third-party consultant in this proceeding on November 27, 2000.

serve the purpose and need of Midwest's proposed project. In a letter submitted on August 17, 2001, the Illinois Central Railroad Company (IC) alleged that the shorter route was environmentally preferable to Midwest's preferred route and attached the Verified Statement of Thomas Goodwine, General Manager - Operations for the Midwest (South) Division of IC, which stated that the shorter route could serve the purpose and need of Midwest's proposed project.

The Council on Environmental Quality's regulations implementing the provisions of the National Environmental Policy Act (NEPA) of 1969 at 40 CFR 1500.14 state that the analysis of alternatives to the proposed action is an integral part of the environmental analysis and that all reasonable and feasible alternatives must be examined in the environmental document. SEA generally grants requests to focus on applicant's preferred route if alternate routes are either not feasible or would result in the same or worse environmental impacts. Midwest has not demonstrated that the originally proposed, shorter route is not feasible, nor does SEA have enough information to conclusively determine that Midwest's preferred route is the environmentally preferable route.

Although letter 2 asserts that Midwest's preferred longer route is environmentally preferable to the shorter route because the more efficient movement of trains would reduce "the time trains sit idle along the tracks waiting to be loaded or unloaded... thereby reducing air and noise pollution" and "is actually slightly further away from populated areas than the initially considered shorter route," preliminary analysis by Dawkins Environmental Consultants (Dawkins), the independent third-party consultant appointed by SEA to assist in the preparation of the environmental document, has indicated that Midwest's preferred route may result in certain wetlands impacts that would not be caused by constructing the shorter route. Letter 2 even states that Midwest's preferred route would require a bridge crossing over a stream.

Therefore, SEA believes that the EA should include an in-depth analysis of both Midwest's preferred route as well as the shorter route. Dawkins has indicated that analysis of both routes will involve similar studies and, since Midwest's preferred route includes construction of the shorter route, the analysis for both routes will contain overlapping information. Denial of Midwest's request for focused review on its preferred alternative will not substantially change the scope of the EA. The EA will also include a discussion of all alternatives considered, including the no action alternative.

Although Midwest's preferred route would cross IC track and the shorter route would not cross IC's track, this denial of Midwest's request to limit detailed review in the EA to Midwest's preferred route in no way indicates SEA's or the Board's preference for one route over the other, or, for that matter, preference for any route at all. NEPA and the Board's environmental regulations at 49 CFR 1185 require SEA to conduct independent environmental analysis of rail construction applications before the Board. SEA makes conclusions and provides the Board with recommendations only after completion of the environmental analysis. In deciding whether to approve Midwest's proposed project, the Board will consider all evidence before it, including



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Chicago Illinois Field Office
1250 S. Grove Ave., Suite 103
Darrington, Illinois 60010-5091
847-381-2253 Fax 847-381-2285

Attachment 3

FWS/AES-CIFO

July 24, 2001

Ms. Jo Carole Dawkins
P.O. Box 845
63 Pine St.
Springville, Alabama 35146

Dear Ms. Dawkins:

This responds to your letter dated May 21, 2001 requesting information on endangered or threatened species on or near the site of a proposed rail line construction. The project site is located near the city of Joliet in unincorporated Will County, Illinois. The proposed construction site would begin just east of Brandon Road and would proceed approximately 4000 feet in the northeasterly direction before connecting with UP trackage at the Rail yard as depicted on the map you enclosed.

Based on the information provided in your submittal and a review of our records, we do not believe that any federally endangered or threatened species occur in the vicinity of the site. Based on the information provided, it does not appear that the project is likely to adversely affect any federally threatened or endangered species or adversely modify critical habitat of such species. This precludes the need for consultation on this project site in accordance with section 7 of the Endangered Species Act of 1973, as amended. Should project modifications or new information indicate that endangered or threatened species may be affected, and the project is funded, authorized or carried out by a federal agency, then consultation with the Service should be initiated by the federal action agency.

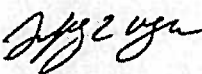
This letter only addresses federally listed species; the Illinois Department of Natural Resources should be contacted for information on state-listed species. Any impacts to wetlands or waters of the United States may require a permit from the U.S. Army Corps of Engineers. This letter does not preclude separate evaluation and comment by the U.S. Fish and Wildlife Service on wetland impacts proposed for section 404, Clean Water Act authorization.

Ms. Jo Carole Dawkins

2

If you have any questions, please contact Mr. Jeff Mengler at 847/381-2253, ext. 226 or Alfred Diggs at 847/381-2253 ext. 227.

Sincerely,


John D. Rogner
Field Supervisor

Ms. Jo
Envision
P.O. Box
63 Pine
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Re:

Dear Ms.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3500

Attachment 4

JUL 19 2001

REPLY TO THE ATTENTION OF

B-19J

Ms. Jo Carole Dawkins
Environmental Consulting
P.O. Box 845
63 Pine Street
Springville, AL 35146

Re: Scoping Comments for Proposed Construction of 4,000 feet of Rail Line in Will County,
City of Joliet, IL
Midwest Generation, LLC

Dear Ms. Dawkins:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency, Region 5 (U.S. EPA) has completed its review of your letter dated June 27, 2001, outlining a proposed railroad construction project near the City of Joliet, Will County, Illinois, for Midwest Generation, LLC (Midwest).

Midwest is proposing to construct a 4,000-foot section of rail line to connect Midwest Generation's Joliet Station Number 9 with trackage of the Union Pacific Railroad Company (UP) at the South Rail Yard. The proposed new rail line will be utilized for the purpose of transporting coal as a primary commodity. Currently, Powder River Basin (PRB) coal is shipped on the UP line to point only a few hundred yards away from the Joliet Station. From there the coal is shipped on the Illinois Central Railroad (IC) to the Joliet Station.

Based on the information provided in your letter we offer the following comments.

Purpose and Need/Alternatives

An adequate and clear project Purpose and Need statement will need to be developed and substantiated in the upcoming NEPA document. The Purpose and Need statement is the basis for the identification of all feasible alternatives and the alternatives analysis. The Purpose and Need statement should not be set so narrowly that it precludes other reasonable alternatives from consideration. If other alternatives were considered but eliminated early in the process, then they should be identified in the upcoming NEPA document and the reasons for their elimination discussed and substantiated.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3500

Attachment 4

JUL 19 2001

NEPA TO THE ATTENTION OF

D-19J

Ms. Jo Carole Dawkins
Environmental Consulting
P.O. Box 845
63 Pine Street
Springville, AL 35146

Re: Scoping Comments for Proposed Construction of 4,000 feet of Rail Line in Will County,
City of Joliet, IL
Midwest Generation, LLC

Dear Ms. Dawkins:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 109 of the Clean Air Act, the U.S. Environmental Protection Agency, Region 5 (U.S. EPA) has completed its review of your letter dated June 27, 2001, outlining a proposed railroad construction project near the City of Joliet, Will County, Illinois, for Midwest Generation, LLC (Midwest).

Midwest is proposing to construct a 4,000-foot section of rail line to connect Midwest Generation's Joliet Station Number 9 with trackage of the Union Pacific Railroad Company (UP) at the South Rail Yard. The proposed new rail line will be utilized for the purpose of transporting coal as a primary commodity. Currently, Powder River Basin (PRB) coal is shipped on the UP line to point only a few hundred yards away from the Joliet Station. From there the coal is shipped on the Illinois Central Railroad (IC) to the Joliet Station.

Based on the information provided in your letter we offer the following comments.

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An adequate and clear project Purpose and Need statement will need to be developed and substantiated in the upcoming NEPA document. The Purpose and Need statement is the basis for the identification of all feasible alternatives and the alternatives analysis. The Purpose and Need statement should not be set so narrowly that it precludes other reasonable alternatives from consideration. If other alternatives were considered but eliminated early in the process, then they should be identified in the upcoming NEPA document and the reasons for their elimination discussed and substantiated.

These areas should be depicted on legible maps in relation to all practicable alternative routes. Their functions and values should be evaluated and identified. The U.S. Army Corps of Engineers (USACE) should be contacted for Clean Water Act Section 404 permit requirements for placing fill material into wetlands and waters of the U.S.

Water Quality/Quantity - Impacts of the various alternatives on water quality should address, but not be limited to, a water body's designated use and compliance with State Water Quality Standards and Clean Water Act Section 401 Water Quality Certification. The upcoming NEPA documentation should discuss whether National Pollution Discharge Elimination System (NPDES) Section 402 storm water permits are required. All public and private water supply wells should be identified and impacts to these resources discussed and evaluated.

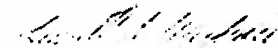
Wetland Mitigation - Mitigation requirements under 40 CFR Section 230 address the replacement of the wetland functions and values that are unavoidably lost. If the upcoming NEPA documentation identifies that wetlands will be impacted, after avoiding and minimizing impacts to the fullest extent practicable, then a detailed mitigation plan should be developed and incorporated into the document. Wetland mitigation design should be based on the replacement of wetland functions and values that would be lost. Forested wetlands should be replaced at least at a 2:1 ratio.

Our Agency recommends that a 100-foot vegetated buffer be provided around each wetland mitigation site. The buffer will enhance wildlife habitat and protect the site from sediment buildup that could result from land use practices immediately outside the buffer area. Wetland restoration is preferred to wetland creation or enhancement because it has a higher rate of success. Enhancement is generally not considered as an acceptable form of wetland mitigation.

Air Quality - The upcoming NEPA documentation should identify and discuss the potential impacts to air quality from construction and operation of the proposed project and the connected actions.

The U.S. EPA appreciates this early opportunity to provide comments and identify additional issues that need to be addressed. We look forward to receiving and reviewing the upcoming NEPA documentation for the proposed project. If you have any questions, please contact Mazin Enwiya of my staff at 312/353-8414 or email at enwiya.mazin@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
Environmental Planning and Evaluation Branch
Office of Strategic Environmental Analysis



July 27, 2011

Mrs. Jo E.
P.O. Box
Springfield

Dear Ms.

The Deputy
Director
Inventory
Reference

Please be
in the pro
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to the Divi
sion of
Conservation

If you have

Sincerely,



Steve Hazz
Transport
Division



Illinois
Department of
Natural Resources

624 South Second Street, Springfield, Illinois 62701-1787

Attachment 5

<http://dnr.state.il.us>

George H. Ryan, Governor • Brett Manning, Director

July 25, 2001

Ms. Jo Carole Dawkins
P.O. Box 845 63 Pine St.
Springville, AL 35146

RE: Midwest Generation, LLC
Rail line construction
Will County
IDNR Proj. No. 104526

Dear Ms. Dawkins:

The Department of Natural Resources has reviewed the Illinois Natural Heritage Database for the presence of endangered or threatened species, Illinois Nature Preserves, or Illinois Natural Areas Inventory sites. There are no known occurrences of resources within the vicinity of the project area referenced above. This review is good for three years.

Please be aware that the Illinois Natural Heritage Database cannot provide a conclusive statement on the presence, absence or condition of significant features in any part of Illinois. The reports only summarize the existing information regarding the natural features or locations in question known to the Division of Natural Heritage at the time of inquiry. The reports should not be regarded as final statements on the site being considered, nor should they be a substitute for field surveys required for environmental assessments.

If you have any question, on the above, please contact me at 217-785-5500.

Sincerely,

Steve Hamer
Transportation Review Program
Division of Resource Review and Coordination



ILLINOIS
DEPARTMENT OF
NATURAL RESOURCES

520 East Second Street, Springfield 62721-1787

Jim Edgar, Governor & Bruce M. Wilson, Director

Attachment 6

ENDANGERED SPECIES CONSULTATION PROGRAM
AGENCY ACTION REPORT

Date Submitted: _____
Is this a Resubmission? (Yes/No) Yes
If "Yes", enter PROJCODE: 0009492
Agency Name: Madison Resources Consulting, Inc.
Contact Person: Joseph J. Pacheco
Agency Address: P.O. Box 128 Phone: 608-837-1998
Cambridge Green, WI 53527 E-mail: accinc@qshom.net
DESIGNATION OF PROJECT FOR PROPOSED ACTION
Project Name: Madison Gas Station, Talat Station 9, Proposed Track Extension
County(ies): WI
City/Town: Talat
Township/Range/Section: T35N/R10E/SE1/4 Sec 20 + Sec 21
U.S.G.S. Quad Map Name(s): Talat + Elwood
Brief Description of the Proposed Action: Railroad tracks on disturbed land between existing sets of tracks. Project includes bridge extension and sugar pine creek.
Please indicate if any delineating the location of the proposed action, and send to Dr. Debra Chisler at the SPRINGFIELD address above.

PROJCODE 0104814
Date Recd. 7-25-01

FOR NATURAL RESOURCE REVIEW & COORDINATION USE ONLY

QUADCODES:

Are there threatened/endangered species or Natural Areas known to be located within the vicinity of the project?
Is the proposed project likely to adversely affect the threatened/endangered species or NAA? (Yes/No)

(Yes/No)
(Yes/No)
(Yes/No)

The consultation process is completed?

If "Yes", complete the enclosed Detailed Agency Action Report to complete the consultation process.

Comments:

Evaluation Approved by:

Rick Lewis FOR
Debra Chisler, Ph.D.
Chief, Div. of Natural Resource Review & Coordination

7-17-01
Date



Illinois
Department of
Natural Resources
Office of Water Resources

201 West Center Court, Schaumburg, Illinois 60196-1028

Attachment 7

<http://dnr.state.il.us>

George H. Ryan, Governor • Brett Manning, Director

January 28, 2002

Subject: Application No. 2001464
Applicant: Midwest Generation EME, LLC
Project: Sugar Run Creek Bridge
Watercourse: Sugar Run Creek
Community: Will County

Christopher Nagel
Midwest Generation EME, LLC
440 South LaSalle Street, Suite 3500
Chicago, Illinois 60605

Dear Mr. Nagel:

This concerns our review of the information submitted with the December 12, 2001 application for permit for the above-referenced project.

Under the Will County floodplain ordinance and our August 6, 1990 delegation agreement, engineering review and approval by the Illinois Department of Natural Resources, Office of Water Resources is required for the hydraulic analysis of the proposed bridge crossing prior to local permit issuance. As you explained to David Hunter of my staff in recent conversations, a hydraulic analysis was not submitted since the work will not encroach within the designated floodway/floodplain. We, therefore, have performed a qualitative hydraulic review of the proposed bridge.

The bridge abutment caissons will be constructed in an existing embankment and out of the designated floodway. The new bridge deck's low cord is 5.5 ft above the top of the arch of the adjacent bridge waterway opening and does not reduce the existing waterway opening or increase the existing bridge's headloss. We concur that construction of the proposed bridge will have insignificant impacts upon the regulatory water surface elevations. This approval is based on the plans entitled:

SITE PLAN - PROPOSED U.P. CONNECTION JOLIET STATION NO. 8 MIDWEST
GENERATION, SHEETS 1 AND 2 OF 2, DATED DECEMBER 8, 2001, SUGAR CREEK
CROSSING - PROPOSED U.P. CONNECTION JOLIET STATION NO. 8 MIDWEST
GENERATION, ONE SHEET, DATED JANUARY 23, 2002, ALL RECEIVED JANUARY 23, 2002

The proposed bridge is a single span 83 ft long steel deck.

By copy of this letter, we are notifying the Will County Land Use Department of our concurrence with the hydraulic evaluation. Our approval is only for the hydraulic evaluation of the bridge crossing. It is the County's responsibility to ensure that other aspects of the proposed work, such as compensatory storage, meets the County's floodplain ordinance.

If you have any questions, please contact David Hunter of my staff at 847/705-4341.

Sincerely,

Gary W. Jereb, P.E., CEM
Northeastern Illinois Regulatory Programs Section

DEH:sm

cc: Will County Land Use Department
Natural Resources Consulting, Inc.
Southern Coal Handling Co., Inc.

Permit is subject to applicable rules



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

10121 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

THOMAS V. SANNON, DIRECTOR

217/782-0547

Attachment 8

July 25, 2001

Ms. Jo Carole Dawkins
P.O. Box 845
63 Pine Street
Springville, AL 35146

Re: Proposed Rail Line Construction
Will County, Illinois

Dear Ms. Dawkins:

Thank you for opportunity to comment on the proposed rail line construction and operation near Joliet, in Will County, Illinois.

The Agency has reviewed this submission and has no comments or objections to the proposed project at this time. Please contact the Corps of Engineers for any permit requirements under Section 404 of the Clean Water Act for the proposed extension at the railway creek crossing.

Sincerely,

Bernard P. Killian

Bernard P. Killian
Deputy Director



**Illinois Historic
Preservation Agency**

1 Old State Capitol Plaza • Springfield, Illinois 62701-1507 • (217) 782-4838 • TTY (217) 524-7128

Attachment 9

Will County
Joliet
Near the city of Joliet; a few hundred feet south of the DesPlaines River
Rail line construction

Please refer to: IRPA LOG #0107020019HWI

July 16, 2001

Jo Carole Dawkins
Jo Carole Dawkins Environmental Consulting
PO Box 845
63 Pine Street
Springville, AL 35146

Dear Madam:

Thank you for requesting comments from our office concerning the possible effects of the referenced project on cultural resources. Our comments are required by Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties".

Our staff has reviewed the specifications and assessed the impact of the project as submitted by your office. We have determined, based on the available information, that this project, as proposed, will have no effect on any Historic Properties. We, therefore, have no objection to the undertaking proceeding as planned.

Please submit a copy of this letter with your application to the state or federal agency from which you obtain any permit, license, grant, or other assistance. Please retain this letter in your files as evidence of compliance with Section 106 of the National Historic Preservation Act of 1966, as amended.

Sincerely,

Anne E. Haaker

Anne E. Haaker
Deputy State Historic
Preservation Officer

AEN:EGH:lh



Illinois Department of Transportation

Office of the Secretary
2300 South Dirksen Parkway / Springfield, Illinois / 62764
Telephone 217/782-5597

July 30, 2001

Attachment 10

Ms. Jo Carole Dawkins
Environmental Consulting
P. O. Box 845
63 Pine Street
Springville, AL 35146

Dear Ms. Dawkins:

Thank you for your letter of June 27, 2001 soliciting the department's comments regarding potential environmental impacts of a proposed rail line construction in an unincorporated area of Will County, near Joliet. It is our understanding from your letter that the purpose of your request is to initiate third party consultation for comments as it regards impacts from the construction of approximately 4,000 feet of track connecting to a Union Pacific Rail Line at the South Joliet Rail Yard. In addition to the Illinois Department of Transportation, notice of this proposal was provided to various agencies as required by 49 CFR 1105.7. These agencies included the Illinois State Clearinghouse, the Illinois Environmental Protection Agency, Will County, US Fish and Wildlife Service and the Army Corps of Engineers.

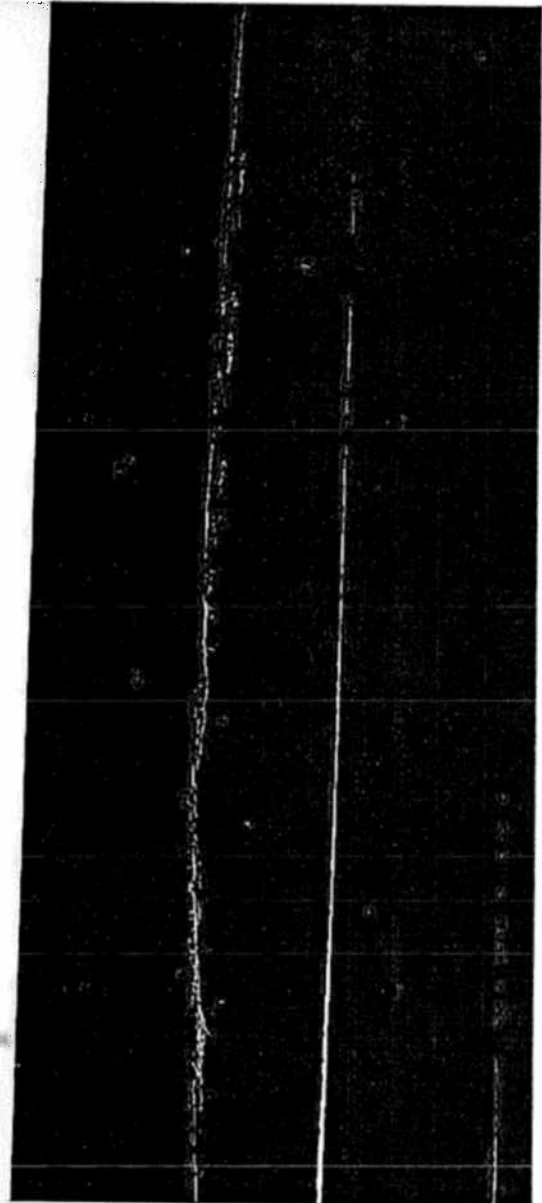
The reason for this connection is to allow the Union Pacific Railroad direct access to Midwest Generation's power plant Station #9 without the need for Canadian National Railroad crews and trains to make a final switching move to gain access. Western coal will then have a direct link from its origin to destination without a final inefficient switching operation.

We understand that it is the intent of Midwest Generation to construct connecting track within existing railroad right-of-way, which according to 49 CFR 1105.6 requires an Environmental Assessment. The department has no comments regarding the proposed action as described in your letter at this time. We understand that we can reserve the right to comment about this proposed action pursuant to 49 CFR 1105.11.

Thank you for your letter, and we look forward to the additional documentation you will be providing.

Sincerely,

Kirk Brown
Secretary



302 N. Chicago Street
Joliet, Illinois 60432



JOSEPH L. MIKAN
Will County Executive
August 3, 2001

(815) 740-4601
Fax (815) 740-4600

Attachment 11

Jo Carole Dawkins
Environmental Consulting
PO Box 845
Springville, AL 35146

RE: June 27th, 2001 letter on the Union Pacific Rail Project in Will County, Illinois

Dear Ms. Dawkins:

I appreciate the opportunity to comment at this early point in the process. Will County is aware of the great resource that its rail system provides.

There are several specific concerns that need to be addressed on the local level. Those are:

- 1) The project appears to be in or very near the Floodplain and crosses a Floodway of the Des Plaines River, both as designated by FEMA FIRM maps (Community Number 170695, Panel Numbers 171970163, 171970164, and 171970280, dated September 6, 1995). The applicant should make a precise delineation of the facility and construction staging areas in relation to the FIRM designated areas. Will County requires Special Use Permits to disturb, grade or construct within these designations. The Will County Planning and Zoning Commission and the Will County Board render these approvals.
- 2) The Project comes very close too, if not encroaches upon, designated wetlands (U.S. Department of Interior, Fish and Wildlife Service, National Wetlands Inventory, Joliet and Elwood, III Quadrangles). Disturbance, grading, or construction within, designated wetlands may require a variance from Will County's Stream and Wetland Protection Ordinance. The variance would have to be issued by the Will County Board. Again, a more precise delineation is required to determine if the approval processes are warranted.
- 3) If land is to be subdivided to create parcels for the rail line to be within, approval in the Subdivision Ordinance may be required. Site development permits may also be required.

Will County does have one concern about this project that is not reflected as part of the discussion in your letter. This project duplicates an already existing facility when there are other rail facilities that need to be constructed and/or improved within Will County. Will

County recognizes that the construction and ownership of the completed connection will be effective investment for an individual organization, but we feel the capital resources would be better utilized on other locations which would create additional capacity for the transportation system or increase the safety of the rail network, and in particular where rail traffic interacts with road traffic. The Will County 2020 Transportation Framework Plan, Will County's main transportation plan, has several Goals (pages 85 through 92), including:

- **Goal 3: Transportation Performance** – The transportation system should provide efficient quantity and quality of service with needed capacity, reasonable speed, convenience, and safety for all users
- **Goal 6: Environmental and Natural Resource Protection** – The transportation system should be sensitive to the environmental resources of the region and minimize negative encroachments to and disruptions in such areas.
- **Goal 7: Interagency Coordination** – In conjunction with the transportation plan, a spirit of commitment to interagency coordination and cooperation should be established in the region.
- **Goal 8: Financial Feasibility** – The development of the transportation system should use financial resources efficiently and be financially attainable.

Given the potential environmental constraints and concerns noted above, we are concerned that this project does not serve these considerations.

Thank you for your attention to our concerns as you develop the environmental documents for this proposed improvement. If you have any questions or wish to engage in more detailed dialogue, please feel free to contact Michael Shay, AICP, of the Planning Division at (815) 727-8430.

Sincerely,

John L. White

Joseph L. Milkan
Will County Executive

Cc: Ron Grotovsky, Land Use Director
Sheldon Latz, County Highway Director
Tyson Warner, Chief Planner
Anita Bottoms, County Engineering
Mike Shay, Senior Planner

APPENDIX D

HAYES PLANNING ASSOCIATES, INC.

MIDWEST GENERATION, LLC CONSTRUCTION AND OPERATION EXEMPTION WILL COUNTY, ILLINOIS ENVIRONMENTAL JUSTICE ASSESSMENT *

▲ PEGGY H. HAYES, AICP
2222 MIMOSA PLACE

▲ WILMINGTON, NC 28403

▲ (910)343-8801

▲ HAYESPLN@BELLSOUTH.NET

* SEA has added several footnotes throughout the document to assist the reader and to correct identified errors.

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^{2/} See Figure A-4 in Appendix A for the location of the Hillcrest-Patterson Road community.

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**ENVIRONMENTAL JUSTICE ANALYSIS
CONDUCTED FOR THE DRAFT ENVIRONMENTAL ASSESSMENT,
FINANCE DOCKET NO. 34060, MIDWEST GENERATION, LLC -
CONSTRUCTION AND OPERATION EXEMPTION - WILL COUNTY, ILLINOIS**

1.0 INTRODUCTION

On February 11, 1994, President Clinton signed the Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." A Presidential Memorandum directed to the heads of all Departments and Agencies accompanied the Executive Order 12898. The Memorandum states "each Federal agency shall analyze the environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by NEPA." The Memorandum particularly emphasizes the importance of NEPA's public participation process, directing that "each Federal agency shall provide opportunities for community input in the NEPA process." Agencies are further directed to "identify potential effects and mitigation measures in consultation with affected communities, and improve the accessibility of meetings, crucial documents, and notices."

The Executive Order 12898 does not require independent agencies such as the Surface Transportation Board (STB) to conduct environmental justice analysis. While the Board is not a Federal Executive Branch agency, the STB complies with the Executive Order for the following reasons:

- The President requested agencies to comply with the Executive Order, particularly during the NEPA process.
- The U.S. Department of Transportation Order "To Address Environmental Justice in Minority Populations and Low-Income Populations," the CEQ guidance, and the EPA emphasize addressing environmental justice concerns in the NEPA context.
- The Board is responsible for ensuring that this proposed project is consistent with the public interest.

The U.S. EPA defines environmental justice (EJ) as the "fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic groups should bear disproportionately high and adverse human health or environmental effects resulting from Federal agency programs, policies, and activities." (EPA Region 5 Interim Environmental Justice Guidelines, page 1.)

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According to the U.S. Department of Transportation, the Federal Highway Administration and the Federal Transit Administration, there are three fundamental environmental justice principles:

- To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, on minority populations and low-income populations.
- To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations. ("An Overview of Transportation and Environmental Justice," page 1.)

The following sections provide an overview of the methodology for the assessment, a demographic and land use description of the study area, the analysis conducted to determine whether there would be disproportionate high and adverse impacts resulting from the Proposed Project, and the conclusion based on the analysis.

2.0 ENVIRONMENTAL JUSTICE ASSESSMENT

2.1 METHODOLOGY

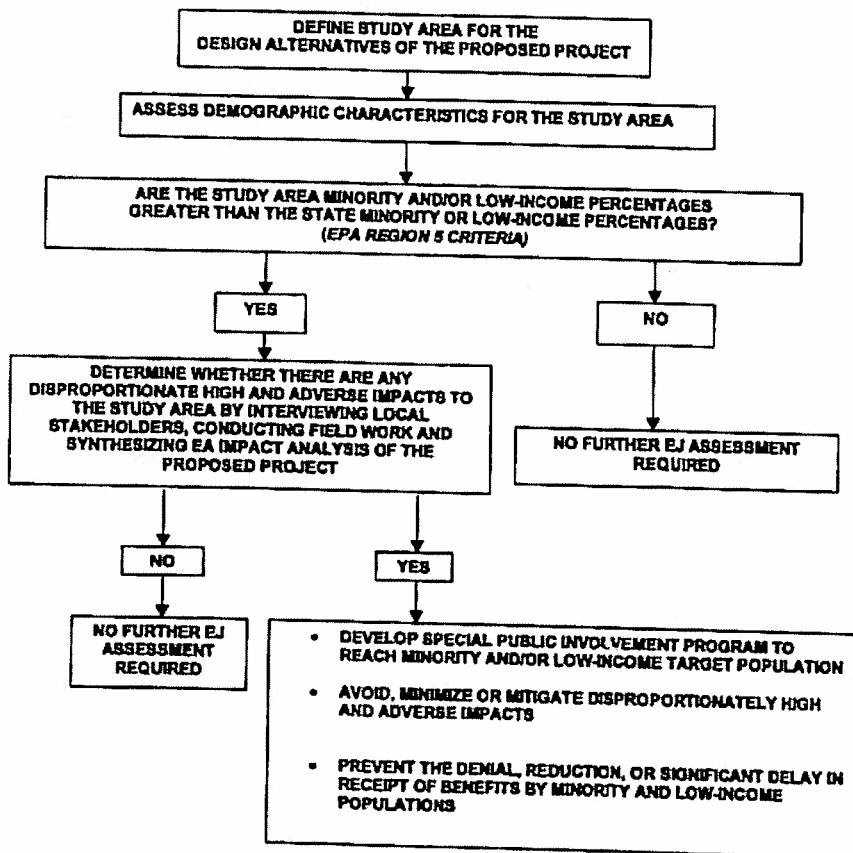
The flowchart of the environmental justice assessment process used to determine whether the Proposed Project would result in disproportionate impacts for minority and low-income populations is shown on Figure 1. The first step was to define the study area that potentially would be impacted by the Proposed Project. Two different design alternatives are being evaluated for the Joliet Spur. These alternatives are identified as Alternative A, the proposed 4,000-foot railroad spur, and Alternative B, the shorter 800-foot route.^{2/} Both of these design alternatives border the Hillcrest/Patterson Road Community as shown in Figure 2.^{3/} Most of this community is located within 1,500 feet of the Proposed Project, which is the standard distance used by the Surface Transportation Board for the "Proposed Corridor Acquisition Final Environmental Impact Statement." As shown in the figure, this neighborhood is the only residential area in the vicinity of the Proposed Project. All of the other surrounding land uses are either vacant or industrial land. A demographic profile of the Hillcrest/Patterson Road Community was compiled by using housing, race and ethnic data at the census block level from the 2000 United States Census and by using income distribution data at the census block group level from the 1990 United States Census. The minority and low-income percentages for the study area were then compared to the minority and low-income percentages for the State of Illinois in order to determine whether there was potential for disproportionate impacts. This is the criterion recommended by the EPA Region 5 Interim Environmental Justice Guidelines. This

^{2/} Total design length of Route B is actually approximately 1,988 feet; however, this does not alter the conclusions in this study regarding potential Environmental Justice impacts of Route B.

^{3/} See Figure A-4 in Appendix A for the location of the Hillcrest-Patterson Road community.

FIGURE 1

ENVIRONMENTAL JUSTICE ASSESSMENT PROCESS FLOWCHART



comparison revealed that 97 percent of the residents living in the Hillcrest/ Patterson Road Community are minority, but there were lower percentages of the population below poverty level and households earning less than \$15,000 in the study area as compared to the State of Illinois. Based on this comparison, there is a potential for disproportionate impacts to the minority residents.

In order to gain a better understanding of the real and perceived project impacts, Hayes Planning Associates interviewed local public officials as well as several community leaders in order to discuss their concerns about the Proposed Project on the Hillcrest/ Patterson Road Community. Field surveys of the study area and the two design alternatives were conducted in October 2001. Potential impacts of the Proposed Project were also discussed with other professionals who were preparing the Environmental Assessment. The results of this assessment led to the conclusion that there were "no high and adverse impacts" to the Hillcrest/ Patterson Road Community from either Alternatives A or B. No further evaluation of environmental justice impacts is needed at this time. The results of this analysis are described in more detail in the following sections.

2.2 DESCRIPTION OF THE HILLCREST/ PATTERSON ROAD COMMUNITY

The Hillcrest/ Patterson Road Community consists of 181 houses, of which 178 were occupied and 13 percent were vacant for a 6.6 percent vacancy rate. Most of the housing is single-family housing with some mobile home/ trailers scattered throughout the neighborhood. Nearly 70 percent of the occupied housing units were owner-occupied and the remaining 30 percent were rented. (Table 1) According to the 1990 census, the median year that the housing was built was 1952. Nearly 7 percent of the housing was built since 1980, 8.8 percent was built between 1960 to 1979, 72.1 percent was built between 1940 to 1959 and 12.5 percent was built prior to 1940.

TABLE 1
2000 HOUSING CHARACTERISTICS OF
THE HILLCREST/ PATTERSON ROAD COMMUNITY

CENSUS BLOCK	OCCUPIED			VACANT		TOTAL UNITS	AVERAGE HOUSEHOLD SIZE
	Owner	Renter	Total	Vacant	Vacancy Rate		
3087	4	11	15	1	6.3%	16	3.13
3088	4	4	8	1	11.1%	8	2.68
3080	9	8	17	2	10.5%	19	2.47
3081	17	4	21	1	4.5%	22	3.24
3083	4	1	5	0	0.0%	5	3.00
3074	35	6	41	3	6.8%	44	3.29
3075	21	11	32	4	11.1%	36	2.78
3076	18	6	24	1	4.0%	25	2.86
3077	5	2	7	0	0.0%	7	2.43
3082	7	1	8	0	0.0%	8	2.88
3084	0	0	0	0	0.0%	0	0.00
TOTAL	124	54	178	13	6.8%	191	2.68

Source: 2000 United States Census -- <http://factfinder.census.gov>, October 12, 2001

The 2000 Census indicates there were 530 residents living in the Hillcrest/Patterson Road Community of whom 18 were white, 480 were Black or African American, 8 were American Indian, 1 was Asian, 20 were some other race, and 5 were two or more races as shown in Table 2. Ninety-seven percent of these residents are minority. There were also 30 Hispanics residents, who comprised 5.7 percent of the community's population.

TABLE 2

2000 RACIAL AND ETHNIC CHARACTERISTICS OF THE HILLCREST/PATTERSON ROAD STUDY COMMUNITY

Block	TOTAL POPULATION	ONE RACE ONLY							TWO OR MORE RACES	MINORITY		HISPANIC OR LATINO OF ANY RACE	
		White	Black / African American	American Indian and Alaska Native	Asian	Native Hawaiian or Other Pacific Islander	Some Other Race			Total	%	Hispanic	%
3067	47	0	47	0	0	0	0	0	0	47	100.0%	0	0.0%
3068	23	1	22	0	0	0	0	0	0	22	95.7%	0	0.0%
3080	42	4	23	0	0	0	0	13	2	38	90.5%	13	31.0%
3081	68	1	67	0	0	0	0	0	0	67	98.5%	1	1.5%
3083	15	1	10	0	1	0	1	2	2	14	93.3%	1	6.7%
3074	135	5	124	0	0	0	0	0	0	130	96.3%	7	5.2%
3075	89	0	84	0	0	0	0	5	0	89	100.0%	7	7.9%
3076	71	4	64	1	0	0	0	1	1	67	94.4%	1	1.4%
3077	17	0	16	1	0	0	0	0	0	17	100.0%	0	0.0%
3082	23	0	23	0	0	0	0	0	0	23	100.0%	0	0.0%
3084	0	0	0	0	0	0	0	0	0	0	0.0%	0	0.0%
TOTAL	530	18	480	0	1	0	0	20	5	514	97.0%	30	5.7%
2000 Percentage for the State of Illinois										28.5%		12.3%	

Source: 2000 United States Census — <http://factfinder.census.gov>, October 23, 2001.

Income characteristics stated on Table 3 are only available from the 1990 Census and only at the block group level. As of 1990, 7.9 percent of the community's population was below the poverty level as compared to 5.9 percent for Will County and 11.6 percent for the State of Illinois. Over 14 percent of the community's households had incomes under \$15,000 as compared to 13.7 percent for Will County and 22.1 percent for the State of Illinois. The median income for the Hillcrest/ Patterson Road census block group was \$30,417 as compared to \$41,195 for Will County and \$32,252 for the State of Illinois.

TABLE 3

1990 INCOME CHARACTERISTICS OF THE HILLCREST/ PATTERSON ROAD COMMUNITY

INCOME	BLOCK GROUP 3		WILL COUNTY		ILLINOIS
	NUMBER	%	NUMBER	%	
Under \$15,000	23	14.4%	18,114	13.7%	22.1%
\$15,000 - \$24,999	42	26.2%	14,894	12.7%	18.2%
\$25,000 - \$34,999	25	15.6%	16,103	13.7%	15.5%
\$35,000 - \$49,999	70	43.8%	27,485	23.4%	19.1%
\$50,000 - \$74,999	0	0.0%	27,848	23.9%	18.6%
\$75,000 - \$99,999	0	0.0%	9,500	8.1%	5.6%
\$100,000 +	0	0.0%	5,285	4.5%	4.9%
Total Households	160	100.0%	117,209	100.0%	100.0%
Population in Poverty	23	7.9%	21,024	6.9%	11.6%
Families in Poverty	0	0.0%	4,242	4.5%	9.0%
Median Household Income	\$30,417		\$41,195		\$32,252
Average Household Income	\$27,686		\$45,507		\$40,635

Source: Geolytics, Census CD + Maps, Version 3.0.

Table 4 shows the age distribution of the Hillcrest/ Patterson Road Community based on the 2000 census. About 30 percent of the community's population was under 18; 54 percent were between the ages of 18 to 64; and the remaining 16 percent were over 65.

2000 AGE CHARACTERISTICS OF THE HILLCREST/ PATTERSON ROAD COMMUNITY

AGE	MALE	FEMALE	TOTAL	%
Under 10	51	36	87	18.4%
10 to 19	53	35	88	18.6%
20 to 29	25	27	52	9.8%
30 to 39	32	35	67	12.6%
40 to 49	40	45	85	16.0%
50 to 59	25	22	47	8.9%
60 to 69	22	29	51	9.6%
70 to 79	12	19	31	5.8%
80 to 84	1	5	6	1.1%
Over 85	9	7	16	3.0%
TOTAL	270	280	530	100.0%
Under 18	97	63	160	30.2%
18 to 64	138	150	288	54.3%
65 and over	35	47	82	15.5%

Source: 2000 United States Census – <http://factfinder.census.gov>, October 12, 2001.

There are scattered business, commercial and institutional uses throughout this residential community. Thompson's Transport Service is located on the corner of Brandon Road and Woodruff Avenue. There is a closed nightclub and the former "Bobbie and Marie's Soul Food Carry-out" located on Woodruff Avenue along with as the Zarley Cemetery and St. Paul's Missionary Baptist Church. Champlain Park of the Joliet Park District is located on the corner of Champlain Avenue and McKinley Street. Paul's Hauling Business is located on the corner of Patterson and Brandon Roads. The Iglesia Jerusalem Church, a small Hispanic church, and the Legend Tavern are located on Patterson Road. The Whole Truth Church of Christ is located on Ontario Street. The Mount Zion Baptist Church and Hill Memorial Center are located on the corner of McKinley Street and Singleton Avenue. The Cyltech plant is located across the street from the church on McKinley Street. The Refuge Mission United Holy Church is located on Pico Court.

The neighborhood is within the unincorporated area of Will County. The residential area bordering Woodruff Avenue, Patterson Road, and Ontario Street is zoned R-3, a single-family zoning district with 20,000 square feet minimum lot area. These areas were developed as the Smiley resubdivisions and the Pleasant View Park subdivision. The residential area bordering Sebring Street and Pico Court was developed as the Hillcrest subdivision and is zoned R-5,

which is a grandfathered single-family residential zoning district with 10,000 square foot minimum lot size. The scattered commercial uses are zoned C-1 as a local shopping district.

2.3 ASSESSMENT OF THE POTENTIAL FOR ENVIRONMENTAL JUSTICE IMPACTS

The preliminary assessment of the potential for disproportionate impacts is based upon a comparison of the race, ethnic and income characteristics of the Hillcrest/ Patterson Road Community to the same characteristics for the State of Illinois. The EPA Region 5 Interim Environmental Justice Guidelines state that there is the potential for disproportionate impacts if the study area's minority or low-income percentage exceeds similar percentages for the State in which it is located. The Interim Report is currently based on the 1990 Census and has not yet been updated with the 2000 Census data. (EPA Region 5 Interim Environmental Justice Guidelines, pages 6 and 7)

Population and housing block data from the 2000 Census are aggregated in order to determine the racial, ethnic and housing characteristics of the Hillcrest/ Patterson Road Community. The 1990 income distribution data at the census block group level is used to assess whether the Proposed Project would impact low-income households. The 1990 income block group was used because this is the smallest census geographic unit that reports income characteristics. Income data from the 2000 Census will not be released until 2002. The demographic and income characteristics for the Hillcrest/ Patterson Road Community are compared to the county and state percentages as noted in Tables 2 and 3.

The 2000 Census gives separate tabulations for race and Hispanic/Latino populations. As a result, percentages for both minority and Hispanic populations are examined. Such analysis reveals whether there is a need to develop special public involvement activities to address the special needs of the Spanish-speaking Hispanic population.

Two 1990 Census income distribution indicators are used in assessing whether there is the potential for disproportionate impacts for low-income households. The 1990 percentages of population below poverty level and households with incomes below \$15,000 are compared to the percentages for Will County and the State of Illinois. Both of these low-income thresholds are inclusive of the Department of Health and Human Services (HHS) poverty guidelines, which are required by the FHWA Order 6640.23 and the DOT Order 5810.2.

The Hillcrest/ Patterson Road Community does have the potential for environmental justice concerns because this community is 97 percent minority as compared to the State of Illinois minority percentage of 28.5 percent. On the other hand, both the percentages of the population

TABLE 6
EVALUATION OF FACTORS FOR POTENTIAL IMPACTS TO THE ADJACENT HILLCREST/PATTERSON ROAD COMMUNITY

FACTOR	ALTERNATIVE A (4,000- FT.)	ALTERNATIVE B (800 FT.) ^{1/}	IMPACT SUMMARY
Noise	Potential Positive Impact	Potential Positive Impact	Joliet Spur will reduce the need for idling trains thereby eliminating the noise of running diesel engines. Trains will pass 20 to 40 feet further from the houses bordering the railroad line than the current track location. Trains will pass slightly further from the adjacent residential community for the entire length of Alternative A. Trains will use more of the existing track with Alternative B.
Land Use	No Impact	No Impact	Spur will be built next to existing track. No change in land use anticipated.
Property Acquisitions	No Impact	No Impact	All property owned by either Midwest Generation or the Union Pacific railroad.
Relocations	No Impact	No Impact	No residential or business relocations will occur.
Community Structure	No Impact	No Impact	New spur will not divide any existing communities.
Floodplains	No Impact	No Impact	Bridges and new rail line are being designed to be built outside of the floodplains.
Road Grade Crossings	No Impact	No Impact	Overpass bridges will be used thereby eliminating the need for road grade crossings.
Hazardous Materials	No Impact	No Impact	Chal transport is not considered hazardous.
Public Safety	Potential Positive Impact	Potential Positive Impact	The reduction in idling trains will reduce the possibility of joyriders driving unattended locomotives. Such an occurrence would be a threat to public safety given the proximity of the power plants.
Aesthetics	No Impact	No Impact	Spur will be built next to existing track. There will be no change in aesthetics.

Source: Hayes Planning Associates field survey and interviews with Midwest Generation, City of Joliet, Will County Land Use Development Office, community leaders, and other EA professionals, October 2001.

^{1/} Total design length of Route B is actually approximately 1,988 feet; however, this does not alter the conclusions in this study regarding potential Environmental Justice impacts of Route B.

below poverty and the number of households earning less than \$16,000 are lower for the Hillcrest/ Patterson Road Community than the percentages for the State of Illinois.

2.4 DETERMINATION OF HIGH AND ADVERSE IMPACTS

The next step was to determine whether Alternatives A or B would result in "disproportionate high and adverse" impacts for the Hillcrest/ Patterson Road Community. Hayes Planning Associates interviewed several local public officials and community leaders who are familiar with the Hillcrest/ Patterson Road Community. Fieldwork was also conducted in the study area. Engineers and other professionals working on the environmental assessment were also contacted. As shown on Table 5, various potential effects of the Proposed Project were reviewed and it was determined that the Proposed Project would have no direct or indirect effects on the residents of the Hillcrest/ Patterson Road Community. Consequently, there would be no disproportionate high and adverse impacts for the local community that borders the Proposed Project.

3.0 CONCLUSION

The EPA's "Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses" (EPA, 1998) states that:

"If the environmental justice screening analysis does not identify minority communities or low-income communities, and suggests no disproportionately high and adverse effects on those communities and/or tribal resources, then the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) should describe the analysis and note the conclusion." (page 20)

The Hillcrest/ Patterson Road Community, which is the only residential area within 1,500 feet of the Proposed Project, is a predominantly minority community. However, neither Alternatives A or B would result in disproportionate high and adverse effects for this minority community as noted in Table 5. In conclusion, the Proposed Project does not have the potential to cause high and adverse human health or environmental effects for the residents in the vicinity of the proposed project. This conclusion should be included in the Environmental Assessment and the FONSI.

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4.2 INTERVIEWS

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- Holler, James M. Director of the City of Joliet Community and Economic Development Department. October 10, 2001.
- Mazzera, John M. Joliet City Manager. October 10, 2001.
- Shay, Michael. Senior Planner at the Will County Land Use Department. October 9, 2001.
- Singleton, Dr. Isaac. Pastor of the Mount Zion Baptist Church. October 10, 2001.
- Stewart, Michael. Executive Director of the Hill Memorial Center. October 9, 2001.

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