

DM&E POWDER RIVER BASIN EXPANSION PROJECT

PUBLIC MEETING

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Douglas, Wyoming

Monday, October 30, 2000

P R O C E E D I N G S

(6:00 p.m.)

1
2
3 MS. NIXON: Good evening. My name
4 is Bonnie Nixon and I am with Public Affairs
5 Management. Tonight my role is to be the
6 meeting facilitator. For those of you who
7 don't know exactly what that is, it is
8 essentially just to maintain -- conduct the
9 meeting, keep the timing going. I will be
10 timing the speakers. There aren't a lot of
11 folks here tonight. There is only a few
12 people who signed up to speak. I do want to
13 go through some of the protocol in just a
14 moment.

15 My role essentially is just to keep
16 the meeting moving, introduce the speakers to
17 you, and make sure that we hear from you.
18 Namely, just to keep the meeting moving.
19 Outside, I think, off to the right are the
20 rest rooms and there is water back there.
21 Certainly just go ahead and get up when you
22 want.

BETA REPORTING

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1 Let me tell you -- as you came in,
2 we hoped you all signed in. There are three
3 different places to sign in. There was a
4 place for the media, a place for elected
5 officials, and I would very much like to
6 welcome -- we have two representatives from
7 the senator's office, Mike Enzi and Craig
8 Thomas. Thank you for attending. Are there
9 any other elected officials in the room? We
10 also have Al Stoick from the Converse County
11 Commission. There was a sign in place for
12 that and then there was also a sign in for
13 you to speak or just be here.

14 If you would like to speak tonight,
15 we would ask that you go back out and sign
16 the speaker part. For myself to call on you,
17 as well as the court reporter who is formally
18 taking record of this, we specifically are
19 asking that you sign your name legibly so
20 that we can read it and keep track.

21 There is also a written comment
22 sheet. I do want to inform you that whether

1 you put written comments in the bin out there
2 or fill out this comment sheet or speak,
3 those comments will all be treated equally.
4 We do encourage you to write comments as well
5 as give those to us formally. They will be
6 responded to formally in the final document.

7 Let me go through a couple of
8 overheads here. The purpose of the meeting
9 tonight is to describe the agency roles in
10 reviewing the proposed DM&E Rail Construction
11 Project. We are going to provide an overview
12 of the project. We will spend possibly
13 about 20 minutes or so going through a brief
14 overview.

15 We would like you to be patient, if
16 you wouldn't mind. We would like to reserve
17 questions, clarification questions, until
18 after the presentation. So please jot them
19 down on one of the pieces of paper. We will
20 entertain questions right after the
21 presentation, just for clarification and
22 specifically on the process.

1 We are here also to describe the
2 preliminary results of the environmental
3 review and finally, and most importantly, we
4 are here to receive public comments from you.
5 The agenda tonight is to do some
6 introductions. I just introduced myself.

7 What we are going to do is have the
8 team introduce each other as they move along
9 through the presentation, to talk about the
10 role of the Surface Transportation Board, the
11 cooperating agency's role, to give an
12 overview of the project and the Environmental
13 Review, and then public comments. That's the
14 basic agenda.

15 We would like to spend a moment
16 talking about ground rules. We got folks in
17 here, and as we continue to move through the
18 three states that we are moving through, with
19 very diverse opinions. It's important that
20 we honor a set of ground rules. Those
21 include one speaker at a time, signing in
22 informally, practicing active listening.

1 We know that you may be wanting to
2 react or respond to someone else's role. We
3 need to really listen. Honor time limits.
4 We will be asking you to speak for about
5 three minutes or so, three to five minutes
6 max tonight. Be concise. Summarize your
7 oral comments, provide detail in written
8 comments, and avoid redundancies. If folks
9 have gotten up and said the same thing, it's
10 fine to just say, "Ditto." Again, with a
11 small group I am not as concerned about that.
12 We will have meetings that are much larger.
13 Still with this size group it's important to
14 be concise and be respectful of others' time.

15 Finally, respecting others'
16 opinions. I would like to elaborate on that
17 to say these folks are up here -- their
18 responsibility is to review -- to prepare and
19 review the environmental document for this
20 project. There are no representatives up
21 here from the railroad. I would like it that
22 when you are addressing them, that you're

1 addressing the issue and not the person.

2 So are there any questions
3 specifically about the process before I move
4 on to the actual presentation? It's funny, I
5 was telling folks a little while ago that it
6 is an interesting dynamic that no matter how
7 big or small you get the room, people always
8 sit towards the back. So I admire you folks
9 here who said, "We are going to be right up
10 front." But it's kind of interesting. It is
11 like this gentleman said, "It is like in
12 church. You want to be able to run out."

13 Let's get started. I'd like to
14 introduce first this evening Vicki Rutson.
15 Vicki is with the Section of Environmental
16 Analysis of the Surface Transportation Board.

17 MS. RUTSON: Thank you, Bonnie. I
18 am Vicki Rutson. I am an attorney with the
19 Surface Transportation Board Section of
20 Environmental Analysis in Washington, D.C. I
21 am very pleased to be here tonight and I am
22 anxious to hear your comments on the Draft

1 Environmental Impact Statement. Before we
2 start talking about the environmental review
3 process, I'd like to talk briefly about my
4 agency, the Surface Transportation Board,
5 what we do, and what we have done thus far
6 for this proceeding. We are a small agency.
7 We are called an independent adjudicatory
8 agency. There is about 140 people in my
9 agency. There are three decision makers, a
10 chairman, a vice chairman, and a board
11 member, who are appointed by the president.

12 When a railroad is interested in
13 building a new line, the law says that that
14 railroad must file an application with the
15 Surface Transportation Board. The board then
16 undertakes two different processes in looking
17 at the railroad's application. The first
18 process is called the Merits Review. That's
19 something separate and apart from the
20 Environmental Review. I don't do the Merits
21 Review, so I will go over it very quickly.

22 Basically the board looks at three

1 different areas when looking at the Merits
2 Application. Is the application of the
3 railroad financially fit? Is what the
4 railroad proposed in the public interest? Is
5 there a need for what the railroad is
6 proposing? That's the Merits Analysis.

7 In this case the board has already
8 undertaken that analysis. The board issued a
9 decision on December 10th of 1998 saying,
10 "Based on the information that we have in
11 front of us to date, we feel that DM&E has
12 met the Merits Standard, but we don't have
13 all the information in front of us. We are
14 missing a big piece of the puzzle. The
15 Environmental Review Process isn't finished
16 yet and until it is, we cannot issue a final
17 decision on this undertaking.

18 So that's where we are now. We are
19 in the Environmental Review Process. We
20 issued the Draft Environmental Impact
21 Statement on September 27th, 2000, and now we
22 are seeking your comments on that Draft

1 Environmental Impact Statement. Now, when
2 the environmental review process is done,
3 then all of the pieces of the puzzle will be
4 finished and the board will have three
5 choices, and it must make one choice out of
6 the three. It can either approve the
7 transaction as DM&E has proposed it, approve
8 it but only if certain conditions are
9 undertaken that may reduce some of the impact
10 including the environmental impact or, three,
11 deny the proposal.

12 Now, in the Environmental Impact
13 Statement what we tried to do was to identify
14 and assess the potential environmental impact
15 of what DM&E is proposing, as well as various
16 alternatives to that proposal, and that
17 includes no action, no build. We put out the
18 statement for public review. Again, that's
19 why we are here tonight.

20 As Bonnie said, there's no
21 difference between speaking your comments or
22 submitting them in writing. All comments are

1 treated equally and all of them are assessed
2 carefully. When the comment period closes,
3 which is January 5th, 2001, it will then be
4 our responsibility to respond to those
5 comments and, if appropriate, to do
6 subsequent environmental analysis. We will
7 then issue a Final Environmental Impact
8 Statement. Then, the environmental record
9 closes and the board must then make its final
10 decision on this proceeding.

11 Now, when we issued the
12 Environmental Impact Statement, we weren't
13 acting alone. We were acting with five
14 federal cooperating agencies. These are
15 agencies that also must issue decisions based
16 on what DM&E is proposing. Some of the
17 cooperating agencies are with me tonight.
18 They will explain a little bit about their
19 role in this process. So with that, I'd like
20 to turn the microphone over to Wendy
21 Schmitzer, who is representing the Forest
22 Service.

1 MS. SCHMITZER: Thank you, Vicki.
2 Good evening. My name is Wendy Schmitzer. I
3 am an environmental analyst for the Medicine
4 Bow National Forest and National Grasslands.
5 I am also representing the Buffalo Gap
6 National Grasslands for the National Forest
7 in Nebraska. I am also a Forest Service
8 Project Coordinator for the DM&E project.

9 My agency is acting on the
10 application received from the DM&E Railroad
11 for easement across two national grasslands
12 in order to construct a new rail line into
13 the Powder River Baseline in order to access
14 its coal mines. It is our responsibility to
15 determine whether or not, based on the
16 environmental analysis and through working
17 with other agencies involved, we should grant
18 an easement to DM&E for the proposal. It's
19 also our responsibility to disclose to you
20 what effects a proposal may have on your
21 public lands. I look forward tonight to
22 listening to you and hearing your comments on

1 the project, not only as they relate to the
2 national grasslands, but on the project as a
3 whole. I would also like to encourage
4 comments on the potential forest plan
5 amendments that have been displayed on the
6 Draft EIS. These proposed amendments will
7 modify our existing forest plan, should a
8 national alternative be finally selected.
9 Your comments tonight are extremely important
10 to the decision makers and I thank you for
11 taking the time to share your prospective
12 with us. I'd like to take an opportunity to
13 introduce to you a gentleman standing in the
14 back of the room, Norman Wagner. He is the
15 district ranger. He is the district ranger
16 that administers the Laramie Peak and the
17 Thunder Baseline National Grasslands. Now,
18 I'd like to turn the microphone over to Bill
19 Carson with the Bureau of Land Management.

20 MR. CARSON: My name is Bill
21 Carson. I am the realty specialist with the
22 Bureau of Land Management in Newcastle,

1 Wyoming in the Newcastle field office and I
2 am also the project manager for the
3 Right-of-Way Application filed by DM&E for
4 the project, both in Wyoming and in South
5 Dakota.

6 As you can see, we are reviewing
7 the impacts on public lands in both South
8 Dakota and Wyoming. This is for the process
9 for the Right-of-Way Grant for any public
10 lands, federal lands administered by BLM,
11 that may be crossed by the project. At this
12 time I'd like to introduce you to Jerry
13 Folkers with the Army Corps of Engineers.

14 MR. FOLKERS: Good evening. My
15 name is Jerry Folkers. I am the project
16 manager and appointed contact of South Dakota
17 and Wyoming forces for the proposed DM&E
18 railroad project. The Omaha District Corps
19 of Engineers will be responsible for
20 reviewing project impacts from the states of
21 Wyoming and South Dakota. The St. Paul
22 district will be reviewing the impact

1 associated with the project in Minnesota.
2 The Corps' permit jurisdiction in this matter
3 is based on Section 404 of the Clean Water
4 Act and Section 10 of the Rivers and Harbors
5 Act. The Corps requires a permit for
6 discharge or placement of dredge or fill
7 materials to waters of the United States,
8 which includes rivers, creeks, and wetlands.
9 It has been estimated that over 560 acres of
10 wetlands will be affected and
11 approximately 1,000 rivers and stream
12 crossings. I would like to emphasis the
13 Corps of Engineers is neither a cohort or
14 opponent of this work. The Corps' permit is
15 issued when it is determined that the
16 proposal is not contrary to the public
17 interest and the plans represent the least
18 environmentally damaging alternative. There
19 are many factors which are considered during
20 our public interest review. Some of these
21 include wetlands and wildlife habitat, water
22 quality, safety, global resources,

1 floodplains, value, land use, and economics.
2 Information, which has been drafted in the
3 Environmental Impact Statement, comments
4 generated by the Draft EIS and Corps of
5 Public Relations, and comments received from
6 the public during these public hearings will
7 be used to make a determination on whether
8 the Corps issues a permit or not. Thank you.
9 Steve Thornhill.

10 MR. THORNHILL: Thank you, Jerry.
11 My name is Steve Thornhill. I am the project
12 manager for Burns and McDonnell. We are the
13 firm that was hired as a third party
14 contractor to the STB to assist them in
15 preparation with the DEIS. Just to kind of
16 recap real quick, the purpose of what we are
17 doing here tonight is to obtain your
18 comments, your oral comments, on the Draft
19 Environmental Impact Statement. As well we
20 are accepting and encouraging comments both
21 orally and written, not only on the Draft
22 Environmental Impact Statement but also on

1 the Programmatic Agreement, which is included
2 in the Draft Environmental Impact Statement.
3 It's the document discussing how cultural and
4 historic resources are going to be dealt
5 with. Also comments on the Biological
6 Assessment, which projects impact to threaten
7 endangered species from the project. We are
8 also accepting comments, as Jerry indicated,
9 on the 404 Permit and that process, and as
10 Wendy said, on the Forest Plan Amendment that
11 will be necessary, should the project be
12 approved.

13 I am going to take a few minutes
14 hopefully to kind of run through real briefly
15 and highlight the Draft EIS to date and some
16 of the conclusions and things that are in
17 that and then we can get in everybody's
18 comments. I am trying to set the stage for
19 what we are going to do.

20 The Draft EIS has several
21 components, as most of you may or may not be
22 aware of at this time. It describes what the

1 existing environment in the project area
2 entails. It is trying really to paint a
3 picture of what things are like out there so
4 people can understand what the issues and
5 resources and things that are available.
6 Then, it looks at various alternatives that
7 could be used for the project and evaluates
8 the potential impacts that each of those
9 alternatives would have on the resources
10 found in the area. As Vicki indicated
11 earlier, it does include an evaluation of the
12 no action alternative and what the impact of
13 that alternative would be.

14 The DEIS was served on the public
15 on September 27th, 2000, and made available
16 at that time for review and comment. There
17 was a 90-day comment period provided on that,
18 which as Vicki indicated, would conclude
19 January the 5th. Just real briefly, the
20 project's purpose is really two-fold, to
21 provide DM&E the financial resources
22 necessary to reconstruct its existing system

1 and improve services to its existing
2 shippers, as well as to provide an additional
3 competitive access to the coal mines in
4 Wyoming for the movement of Powder River
5 Basin coal. The alternatives to do this --
6 there were four that were evaluated by the
7 DEIS. Alternative A was the no action
8 alternative. Alternative B would be involved
9 primarily with new construction along the
10 Cheyenne River. Alternative C was a
11 modification of Alternative B, that removed
12 part of the alignment further from the
13 Cheyenne River in an effort to avoid
14 sensitive environmental areas. Alternative D
15 involves reconstruction and new construction
16 using to the extent practical, existing
17 railroad alignment in the project area, some
18 of which were DM&E's and some of which were
19 other rail lines.

20 To highlight some of the things
21 with the different states. This project did
22 involve three states. In Wyoming, there

1 would be new rail alignment constructed to
2 access the coal mines. There would be one
3 new rail yard constructed. There were
4 alternatives for the mine loops to access the
5 Black Thunder and the North Antelope coal
6 mines. Some of the unique concerns and
7 characteristics of the area that we evaluated
8 included the presence of Thunder Basin
9 National Grassland and the impacts to
10 ranchers and ranches throughout the area.

11 In South Dakota what we looked at
12 was the new rail line construction that would
13 be necessary to get into Wyoming to access
14 the mines. There would be two new major rail
15 yards constructed. There were several
16 alternative areas that were evaluated for new
17 construction. Those were in the Spring Creek
18 area, Hay Canyon area, and around the
19 community of Brookings, South Dakota. Some
20 of the unique characteristics that were
21 evaluated included the Buffalo Gap National
22 Grasslands, various tribal interests and

1 concerns, ranches, and farms throughout the
2 area, sensitive riparian areas, including
3 along the Cheyenne River and several other
4 drainages, Angostura Irrigation District and
5 the impacts to its fertilities, various
6 communities throughout the state, both that
7 presently contain rail line and that would be
8 newly affected by it, and a new crossing of
9 the Missouri River in Pierre.

10 The State of Minnesota, what was
11 evaluated was the impacts that would occur
12 due to reconstruction of DM&E's existing line
13 across the state. Areas of new construction,
14 which in the DEIS included rail construction
15 in Mankato, Owatonna, and Rochester. There
16 will be three new rail yards constructed in
17 Minnesota. The unique characteristics that
18 we looked at included the numerous presence
19 of communities along the lines, farmers and
20 farms throughout the area and in the rural
21 areas around the communities. The presence
22 of the Mayo Clinic provided a new unique

1 occurrent. Sensitive riparian areas and
2 wetlands throughout the state, as well as a
3 couple of Flood Control Projects that were
4 identified in a couple communities.

5 As far as looking at the project
6 overall, it was determined that significant
7 environmental impact would occur in a variety
8 of resource areas. These include the impacts
9 to safety, primarily in the area of vehicular
10 safety and graze crossing, significant
11 impacts to geology and soils, water
12 resources, wetlands, paleontological
13 resources, cultural resources, including
14 archeological and history, threatened and
15 endangered species, and land use, noise, air
16 quality, environmental justice, aesthetics,
17 socio-economics, and cumulative effects. Not
18 all of these impacts would occur due to
19 whatever project component we evaluated, but
20 these areas would be impacted significantly
21 by one or some other alternative for the
22 project.

1 The DEIS also proposed some
2 mitigation that could be recommended to the
3 board for implementation or as the condition
4 of project approval. For the most part, at
5 this stage, that mitigation centered on the
6 implementation of what would be considered
7 "best management practices." An example of
8 that would be something like utilizing silt
9 fences and straw bales to control erosion,
10 those types of mitigative measures.

11 There were a number of conditions
12 where impacts were seen where it was
13 recommended that the DM&E would need to
14 consult and coordinate with other federal,
15 state, and local agencies to develop plans or
16 mitigative measures that would appropriately
17 address the impacts and concerns of the
18 interested parties in those areas. The STB
19 also made the determination that in many
20 cases the impacts of this project would be
21 difficult or could be difficult to mitigate
22 effectively and that in doing so, requested

1 comments on ways that people in the area felt
2 that those impacts may be mitigated or maybe
3 they would not be able to be mitigated, but
4 requesting suggestions on ways that people
5 thought or agencies thought those could be
6 effectively mitigated.

7 Lastly, as in other cases, the
8 board encouraged that communities work
9 together with the railroad to negotiate
10 agreements for mitigation, which may or may
11 not go beyond, and in most cases, would be
12 felt to go beyond what mitigation the board
13 would generally be in a position to impose.
14 Those agreements would be negotiated directly
15 between the railroad and the community or
16 agencies and would need to be submitted to
17 the STB as proof that they have, in fact,
18 been approved by both parties. With that, I
19 will turn it back over to Bonnie and we will
20 continue.

21 MS. NIXON: Now it's your turn. I
22 do have five names here. Were there any

1 clarification questions about the information
2 presented or about the process that was
3 described? Any specific questions related to
4 that? Again, this is not a time to comment
5 because I do have five commentators.

6 SPEAKER: Did anybody do a study on
7 the Burlington Northern or UP that -- why do
8 we need another railroad? The Burlington
9 Northern and the UP, they cannot supply
10 enough coal back east?

11 MS. NIXON: I think that sounds a
12 little bit more to me like a comment than a
13 question. I would recommend that you write
14 that down as a comment. I don't know that
15 anybody up here can answer the question, "Why
16 do we need another railroad?" It's probably
17 a much longer response than any of these
18 folks -- again, stay specific to the
19 presentation.

20 SPEAKER: Where can we get a copy
21 of the Draft Impact of those 12 items?

22 MS. NIXON: The draft document?

1 SPEAKER: Where can we get a copy
2 of the guidelines for the easement?

3 MS. RUTSON: I will answer your
4 question about where to get a copy of the
5 Draft Environmental Impact Statement.
6 Because it's so long it was incredibly
7 expensive to produce and mail, so we had a
8 rather elaborate sign-up process involving
9 postcards and people returning postcards and
10 such. We understand that not everyone got a
11 copy that wants it. We put copies of the
12 Draft Environmental Impact Statement in 80
13 public libraries along the route. You are
14 welcome to call our toll free environmental
15 hotline, leave your name and address and
16 phone number, and we can look it up on our
17 sheet and call you back with the name and
18 address of the closest library to you. Also,
19 if you have Internet access, we loaded a
20 complete copy, all 5,000 plus pages, on to
21 the Internet. You are able to review the
22 document plus all the maps on the Internet as

1 well. The board's web site is www.stb.gov.
2 Let me give you the hotline number, too. It
3 is toll free, so it is no cost.
4 1-877-404-3044.

5 MS. NIXON: The second part of the
6 question was the easement information.

7 MS. SCHMITZER: You wanted to know
8 where to get the criteria for a grant
9 easement or what the easement would look
10 like?

11 SPEAKER: The criteria for granting
12 an easement across the public grounds.

13 MS. SCHMITZER: My recommendation
14 to you would be to write to Mike Murphy. He
15 is the director. I will give you an address
16 here. He is at the Medicine Bow Route
17 National Forest, 2468 Jackson Street,
18 Laramie, Wyoming 82070. His name again is
19 Mike Murphy. He deals with all our land
20 management planning and can probably provide
21 you with the criteria and the easement
22 information that you are requesting.

1 MS. NIXON: Any other specific
2 process questions?

3 SPEAKER: In reference to your
4 comments on downloading this thing or taking
5 it off the Internet, we have been trying and
6 it's a failure.

7 MS. RUTSON: It is slow. The
8 document is so big that it's a slow process.

9 SPEAKER: You only get about 60
10 percent of it on volume four, for instance,
11 so this is unsatisfactory.

12 MS. NIXON: Again, call our
13 toll-free hotline and maybe we can send chunks
14 or something because a lot of it may have to
15 do with just the area you are in as well. Do
16 you have a high speed line? It is such a
17 large document and so it is a bit more of a
18 challenge to do the search.

19 SPEAKER: If someone doesn't have a
20 computer and can't make it to one of the
21 libraries, then what do you do?

22 MS. RUTSON: That's why we put it

1 in 80 libraries. I know it's not perfect.
2 It isn't a perfect solution but we did send
3 the document out to everybody who requested
4 it on the postcard, so we did try and cover
5 as many bases as we could. We understand it
6 is not a perfect solution, but given the size
7 of the document and the cost of the thing, it
8 was really the best we could do. We felt 80
9 libraries was -- that is a substantial number
10 of libraries, far beyond anything we had done
11 in the past, and then loading the entire
12 thing on to the Internet. I know it's not
13 perfect. I know people don't have the kind
14 of technology all the time that allows an
15 easy use of the Internet. But at least the
16 executive summary -- most of the folks I
17 talked to have been able to at least read
18 that. We tried very hard to get all the
19 information in that executive summary. It
20 is 200 some pages long. So between the
21 libraries and the executive summary and the
22 Internet and postcards, we really did our

1 best to try and cover as much as we could.

2 MS. NIXON: What you may also do is
3 again call our number and see if they will --
4 I am sure with that many libraries there is
5 one near you and if not, maybe you can get
6 one to a library close to you.

7 SPEAKER: In a case like that,
8 would it be possible to get a copy of the
9 executive summary?

10 MS. RUTSON: Well, that was one of
11 the choices on the postcard.

12 SPEAKER: So that opportunity has
13 passed now?

14 MS. RUTSON: Well, we really -- we
15 sent the postcards -- we sent out 5,000
16 postcards and asked people to return them.
17 To everyone that returned them, we
18 accommodated their needs and what their
19 request was. We sent the postcards to
20 everybody who had sent a letter, everybody
21 who had attended a meeting, anybody who had
22 called on the hotline. We really did a broad

1 based coverage with the postcard.

2 SPEAKER: I had another comment on
3 the hotline. I called it the other day to
4 register to speak at this meeting and there
5 is about a ten-minute message on there that
6 most of it was not pertinent to what I wanted
7 to do. Can you change that in some way so we
8 don't have to listen to the whole thing if we
9 know what we want to do?

10 MS. RUTSON: We had tried to change
11 the technology so you could push a button if
12 you don't want to listen to us drone on, but
13 I don't think we are quite there yet. We
14 will try to shorten it up. We had a long
15 message there because we had a lot of
16 information about the Draft Environmental
17 Impact Statement but I think that message is
18 out now, so I think we can bring the message
19 down a little bit.

20 MS. NIXON: Okay. Any other
21 questions about the process?

22 SPEAKER: I would like to know

1 something about the decision making process.
2 Does the Surface Transportation Board approve
3 the EIS or recommend approval to some other
4 agency or how does that work?

5 MS. RUTSON: The board itself, when
6 it makes its final decision, that's part of
7 the environmental record. The Draft EIS and
8 the Final EIS will have all the comments
9 received during the comment process and our
10 response to those comments. So that's the
11 whole environmental record and that's the
12 information that will be before the board
13 when it makes its final decision. The law
14 requires that the board take a hard look at
15 the potential environmental consequences of
16 its licensing action. So that's what having
17 the full environmental record in front of
18 them will allow the board to do.

19 SPEAKER: So the board makes the
20 decision, it doesn't recommend that like DOT
21 or Congress --

22 MS. RUTSON: The board makes the

1 decision.

2 MS. NIXON: Any other clarification
3 questions or questions about the process?

4 SPEAKER: Just a point of
5 information. Where in the big books is what
6 lots they cross in the grasslands? Where
7 does the information come from with the
8 number of acres in each allotment? Where was
9 that figure obtained?

10 MS. SCHMITZER: We tried to provide
11 that information from the Forest Service
12 based on the courtesy records.

13 SPEAKER: The courtesy records,
14 they don't agree with preservation. They are
15 different.

16 MS. SCHMITZER: You are saying
17 there is a difference in acreage basically in
18 the allotments that are portrayed in the EIS?

19 SPEAKER: Yes.

20 MS. SCHMITZER: Okay. That is
21 something that I appreciate you calling to
22 our attention. I am sure we will get back to

1 you on that and work with you on that to get
2 that straightened out.

3 MS. NIXON: Thank you. If you
4 wouldn't mind writing that down on a comment
5 sheet, that would be really great so that we
6 have that specifically. Thank you. What I
7 will do now is start to call the folks that
8 have signed up to speak.

9 SPEAKER: The last gentleman -- I
10 think, it was about the fourth overhead from
11 the last there was a list of things that were
12 covered, socio-economics, can we get a copy
13 of that?

14 MS. RUTSON: Have you gotten a copy
15 of the Environmental Impact Statement or the
16 executive summary, because it is all there,
17 too.

18 MS. NIXON: How about at the end of
19 the presentation you come up and take a look
20 at the overhead. There was about ten things.
21 Okay. Let's take our speakers.

22 Again, what I'd like to ask is that

1 our speakers generally keep the comments very
2 concise to about three to five minutes or so
3 max. If you want to go on -- if we could
4 just get the rest of the speakers in, we
5 could come back to you again at the end, that
6 would be fine. This is a relatively small
7 group. We are trying to set the stage for
8 the whole week and process and how we are
9 going to conduct it. I do want to recommend,
10 as it was set up here for the presentation,
11 that there are two really important things we
12 would like to hear from you on. One is that
13 if you have suggestions on ways to mitigate
14 or concerns that you have, that would be a
15 really great thing to hear from you.
16 Secondly, if you have any specific comments
17 on the document or the conclusions of the
18 document, that also would be great. We
19 recognize that you still have more time to
20 think about that and submit those comments in
21 writing. If you have either one of those
22 things tonight, those would be really the

1 most productive inputs that we could use and
2 formally respond to in the document. So
3 first I'd like to call Frank Eathorne, who is
4 also on the Converse County Board of
5 Commissioners, welcome, and president of
6 Thunder Basin Grazing Association.

7 MR. EATHORNE: Thank you. I am an
8 elected official. I did not sign up as an
9 elected official because I want to speak
10 tonight as an individual. My comments, at
11 least tonight, in the brief period allowed --
12 I have several pages of handwritten comments
13 but tonight I wanted to particularly address
14 air quality and personal experience that I
15 had because I live alongside the present
16 Burlington Northern Santa Fe and UP joint
17 line.

18 My name is Frank Eathorne. I
19 live 27 miles north of Douglas along the
20 Burlington Northern Santa Fe and Union
21 Pacific joint line. As you may know, this
22 line was built as a new route in the

1 late 1970's, primarily for moving coal from
2 the Powder River Basin to markets east and
3 south of Wyoming. Originally built as a
4 single track with passing sidings, it has now
5 progressed to three tracks, the third being
6 constructed about a year ago.

7 I will now briefly tell you of some
8 of my experiences of living and working
9 alongside a unit coal train railroad. The
10 first thing I had to deal with was the
11 severance of our property. The ranch was cut
12 about in half, separating the summer range
13 from the winter range. Thus, it is necessary
14 to cross the livestock several times per
15 year. The ranch had previously, in
16 the 1930's, been severed by the highway, but
17 we had learned to deal with that. Highway
18 vehicles can be flagged down much easier and
19 quicker than a train. Then, during a highway
20 reconstruction several years ago we were able
21 to negotiate an under bridge highway
22 crossing. Topography was kind to us, in a

1 way, when the railway came along, in that
2 because of the steep terrain differences, the
3 railroad found it necessary to build a forty
4 foot high bridge, not far from the highway
5 bridge. I asked for a road under the
6 railroad bridge that would serve as an
7 alternate to our grazing crossing and would
8 also serve as a livestock pass. The railroad
9 was happy to put in a road, as that would
10 cost them much less than the box culvert that
11 had been proposed. What I didn't know, and
12 wasn't told, was how much noise a passing
13 train makes and how the ground shakes. This
14 terrifies the livestock, even after they have
15 lived around it for twenty years. They
16 scramble to get away whenever a train passes.

17 Other factors accompanying a train
18 are diesel fumes, coal dust, and grass fires.
19 These latter, I believe, constitute a serious
20 threat to air quality. Especially when two
21 unit coal trains meet and pass on a fill.
22 The cloud of dust and diesel smoke is an

1 unhealthy sight.

2 A couple of weeks ago my son and I
3 were horseback, trailing about 150 head of
4 yearling heifers alongside the railroad
5 right-of-way to cross them under the bridge.
6 Two trains met beside us. The noise and
7 vibration spooked the cattle, but we were
8 able to cowboy up and hold them together.
9 Then, the swirling cloud of diesel smoke and
10 coal dust arrived. Our eyes were filled with
11 grit, even though I wore wrap-around
12 sunglasses. When I could hold my breath no
13 longer, I breathed, out of necessity, several
14 times. The next morning my head was
15 congested and my throat was raw. Not a
16 pleasant experience.

17 My son and his family live at the
18 ranch headquarters, which is about 1/4 mile
19 east, which happens to be downwind most of
20 the time of the railroad. Their house has,
21 in the last four years, been re-roofed,
22 re-sided, and new windows installed in an

1 effort to keep the coal dust on the outside
2 of the house, but it still gets in and
3 requires a daily dusting and vacuuming. The
4 outside clothes drying line was removed
5 recently, as the clothes came off the line
6 black with coal dust.

7 I believe the effects on air
8 quality have been understated in this Draft
9 EIS. This railroad is proposed to pass very
10 near or even next to, depending on the route
11 selected, a Class I airshed in South Dakota,
12 an airshed that is even now coming very close
13 to exceeding air quality standards. I
14 believe that this railroad would cause very
15 significant air quality violations. For that
16 and numerous other reasons, I urge the
17 adoption of the No Action Alternative. I
18 have other comments prepared for written
19 submission. Thank you.

20 MS. NIXON: Marion Loomis. He is
21 with the Wyoming Mining Association.

22 MR. LOOMIS: Good Evening. My name

1 is Marion Loomis. I am the Executive
2 Director of the Wyoming Mining Association
3 (WMA). The Wyoming Mining Association
4 represents 28 mining companies producing
5 bentonite, coal, trona and uranium. Wyoming
6 leads the nation in all four of those
7 minerals. Wyoming coal mines produced 336
8 million tons of coal last year, supplying
9 almost 30 percent of the nation's production.
10 Our coal members include every mine that
11 would be served by the proposed railroad.

12 WMA urges the Surface
13 Transportation Board to adopt Alternative C
14 as its preferred alternative for construction
15 of this project. WMA also recommends that
16 STB reject the No Action Alternative.

17 Minerals are the most important
18 revenue for the State of Wyoming, accounting
19 for over 900 million dollars of taxes,
20 royalties, and fees. Coal production provides
21 over 260 million dollars annually for the
22 State of Wyoming. There are over 4,000

1 employees making a living producing coal in
2 Wyoming, earning an average of \$50,000 per
3 year. These are some of the highest paying
4 jobs in Wyoming. Continued production of
5 coal in Wyoming is critical to our economic
6 development and future. Out of the 336
7 million tons of coal produced in 1999,
8 only 25 million was consumed in Wyoming.
9 That means over 311 million tons were moved
10 to power plants in other states. All of that
11 coal moved via rail. While continued
12 improvement in rail infrastructure is
13 critical to expanding the markets for Wyoming
14 coal as well as maintaining our existing
15 markets, it is important to recognize the
16 huge investment that existing railroads have
17 made in their infrastructure to allow Wyoming
18 mines to increase production to the record
19 levels realized to date.

20 One of the primary reasons Wyoming
21 mines have been able to capture 30 percent of
22 the nation's production was the development

1 of a second railroad in the Powder River
2 Basin. When the Union Pacific and the
3 Chicago and Northwestern Railroads developed
4 a second railroad into the PRB, freight rates
5 dropped 30 percent. That allowed Wyoming
6 mines to compete with mines in the east and
7 midwest. We assume that a third railroad
8 will result in similar lower delivered coal
9 prices. This also has the advantage to make
10 Wyoming PRB coal more competitive in the
11 market place, thus expanding production. We
12 are already seeing the coal move as far east
13 as Massachusetts in the last two weeks. New
14 sales also help the state with larger state
15 and federal tax revenues, which assist the
16 state's residents. More production also adds
17 more high paying jobs and allows the industry
18 to buy other products, such as fuel, power,
19 tires, explosives, nuts and bolts from
20 Wyoming businesses.

21 The DM&E's location should position
22 it to deliver coal over fewer miles to

1 Wisconsin. The DM&E should be able to reach
2 Lake Michigan and related lakes to make
3 traffic easier to compete with rail carriers.
4 This should help better position Wyoming coal
5 for the lake markets, which have been slow to
6 develop over the last few years. Lake
7 Michigan access should expand the PRB market
8 further along the Great Lakes.

9 All of us should be concerned with
10 our nation's over-reliance on imported
11 energy. There are some that feel our nation
12 should rely more on natural gas for electric
13 power. Natural gas is a great resource, but
14 it is a waste of natural gas to use it for
15 electric generation when we have such
16 abundant sources of coal. At the current
17 price of \$5 per million BTUs. At a price
18 of \$4 per ton for Powder River Basin, the
19 cost of a million BTUs is only 23 cents.
20 When transportation is included, the average
21 price ranges from 75 cents per million BTUs
22 to \$1.25.

1 It is also important to recognize
2 that coal from Wyoming contains much less
3 sulfur than most of the coals from the
4 midwest. Wyoming coal will meet the
5 stringent SO2 requirements of the Clean Air
6 Act and therefore, should be encouraged as a
7 fuel of choice. As utilities make their
8 decision on how to comply with the Clean Air
9 Act Amendments of 1990, they should have the
10 option of switching to low sulfur coal from
11 Wyoming.

12 WMA is also very concerned with
13 continued services to the bentonite
14 operations in Northeast Wyoming. I mentioned
15 that Wyoming leads the nation in production
16 of bentonite. Without continued rail service
17 from DM&E, a significant portion of Wyoming's
18 bentonite production could be lost. I have
19 been informed that without significant
20 investment in the existing rail line, it may
21 be impossible to continue service to
22 Northeast Wyoming. The only way that these

1 investments can be made is if the railroad
2 has the capital necessary to upgrade the
3 roadbed. It may be impossible to generate
4 that capital with the expansion into the
5 Powder River Basin coal mines. It is
6 important to recognize that the bentonite
7 operations provide one of the major economic
8 activities in Crook and Weston Counties.

9 In summary, WMA urges the STB to
10 adopt Alternative C as its preferred
11 alternative for construction for this
12 project. Thank you for your consideration of
13 the Wyoming Mining Association's concerns.

14 MS. NIXON: Our third speaker is
15 Tom Wright.

16 MR. WRIGHT: I am Tom Wright. I am
17 the Wyoming Stockgrowers Association Vice
18 President. I thank you for the opportunity
19 to testify regarding the DEIS for the DM&E
20 project this evening. I want to emphasize
21 that tonight my comments represent the
22 position of the Wyoming Stockgrowers

1 Association and also my personal position. I
2 would like to reserve the right to make
3 further comments both on behalf of the
4 Stockgrowers and for my personal position at
5 a later date. Thirty-two pounds of materials
6 and the indifferent 404 Application are not
7 easy for lay people to comment on all at one
8 time.

9 I want to comment and concentrate
10 tonight on Wyoming and our members, the
11 Wyoming Stockgrowers here in Wyoming. We
12 feel that DEIS has made a major error. It is
13 inherent in the presentation and the
14 presumptions that were used. This is
15 probably our largest area of concern tonight.
16 SEA lumps Alternative D and your D-1 and D-7
17 together in a way that burdens and
18 predisposes the outcome for this alternative.
19 You have included the Wyoming and South
20 Dakota construction in the same packages
21 although they each are major projects and we
22 feel should be examined on their merits

1 separately. When you lumped those things
2 together you made the statement in the
3 conclusion that there are 70 miles of greater
4 length, resultant greater emissions, and
5 reduced opportunity for the DM&E to achieve
6 cost savings, so you eliminate D from further
7 consideration. Reviewing both the
8 Burlington's mileage and mileage listed in
9 the DEIS for the new railroad and
10 Burlington's railroad, I'd come to the
11 conclusion that if you measure from the state
12 line to the north mine, then Alternative D
13 is 20 miles less. If you measure from the
14 state line to the south mines, then
15 Alternative C is 20 miles less. Say that
16 they are roughly equal and then measure from
17 roughly the middle of the mines, you're
18 within two or three miles of the same length.
19 Let me emphasize, that if you use the new
20 construction beside the Cheyenne River, if
21 you come in and follow the Burlington's rail
22 through Newcastle up to Moorcroft -- if you

1 measure to the center of the mines, you're
2 talking essentially the same mileage.

3 Since DM&E has planned to serve all
4 the mines in this region, it seems reasonable
5 to conclude that we should use the center of
6 the mines as a common starting place. I
7 think then when you get the mileage the same
8 in Wyoming, then a number of disadvantages
9 that the DEIS lists no longer are included in
10 this project. Let me refer to a couple other
11 areas. One of them is noise. If it's true,
12 the impact on the City of Newcastle is
13 greater if it goes through Newcastle than
14 with a project 40 miles away.

15 I would point out to you that the
16 Mayor of Newcastle has supported the project
17 in the past and this must not be a large
18 factor to them. You also say that
19 flexibility is a problem with Alternative D.
20 I would point out to you that if you consider
21 the Wyoming part of the project, there is
22 room to by-pass Newcastle, Upton, and

1 Moorcroft if the need should arise and most
2 of the remaining route has the same area and
3 the same kind of ranch land for route changes
4 if some large discovery is made during
5 construction. It's the same thing that is
6 available for Alternative C.

7 I want to emphasize to you the
8 benefits of the existing corridor. The DEIS
9 spells out many of those and I want to
10 highlight several. One of them is if you
11 will put DM&E around the current route, you
12 will have increased competition for several
13 industrial users. If the nation benefits
14 from increased coal hauling competition, so
15 should the users of bentonite, wood chips,
16 propane and Portland Cement. This would also
17 provide Newcastle, Upton, and Moorcroft with
18 an opportunity to offer a choice for future
19 business development. There would be lower
20 socio-economic impact, less visual impact,
21 thus impacting game species and less harm to
22 grazing and reduced impact from fire.

1 I have a couple other comments on
2 the DEIS. The Draft states that major impact
3 to ranchers is loss of forage. This is not
4 true. The major impacts are the division of
5 land, air quality, fugitive coal and diesel
6 emission. I would ask you if you move from
7 Douglas to Newcastle and go north, you will
8 have an opportunity to see for yourself
9 fugitive coal dust, you look a little
10 tomorrow. The DEIS says that the ranchers
11 have not complained, so they don't perceive
12 it as a problem. I would just ask you to
13 look as you go out. We have water and access
14 to livestock and crops, fire, livestock
15 losses, casualty and due to new fence design,
16 placement of cattle guards, gates, and
17 maintenance of these and the fence.

18 I want to point out that under
19 mitigation DEIS puts quite little reliance on
20 the Landowner Board that is hand-picked by
21 the DM&E. This is not an elected body or one
22 that has operated particularly effectively to

1 this point. Remember, this is a private
2 project by a privately owned company. If
3 they did not have the right of condemnation
4 to take others' privately-owned property by
5 force, a different standard would apply.
6 When they cloak themselves in the public
7 interest, then there should be a burden to
8 behave differently than if they were freely
9 negotiating right-of-ways as another private
10 user.

11 In summary, we feel that if you
12 examine the existing corridor in Wyoming on
13 its merits and not burden it with other
14 unrelated factors, the mileage for C and D
15 are generally the same. The impacts will be
16 less to almost all of the parties who have
17 lived next to and with a railroad for 100
18 years. If this project is in the nation's
19 interest on its overall merits, construction
20 within Wyoming will be less impacted for this
21 corridor by the data you have presented in
22 this document. Thank you.

1 MS. NIXON: Our next speaker is
2 Gordon Delyea.

3 MR. DELYEA: My name is Gordon
4 Delyea. We ranch 20 miles north of Douglas.
5 We already have a railroad that runs right
6 though the midline. As a rancher and a rural
7 fire fighter, I was wondering if anybody did
8 a study on what would happen on major grass
9 fires out on that north country. Our fires
10 are reported by people on the highway that
11 call and they say, "You got a railroad fire."
12 Out there there is five, six ranches
13 for 20, 30 miles. By the time anybody calls
14 there, it's going to be gone. Did anybody do
15 anything there? I mean, it's something I
16 feel that is darn important because we have a
17 ranch out this way where they want to put the
18 railroad in. If you burn down the Cheyenne
19 River, it is never going to grow back.
20 That's all I got.

21 MS. NIXON: Thank you. Tom Dunlap.
22 Folks, if you are representing a group here

1 or specific interest, please let us know that
2 as well.

3 MR. DUNLAP: My name is Tom Dunlap
4 and my folks and I have a ranch. I have been
5 a hospital administrator for 20 years and
6 presently I am an engineer for the Union
7 Pacific Railroad. I have some expertise in a
8 lot of the areas that you need to discuss and
9 things that haven't been talked about, the
10 socio-economics. Our situation is difficult.
11 I will give you an example of competing with
12 BN and Union Pacific Railroads. We are
13 actively competing for contracts right now.
14 I know UP has taken a lot of contracts from
15 the Union Pacific this past year. That is
16 why there is a number of lay-offs in the
17 Gillette and Sheridan areas. We just today
18 met ten conductors from Wyoming that are
19 going to lose their jobs because we don't
20 have enough work. What the people in Douglas
21 don't realize what happens is the Union
22 Pacific is moving most of the jobs -- they

1 like to move most of the jobs to the hub
2 spoke out of Nebraska, which would
3 significantly impact this community.

4 One of the alternatives they did
5 not discuss was taking the existing corridor
6 that DM&E owns, I think, clear down to
7 Manville, Wyoming coming through there and
8 following up the railroad. I believe we had
9 a fire out on Water Creek last year. The
10 railroads were fighting which one started it.
11 I think this was one of the large ranches. I
12 am not sure the litigation has been resolved
13 on that. I think that's a big issue for
14 ranchers. These guys get tied up in court
15 for a long, long time trying to get some
16 compensation.

17 DM&E, to my knowledge has not paid
18 Union Pacific for their tract that they
19 presently own. Their financial viability, I
20 think, is very suspect. I think their
21 financing is very suspect. I think we've see
22 that by -- if you go up Antelope Creek, which

1 is, I believe, right at South Antelope Mine
2 or North Antelope Mine, water quality studies
3 there -- I think you will find significant
4 coal dust and coal in that area that's not
5 being dealt with now.

6 Now, the UP double tracking from
7 Lusk to Manville right across Manville Creek,
8 to my knowledge there is not a daily
9 inspection on that construction process.
10 There is significant stream bed. They are
11 moving that. It's not in the same stream bed
12 any more. They are moving it out. They are
13 concerned about when you cross stream beds
14 and how they are going to regulate. How are
15 you going to stay on top of that situation?

16 Derailment is another issue. When
17 you got a lot of coal on those units and you
18 go out on the track with a lot of diesel fuel
19 and this type of thing, there is no
20 assurance. I know the railroad tries to do a
21 good job. They are really not that quick to
22 respond because we are so far out here.

1 Air quality is another situation.
2 These locomotives put out their own source of
3 air pollutants. To my knowledge, DM&E at the
4 present time does not have any of the newer
5 equipment. I don't know how they are going
6 to finance, not only putting this new roadbed
7 in but building these two new sites and then
8 coming up with rolling stock, that's
9 significant dollars. I don't know where they
10 are going to get the man power. The only
11 choice they really have is to try to rob it
12 from the other providers right now. They are
13 not the best employer for their employees'
14 concerns. The benefits are considerably less
15 than what the UP and BNSF provides for their
16 employees. They are not going to be
17 competitive from that perspective. That's
18 all I have right now. Thank you.

19 MS. NIXON: Thank you. Don
20 Higgins. This will conclude the people that
21 currently signed up, so if you would like to
22 speak, this is your opportunity. Right

1 outside of the door here, please, just give
2 your name. Otherwise we will be ending the
3 formal part of the meeting just after Don.
4 So if you want to speak, please, sign up.

5 MR. HIGGINS: My name is Don
6 Higgins. I will be brief. My simple
7 statement is this (indicating). It's a "No
8 Build." It has to be seriously considered.
9 We also need a 180-day extension on the
10 comment period. You heard tonight the people
11 are having difficulty reading this document.
12 We need more time. We also need a 180-day
13 extension on the Corps of Engineers' 404
14 Application comment period. So it's no
15 build. Alternative A must be given serious
16 consideration as the US Forest Service has
17 already done in their letter of
18 February 14th, 2000, to the STB indicating
19 that the no build, Alternative A, would be
20 the preferred action from the perspective of
21 the Forest Service. So my congratulations to
22 the US Forest Service. This 14th of February

1 letter is in chapter six in the conclusion,
2 Volume C. I should say 6-23 page where the
3 no build is actually presented in the Draft
4 EIS.

5 This EIS in its full weight and
6 mass is a flimsy, fluffy, applicant driven,
7 inadequate, incomplete EIS. It does not
8 fully comply with project scoping and it is
9 always a suggestion given to the board to the
10 Section of Environmental Analysis and it is
11 not complete for a project this massive.
12 What we need is a second draft of the EIS
13 with full consideration of alternatives and
14 full disclosure of cost and benefits.

15 I also suggest at the Wednesday
16 hearing you drive on the 59 Highway. Some of
17 you are already familiar with the 59 Highway
18 up to Newcastle. You will notice a massive
19 work yard on the lawn, that is DM/UP work
20 yard build. You will notice the massive
21 character of this industrial railroad as you
22 drive along the double track, triple track.

1 If you go on you will notice the air quality.
2 Of course, notice the wind speed also.
3 Because even if it's a clear day, the wind
4 may take the debris from the mines, including
5 the locomotives, downwind. So notice the
6 weather and the air pollution. Then as you
7 go towards Newcastle, that is eastbound, you
8 will notice the coal trains that are left at
9 the junction, the air quality near the mines,
10 and you will notice the scale of this
11 industrial landscape right along the 450
12 Highway. You will also notice some
13 interesting signs that say "Warning" that
14 informs you of the danger of the dust clouds
15 from the blast.

16 Then as you continue east on
17 the 450 Highway, east of the mines, you will
18 notice the roughness of the country, but you
19 will also notice some of the open spaces of
20 Thunder Basin National Grasslands. Of
21 course, you are always watching for that
22 prevailing wind, usually from the west or

1 southwest, blowing materials from this areas
2 from the coal mines towards the Black Hills
3 and east over the Black Hills to Class I
4 airsheds to the Wind Cave and Badlands
5 National Park.

6 So while you are here getting
7 acquainted with the residents of this area,
8 just remind yourself of this massive
9 industrial landscape that you live in or are
10 visiting. Pay attention to these air quality
11 matters and, of course, the coal and material
12 we are not going to discuss tonight. But you
13 are dealing with very important federal laws,
14 the Clean Water Act, the Clean Air Act. Some
15 of you are bright-young looking people but by
16 the time you are done with this, you will be
17 much older and not so bright. Thank you.

18 MS. NIXON: Okay. We've got
19 another speaker, that is Jean Harghbarger.

20 MS. HARGHBARGER: My husband told
21 me, "Go sign up" because he knows I can speak
22 on any subject at great length at any time.

1 I don't really have prepared things. Mostly
2 I would like to ask a question. One is, on
3 the Draft EIS. I have read the whole thing.
4 But many times you going through there and
5 you say, "DM&E says so and so. DM&E says so
6 and so. According to DM&E figures."

7 I think this is very suspect when
8 the people who wanted this so badly are
9 giving you the statistics that you're making
10 a document of this scope. I feel that just
11 because DM&E says something, it is not
12 necessarily something that makes it true.
13 There are many things in there which I didn't
14 agree with that the DM&E says.

15 Another thing that bothered me
16 about it is there is nowhere in that, that I
17 have seen yet, are sidings addressed, except
18 one place where it says, "Sidings will have
19 switches that a train can go through at 40
20 miles an hour."

21 If a coal train goes through a
22 siding at 40 miles an hour, that's going to

1 take a long siding at this point to stop
2 before it goes out the other end. So this is
3 basically almost the same as a double track,
4 as far as I can see. I don't know that much
5 about it.

6 The other one that I just brought
7 up now is if rail prices -- if adding two
8 railroads drops the transportation cost of
9 coal by 30 percent -- if another railroad did
10 it and the transportation cost dropped that
11 much, won't there be a drop in the salary
12 where the people are paid to haul this coal.

13 It seems like if they drop the
14 prices and if the railroad gets that much,
15 there are going to be significant changes in
16 the prices that they pay their laborers. I
17 know for a fact that one of the UP personnel
18 has already been addressed by DM&E to change
19 jobs and he found out real quick it wasn't
20 worth his time to discuss it.

21 Another thing, as far as the
22 Thunder Basin and that, we are having a heck

1 of time trying to get a couple of very small
2 insignificant fences across the Thunder Basin
3 lands. The fact that they would even
4 consider letting a railroad go through when
5 they won't even let a couple fences go in
6 sounds really ridiculous to me. Thank you.

7 MS. NIXON: Our next speaker is
8 Charles Linderman.

9 MR. LINDERMAN: I am Charles
10 Linderman, Director of Energy Supply Quality
11 of the Edison Electric Institute in
12 Washington, D.C. I want to answer the
13 gentleman's question of "Why do we need a
14 third railroad?" We need a third railroad
15 for competition, service, reliability, and
16 lower rates. Yes. When the UP entered the
17 Basin and through the negotiations 20 years
18 ago, rates were reduced. We want to see and
19 need to have that continue in today's world.
20 We have found the gentleman from the UP --
21 folks, I would remind you that the Union
22 Pacific Service Crisis is one of the driving

1 factors of why the electric industry of the
2 country believes in the need of this project.
3 They forced power plants to shut down because
4 they couldn't deliver coal. You may think
5 that's bullshit, sir, but in fact it did
6 occur. I can cite the case.

7 There is also several things here.
8 We do not favor any extension on this -- on
9 this project. We believe the EIS needs to be
10 approved with -- take your choice of
11 Alternative B, C or D. The No Action
12 Alternative is untenable to the electric
13 generation of the country of the nation.
14 Now, there is one of the things that we like
15 operational about this proposal, is that it
16 will reduce cost of operation as well as
17 economically. By having unit trains moving
18 at 45 miles an hour, it requires fewer cars.
19 It requires faster turn around time between
20 the power plant and the mine, that reduces
21 environmental impacts because there are fewer
22 trips. As we understand, in the books, the

1 operational plan, it appears viable to run it
2 at that speed.

3 We urge the board to focus hard
4 also on the macro impacts because this
5 project will help Wyoming coal to continue
6 its place in the market. Because Wyoming and
7 all coal is under a lot of competition with
8 natural gas, anything which reduces the price
9 reduces the cost of coal for our generation.
10 In a more competitive electric industry, it
11 creates greater opportunity for coal when
12 it's under, I'd say, a lot of economic and
13 environmental impact in the gas industry.
14 Thank you.

15 MS. NIXON: Lona Nachtman.

16 MS. NACHTMAN: I am a landowner
17 north of Douglas and my grandparents settled
18 there in the 1800's and I have continued on
19 with the generation right now. It's very
20 hard for me to see this land get, as I feel,
21 get destroyed. If a line goes through there,
22 that permanently damages it. I am not

1 against coal being used for public need, if
2 it is really needed. Now, if the company is
3 just doing this to make money at the cost of
4 our environment, our land, and our lives, I
5 disagree with that. If you do find it
6 necessary that the coal needs to go to the
7 east, then I don't understand why they don't
8 use existing lines along the highway or
9 something else that has already been
10 disrupted. The land has been disturbed.
11 This is like Joe Reddick and the Forest
12 Service are putting in special interest areas
13 trying to save some of this land and then we
14 are talking about destroying this land. We
15 are talking about two different things. If
16 we can keep on the same existing corridors,
17 that would be better.

18 Of course, noise. I am very much
19 against noise. Where I am at, you don't hear
20 any noise, and that's beautiful. When you
21 say, "Listen." Listen to what? Nothing.
22 You say you get used to the noise. Why

1 should we have to? Thank you.

2 MS. NIXON: That is the last
3 speaker that we have tonight.

4 SPEAKER: Can you take a question
5 on the process?

6 MS. NIXON: Sure.

7 SPEAKER: For present air quality
8 the Environmental Protection Agency is not a
9 cooperating agency and neither is any of the
10 states, none of the three states, or the
11 Department of Environmental Equality. Who is
12 responsible, among the agencies that are
13 cooperating agencies, for studying the air
14 quality?

15 MS. RUTSON: That's a good question
16 and something that I cut out of my
17 presentation because I thought I was getting
18 a little too windy, like on our hotline
19 introduction. The EPA does have a role in
20 this case. Because we are preparing -- we
21 are doing a Draft Environmental Impact
22 Statement, EPA must give a rating to our EIS,

1 so we will get a rating on the EIS and they
2 will also rate DM&E's proposal. It's called
3 an alpha numeric system. They will say at
4 the end of the day our statement is adequate,
5 whether we need more information or whether
6 it's inadequate and objectionable. No one
7 wants to get an objectionable rating. It's
8 very bad. So we need work and we are working
9 with EPA to make sure that they are satisfied
10 that we have done a good job.

11 We have an air quality working
12 group with EPA and the cooperating agency,
13 and my agency is working specifically on air
14 quality. The park services are involved as
15 well because we do have lot of Class I
16 airsheds involved. We did impose a condition
17 in the Draft, recommend a condition in the
18 Draft, saying that at the end of the day we
19 would like the board to impose the final
20 recommendations of this air quality working
21 group. The working group is still in the
22 process of developing and looking at options

1 for mitigation but we are not there yet. We
2 are going to need to be there by the time we
3 issue the final Environmental Impact
4 Statement. Does that answer your question?

5 SPEAKER: Somewhat. But then that
6 leaves the public no opportunity to comment
7 on the findings of this group, right?

8 MS. RUTSON: Well, EPA will be able
9 to comment and if they are dissatisfied, we
10 will have to keep on working through the
11 process. Then the board issues a decision
12 and if people are not happy with that
13 decision, including measures that may be
14 imposed in that decision, then that decision
15 can be challenged. When the board finally
16 acts, it is not as though the board issues a
17 decision and then we don't have to worry
18 about challenges, lawsuits, petitions to
19 reconsider, any of the full administrative
20 process that is available to folks.

21 MS. NIXON: Again, I want to make
22 sure that we are taking just the

1 clarification and process questions. If you
2 have comments, there is a formal process.

3 MR. DUNLAP: There is a couple of
4 issues that I didn't address, was the
5 presence like Black Thunder Mine, Antelope
6 Mine, and North Antelope Mine. The best
7 coal, to my understanding, is on the south
8 end of the Basin. Lower quality coal is on
9 the top end of the Basin. UP doesn't compete
10 up above the provided line at this time.
11 There was a comment made about a debacle with
12 UP a few years. That happened down with the
13 Southern Pacific and Union Pacific. It
14 didn't happen up on this end. It happened in
15 Texas on that southern route. So don't let
16 that be a confusing issue. It did not come
17 out of here. Right now the mine cannot
18 really load a whole lot more trains than they
19 are already handling. The infrastructure is
20 not there. Black Thunder, I know we have
21 asked them to put in another track there, but
22 they are financially not able to do that

1 right now. So I don't know, again, where all
2 of this extra business is going to come from.
3 We will project to do 120 to 130 trains. At
4 this period of time we are doing 93. We took
5 the work away from BM to get the 93.

6 MS. NIXON: Do you have a question?

7 SPEAKER: Yes. What I wanted to
8 ask, and I think what Frank wanted to know,
9 is there any pipeline that we have with the
10 EPA to give them comments before -- we've
11 seemed to run out of time. I mean, if they
12 are going to give their comments to you or if
13 they are going to write policy for you, we
14 should have a pipeline to them as well as to
15 the Surface Transportation Board.

16 MS. NIXON: What I'd like to say is
17 you are certainly free to write to the EPA.
18 What I heard them saying is that they have a
19 work group. They already have been finding
20 that there is a significant impact. Now they
21 are looking at mitigation and talking with
22 the work group. If you have a recommendation

1 on mitigation, you want to address them by
2 our deadline, so that they can also be
3 considered. After that, there is a time
4 frame in between where the final is issued
5 and the board then also issues a decision, so
6 there is more time there. Then the board
7 will issue a decision and once again, there
8 is another opportunity to petition or protest
9 the decision. So we still have quite a few
10 opportunities. If you have comments
11 specifically --

12 SPEAKER: Is there a hotline or a
13 certain person or somebody that we could
14 focus on in the EPA? Is there some
15 particular person or department or something
16 in the EPA?

17 MS. RUTSON: I would encourage
18 everyone -- remember the purpose of the
19 comment period is to comment on the Draft
20 Environmental Impact Statement. If we have
21 failed to put information in that
22 statement -- if you feel you don't have

1 enough information, you need to tell us that
2 or we can't get this fixed by the time we
3 issue the Final. That's really the right way
4 of doing this. Of course, we have a free
5 society, you are welcome to talk to the EPA
6 if you would like. Jim Berkley is the person
7 in the EPA that we are working with. But
8 remember, if you don't tell us what we are
9 doing wrong, in your opinion, in the Draft
10 Environmental Impact Statement, we will not
11 have an obligation to fix it in the Final
12 because you would not have told us.

13 MS. NIXON: I am going to adjourn
14 on the formal part of this meeting. This
15 evening we will again stay around outside by
16 the table if you would like to submit written
17 comments. As we mentioned earlier, there is
18 a written comment sheet. We really want to
19 encourage you to fill that out. The comments
20 are due on January 5th, 2001. I want to
21 reiterate that date, have you write that
22 down. That is the deadline, the due date,

1 for formal written comments. So again,
2 please make sure you sign in. If you filled
3 out a comment sheet, that would be great.
4 Thank you and have a nice evening.

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