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In The Matter Of:

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

DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2000

***Beta Reporting
910 17th Street, N.W.***

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Washington, DC 20006

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Page 1
DM&E POWDER RIVER BASIN EXPANSION PROJECT
DRAFT ENVIRONMENTAL IMPACT STATEMENT
PUBLIC MEETING
PROCEEDINGS TRANSCRIBED FROM VIDEOTAPE
Newcastle, Wyoming
November 1, 2000

Page 2
PROCEEDINGS

(2) (1:00 p.m.)

(3) **STEVE:** to get involved, (4) require DM&E to coordinate with these (5) agencies and come up with ways to address (6) their concerns and mitigate the potential (7) impacts.

(8) One thing that is important to note (9) is that DEIS does indicate that there are a (10) number of impacts that it feels would be (11) difficult to mitigate effectively. As part (12) of the commenting process on the draft we (13) would like your input and your comments on (14) mitigation measures imposed or other measures (15) that you feel based on your knowledge of the (16) area could be beneficial or helpful in (17) reducing the impacts of the project if those (18) exist.

(19) Last then, mitigation measures (20) included discussion on communities and (21) agencies getting together and negotiating (22) agreements with the DM&E as it has been done

Page 3
(1) in past cases before the STB again to assist (2) in coming to some consensus on mitigation (3) measures that would be beneficial to all (4) parties and agreeable to all parties of (5) the project. DEIS also will improvise a (6) mechanism whereby submitted to the STB (7) so they can be considered for potential (8) imposition on the project should it be (9) approved. (10) So with that I'll turn it back over (11) to Bonnie to finish up our opening remarks (12) and get all of your comments. Thank you.

(13) **BONNIE:** Let me talk a little bit (14) more about the comments. The agencies do (15) welcome your comments in two ways, oral (16) comments at this meeting as we mentioned. We (17) are videotaping and taking notes. They will (18) be transcribed and submitted to the formal (19) record. Then written comments, not to sound (20) but formally submitted in writing and (21) sent by mail.

(22) The agencies will be responding to

Page 4
(1) the comments in the final environmental (2) impact analysis which is also called the EIS. (3) Obviously you have the right to give us (4) comments on anything that you'd like. I can (5) tell you that the ones that will be most (6) productive and constructive for the process (7) will specifically be comments

on the topic (8) Steve mentioned, the environmental issue (9) areas, the Draft Environmental Impact (10) Statement, the document that was prepared. (11) Any comments you may have on the adequacy of (12) that document, on the information that's (13) contained within that document. On the (14) programmatic agreement and the biological (15) assessment. On Section 404 permit (16) applications — those are the ones with Jerry (17) from the Army Corps of Engineers discussed in (18) regards to South Dakota and Wyoming and (19) Minnesota, 404 permit applications. Finally, (20) we'd like to receive your comments on the (21) proposed forest land amendments.

(22) So today we're taking comments

Page 5
(1) first from federal and state elected (2) officials. We do not have — we actually (3) have as Dumont (phonetic) mentioned that (4) today — we'd like to welcome His Honor. We (5) have aides from U.S. Senator Michael Enzi's (6) office. That's Robert Bailey. And an aide (7) from U.S. Representative Barbara Cubin's (8) office. That's Jack King. Then we also have (9) Mike Mills, the mayor here of Newcastle, and (10) Mike will be one of the speakers a little bit (11) on in the agenda. We'd like to any (12) other elected officials that are here that we (13) haven't acknowledged.

(14) I would like to again reiterate the (15) ground rules. What I will be doing is ask (16) you that in order for us to accommodate all (17) the speakers today we'd like to ask that you (18) keep your oral comments to about 3 to 5 (19) minutes. It needs to really be 5 minutes (20) maximum for the list of folks that we have (21) that signed up to speak in order for us to (22) get through the whole list and be sensitive

Page 6
(1) to the ones that are at the end. Please keep (2) the comments to 5 minutes. (3) If you have anything beyond that, (4) again your written comments will be treated (5) exactly the same as your oral comments. (6) There is no difference. Hopefully in (7) addition to submitting oral comments, you (8) might have copies of those or brought copies (9) of those with you. If you did, we can give (10) them to the panel. That's great. You can (11) submit them in writing as well. That will be (12) great.

(13) So with that I think we'll get (14) started. I'm going to let you know I'll (15) set it exactly for the 5 minutes. I will let (16) you know when you have 1 minute left so that (17) you can summarize up if your comments are (18) lengthier. Again, if you can keep your (19) comments 3 to 5 minutes, that would be great.

(20) Our first speaker is Darnell (21) Donnelly.

(22) **MR. DARNELL:** My name is Donnelly

Page 7
(1) Darnell. Today I will address my comments to (2) the adequacy of your DEIS. My first comment (3) concerns Chapter 1, page 118, 1.3 — which (4) states that was 131 million tons, but (5) only 80 million were shipped because of (6) transportation problems. This statement is (7) directly attributed 41 Volume XLIX, (8) number 5, pages 41 through 46. Nowhere in (9) his reference does he mention these mines by (10) name. Nowhere in this reference does he (11) mention the production of these mines. And (12) nowhere in this reference does he blame the (13) shortfall on transportation problems. It's (14) not there. Right here is the reference if (15) you'd like to look at it.

(16) The next paragraph states that for (17) the past five years coal carriers in the (18) basin have failed to meet guaranteed cycle (19) times. My first question — which five (20) years? Are you talking about '92 through '96 (21) as in this information, or are you (22) talking about some other five years?

Page 8
(1) My second question — what's your (2) source for this information? Who said the (3) carriers in the basin failed to meet (4) guaranteed cycle times? (5) My third question is why didn't you (6) make explicit reference by footnote to this (7) conclusion?

(8) These are examples of what all (9) through this EIS. But NEPA, 49 U.S.C. 1502(25) deals with footnoting (11) also, footnote 42, the same thing. You cite (12) the pending legal action as proof of service (13) problems to this basin. Number one, I'd like (14) to ask you, has this pending legal action (15) been resolved? Number two, what is the (16) outcome of this legal action? Number three, (17) how does the pending legal action show proof (18) of anything?

(19) In Volume III-B at 4.4-44 you show (20) tax tables that offer an estimate of county (21) property taxes at you do so with no (22) footnote. You do offer later in the EIS an

Page 9
(1) explanation of your methodology. At least (2) it's your idea of an explanation, I guess. (3) It doesn't explain much to me. But NEPA (4) specifies that you will make explicit (5) reference by footnote from scientific and (6) other sources for conclusions in the (7) statement. NEPA also says that no material (8) may be incorporated by reference unless it is (9) reasonably available for inspection by

[10] potentially interested persons within the [11] time allowed for comment. This is [12] at 1502.21.

[13] Where do you expect us to reference [14] this? Why do you not make it available [15] to interested parties as NEPA specifies that [16] you should? At 4.4-31, Volume III-B, you say [17] that groundwater wells used during [18] construction to prevent reductions in [19] yield will be expected to come back during [20] operation. How? When? Why? What's your [21] source? Again, see 1502.24.

[22] In the unlikely event of derailment

Page 10

[1] you say, however, if a visitor did not [2] previously visit an area, he would not know [3] if his view was impaired. All of these are [4] just unsupported conclusions, and they're not [5] appropriate for inclusion in the EIS.

[6] I can find no estimate of habitat [7] loss of prairie dogs in your Draft EIS. My [8] mitigation policy recommends that no [9] habitat for candidate species. Prairie dogs [10] are awarded but precluded. This makes them a [11] candidate species. The preferred alternative [12] numerous colonies, both in Wyoming and [13] South Dakota. Loss of habitat sterilize [14] the you have roads, you have fire [15] breaks, and you will have mortality on [16] prairie dogs due to construction [17] calculated and give them consideration, [18] particularly as they apply to other candidate [19] species and threatened and endangered species [20] including swift foxes, mountain, [21] black-footed ferrets. You invited comment

[22] on —

Page 11

[1] **BONNIE:** One minute.

[2] **MR. DARNELL:** One minute?

[3] **BONNIE:** One minute.

[4] **MR. DARNELL:** You invited comment [5] on WG alternative. I'll comment on [6] that. Number one, you've underestimated the [7] wetlands by a huge factor. Number two, [8] you're still scoping during the EIS. Number [9] three, 1502.14(e) requires that you identify [10] your preferred alternative in the draft.

[11] One other thing I'd really like to [12] comment in my one minute, 1502.10 specifies [13] the format to be used in a draft EIS. It [14] states that the standard format should be [15] used unless there are compelling reasons to [16] do otherwise. Index is listed as item J. [17] What are your compelling reasons for not [18] having an index in a 5,000-page document? [19] Thank you.

[20] **BONNIE:** Thank you. Again, if [21] there is time for a meeting at the end of

the [22] meeting and we need to come back to some of

Page 12

[1] the speakers, that's fine too. But, again, [2] please submit your comments in writing as [3] well. It will be treated exactly the same as [4] the oral.

[5] One other thing, I didn't notice, [6] and the questions clearly were in comment [7] form, but again if folks have questions, if [8] you can just fill out that orange card, [9] procedural questions, and we will take them [10] and take a look at them at the break and see [11] if there are any that we can answer [12] specifically about the process.

[13] With that, let me ask Nancy Darnell [14] to speak next.

[15] **MS. DARNELL:** Good afternoon. I am [16] Nancy Darnell County, Wyoming. To the [17] hearing board I'd like to thank you for [18] holding these hearings so that citizens have [19] an opportunity to comment on the Draft [20] Environmental Impact Statement. I've had my [21] copy of this 13-volume statement for three [22] weeks so my comments aren't preliminary and I

Page 13

[1] reserve the right to add comments throughout [2] the comment period.

[3] This is one of the busiest times of [4] the year for agricultural people with [5] hunting seasons, and shipping livestock. [6] Frequent storms during the three months may [7] also impact people's ability to respond. In [8] addition, the two most important family and [9] cultural holidays, Thanksgiving and [10] Christmas, are included in the comment [11] period. Therefore, I formally request [12] an 180-day extension of the comment period.

[13] The draft is fatally flawed in a [14] number of ways. The air quality information [15] is incomplete. No one can comment on [16] material that's not available. The appendix [17] state that the EIS was used for a basis [18] with updating. Well, it was updated. [19] Existing emissions on page 510 — it says [20] that existing emissions were used for [21] methane facilities. What or number of [22] CEM facilities was used?

Page 14

[1] Appendix E, page 31, states [2] similarly, emissions and other information on [3] potential new CEM developments are not yet [4] available. In this case we could guess on [5] the types of development since we know [6] approximately where they will be located. [7] Guessing should not be a part of the DEIS, [8] and guessing in this case is not necessary as [9] the Wyoming Oil and Gas Conservation [10] Commission is issuing

permits on an average [11] of 800 new wells per month. This is a public [12] record available to all.

[13] Appendix E, page 3, goes on to [14] state that the location of potential Wyoming [15] CEM development would be on the west side of [16] the Powder River Basin far away from [17] areas where we expect to see the highest [18] impacts due to the DM&E railway expansion. [19] Where is the documentation for this [20] assertion? Our inquiries to CEM companies [21] and the PRB indicate that development is [22] occurring all over the basin, but new

Page 15

[1] facilities are being proposed for the [2] southeast corner of the PRB, closest to the [3] class 1 [4] The DEIS says that alternatives B [5] and C have less impact on the air quality [6] than alternative D, but it appears that [7] analysis of both of those have failed to [8] include the emissions of trains traveling the [9] current rail line from Nebraska. There [10] are no plans in the application or in the [11] DEIS to abandon the present railroad so [12] emissions from those trains must be [13] considered in the modeling. In addition, [14] more trains than the current number should be [15] used in the modeling because DM&E says that [16] the major reason for this project is to [17] better serve existing customers. Therefore, [18] it's reasonably foreseeable that traffic on [19] this portion will increase. If the DM&E [20] really intends to better serve those [21] businesses, then those portions of the [22] present system will also have to be upgraded

Page 16

[1] resulting in more impacts to the wetlands and [2] streams of the area because the present line [3] crosses the same tributaries as the [4] Cheyenne — alternatives B and C.

[5] Another deficiency in the DEIS is a [6] lack of discussion with respect to coal dust. [7] In Volume III-B the DEIS says FDA identifies [8] no detailed studies that provide information [9] on the amount of coal dust lost from rail [10] transportation. A quick review of materials [11] on the Internet turned up a couple of sites, [12] and one I have included in the appendix to my [13] comments today. So it wouldn't have taken [14] long to find places that there are comments [15] available.

[16] In addition, I have a bag of coal [17] particles collected from the Burlington [18] Northern Santa Fe rail line Texas, [19] a mere 750 miles from the Basin. There is [20] definitely a change in the environment and [21] coal particles are being strewn out of rail [22] cars for thousands of miles on the way from

Page 17

[1] mine to utility. A picture of the crossing [2] marker and the coal dust is also in the [3] appendix of my comments for you.

[4] Another deficiency in the draft is [5] the lack of study the Mississippi River [6] impacts. In the March 5, 1999 decision [7] setting forth the final scope of the draft, [8] the FTE stated that the impact to the [9] Mississippi River does not meet the [10] reasonably foreseeable standard because there [11] is a "high level of uncertainty about the [12] amount of the coal that DM&E would transload [13] to barge."

[14] **BONNIE:** One minute left.

[15] **MS. DARNELL:** Last night at [16] meeting one of the applicants — or the other [17] night meeting one of the applicant's [18] proponents stated that one of the advantages [19] of this project was being able to barge coal [20] up and down the Mississippi, thus reaching a [21] number of utilities. It would appear that [22] the Edison Electric sees barging as an

Page 18

[1] immediate outcome of this project. A new [2] draft must include a study of the impacts to [3] the Mississippi.

[4] There are a number of errors of [5] fact in the DEIS that in my written comments [6] I have detailed. I think one of the major [7] errors that's in the DEIS is the estimation [8] of the mine track. Another thing there's [9] been much discussion about is the miles of [10] track leading rain falling to the West [11] Coast. There's been a lot of talk in the [12] press about how much shorter this route would [13] be. In my comments I have a chart of those [14] times.

[15] So I'm asking you to vacate this [16] Draft EIS and come out with something that is [17] factual.

[18] **BONNIE:** Thank you.

[19] **MS. DARNELL:** I have with me my [20] comments.

[21] **BONNIE:** Great. You'll be [22] **MS. DARNELL:**

Page 19

[1] **BONNIE:** Thank you.

[2] **MS. DARNELL:**

[3] **BONNIE:** Lea Stodart?

[4] **MS. STODART:** My name is Lea [5] Stodart and I am opposed to the DM&E [6] expansion project. I would first like to [7] request an additional 180 days minimum for [8] the comment period on the DEIS. There is no [9] way to get through this in the time we have [10] allotted. Not to mention the 404 permit [11] application that is even more difficult to [12] comment on since the deadline on that

32 [13] pounds of information is November 29th, much [14] earlier than the deadline on this 32 pounds [15] of the DEIS. I also request that the 404 [16] should be extended and also be more readily [17] available to the public. The nearest [18] complete copy is 100 miles from me. I can't [19] go read it in an hour. Everyone on the [20] interested parties' list should have received [21] the 404 permit application.

[22] After to starting to read the

Page 20

[1] information in the DEIS I wonder if there was [2] any common sense used in preparing it. There [3] is no rhyme nor reason when reading it. The [4] table of contents is incomplete. There is no [5] index. The glossary is lacking in many words [6] needing definition. And try to find a name [7] in the interested parties. You didn't even [8] alphabetize them.

[9] The drafts are illegible and [10] difficult to find afterwards when we try to [11] refer back to them. And I would like to see [12] you try to find a specific place on the maps. [13] They are ludicrous as the first maps brought [14] to us by DM&E at the first meeting. They [15] haven't even labeled the highlands correctly. [16] The Corps maps are much more readable. Yet [17] they are only for alternative C and are not [18] easily available.

[19] To comment more specifically, in [20] Volume VI, page A61, footnote 41 which was [21] something I states DM&E supports its [22] assumptions by stating that it expects the

Page 21

[1] growth rates for electricity generated by [2] coal-fired plants in the core market areas to [3] be percent per year requiring capacity [4] utilization factors to exceed 75 percent by [5] the year 2010. DM&E cannot be a substantial [6] source, an authority, especially in regards [7] to assumptions and assertions. Particularly [8] where in Volume I, Chapter 1, table 1-5, it [9] says the growth rate will only be 1.1 [10] percent? Which percentage do you expect to [11] stand behind?

[12] In Volume III-A, table 4.1-7, [13] county wetlands acreage for South Dakota, the [14] total wetlands acreage is at 179.4 [15] acres. After making several phone calls, all [16] long distance by the way, I found in Volume [17] I, the general project, part 6, page 2, [18] table 1, summary of the wetlands impacts in [19] the 404 permit application by the United [20] States Army Corps of Engineers it states [21] affected wetlands in eastern South Dakota are [22] going to be 319 acres, western South

Page 22

[1] Dakota 211 acres, a total of 530 acres, a [2] difference is 350.6 acres in the two

DEISs. [3] I would say that is a major discrepancy.

[4] In Volume I, page 118 I happen [5] to have it. I know it is the correct [6] reference because it's also used for another [7] footnote in the DEIS, and that footnote [8] matches the what it's talking about. I [9] can't say that the DEIS can be that good if [10] it's misleading. In fact, you could almost [11] call it fraudulent I'm not sure if the [12] Surface Transportation Board thinks that we [13] are too stupid to see how inaccurate this [14] DEIS is, but I think you as a branch of the [15] federal government should be ashamed [16] have you forgotten that you also work for us [17] too, not just for DM&E Railroad? The [18] financial inadequacies of the DM&E Railroad [19] should not be very relevant.

[20] In the DEIS page 1, Volume I, it [21] states in there that they expect another \$110 [22] million will make them viable after they've

Page 23

[1] already put \$10 million in. Why do we need [2] to know that? That's not an environmental [3] impact statement.

[4] I think the DEIS should be thrown [5] out and completely redone, and I also reserve [6] the right to submit further comments as I [7] read further into this debacle.

[8] **BONNIE:** Thank you. I think your [9] son Cole Stodart (?) is next.

[10] **MR. STODART:** My name is Cole, and [11] I am opposed to the DM&E expansion project. [12] I live on a ranch and I am within the fifth [13] generation to be raised there and make this [14] my way of life. I have trouble understanding [15] the DEIS since there are so many places that [16] are not organized for me to see the charts [17] and drafts — what they are trying to [18] explain.

[19] Then I have trouble understanding [20] the charts because they blend into each other [21] because it is states that no businesses [22] are affected when all of those

Page 24

[1] ranches — since when is ranching not a [2] business? All ranches have to file income [3] taxes. All range of tax. All kinds of [4] costs, labor costs, trucking costs costs [5] and other costs the railroad [6] any of this it will I would like to [7] see the DEIS get 180-day comment period. [8] I also reserve the right to make further [9] comments on the DEIS.

[10] **BONNIE:** Thanks, Cole [11] **SPEAKER:** My name is I lived [12] in South Dakota and Wyoming all my life and I [13] like it here. I would hate to see the [14] railroad for a number of reasons. We [15] have only so much land in the world and [16] should it all railroads? I think not. [17] I know that

economic growth I don't [18] understand how we cannot address and we [19] don't need another railroad to haul it. We [20] need to fix there are so many birds and [21] animals that are endangered country and [22] I don't understand how we can address that.

Page 25

[1] Also from reading the DEIS there is lots of [2] information that costs DM&E [3] don't they have — pay for new lines they [4] build when they new I would [5] also like to ask for 180-day minimum [6] extension on the comment period I [7] reserve the right to make further comments.

[8] **BONNIE:** Thank you very much. [9] Thank you all for honoring the time [10] agreements as well. Carolyn Johnson is next.

[11] **MS. JOHNSON:** My comments are going [12] to be rather general to start with because I [13] have not even begun to get into these. They [14] are so hard to understand that I'll also [15] right up front also request 180-day extension [16] because it's just unreal the amount of time [17] you would have to spend to even begin to [18] comprehend these.

[19] On this one which is Volume III-B [20] it says because paleontological resources are [21] not protected on private lands. Excuse me. [22] That's what we are trying to do by objecting

Page 26

[1] to this railroad? Most of us do protect our [2] paleontological resources. They are precious [3] to us, and I resent that statement. That is [4] not accurate. That was page 4.4-9, the first [5] paragraph.

[6] On page 4.4-11 it says the primary [7] impact to would be the direct loss of [8] forage area through its conversion to [9] railroad right of way during construction. [10] May I ask is that your understanding? That [11] is so inaccurate. That is so untrue. If it [12] were just the number of acres that wouldn't [13] even be — it would be an inconvenience. But [14] it's not the direct loss of forage area. [15] That just boggles my mind that anybody out [16] there thinks that.

[17] In the opening presentation I heard [18] something to the effect that the DM&E is [19] supposed to coordinate with all you agencies. [20] Well, I happen to know at least one agency is [21] bending over backwards to cooperate with DM&E [22] and I resent that too. The agencies involved

Page 27

[1] ought to be absolutely nonbiased and they [2] should not have higher-up orders. By the [3] way, where did the higher-up orders come from [4] that our local

offices and our district area [5] offices have to suddenly do an about-face [6] from what they first said when we first [7] talked to them, and now they're all — I'm [8] not saying all of you agencies, but the ones [9] of you that are out there know who you are [10] that are doing an about-face.

[11] As I understand it the written [12] comments that we all went to great lengths of [13] time during the scoping process have not even [14] been read, a lot of them haven't. Why? That [15] was really important input, wasn't it, if [16] they haven't even been read. What about [17] financially fit? We never see that anywhere. [18] We still don't know, are they financially fit [19] or not. That seems to be touted as a [20] priority.

[21] What little bit I've been able to [22] get into some of these things, one reason

Page 28

[1] because I'm busy, another reason my husband [2] takes his few minutes here or there in his [3] business day trying to digest some of them. [4] But what little I've gotten into them seems [5] to be opinions and conclusions and [6] assumptions on the basis of what is written [7] by the Surface Transportation Board or [8] whoever wrote this. I really still haven't [9] gotten an answer. I understand there's [10] cooperating agencies.

[11] But anyway, whoever wrote it, it's [12] assumptions on their part along with [13] assumptions given to them by DM&E. Now, that [14] doesn't sound very unbiased to me. I think [15] you ought to give us something we can read [16] and understand and comment on. That's fine.

[17] **BONNIE:** Carolyn, can I just [18] confirm Vern isn't here?

[19] **MS. JOHNSON:** He is.

[20] **BONNIE:** He is? I'm sorry. I had [21] Vern, you're next. Do you also go by [22] J.R.?

Page 29

[1] **MR. JOHNSON:** Pardon?

[2] **BONNIE:**

[3] **MR. JOHNSON:** I'm Vern [4] Johnson. I own a ranch. Carolyn is my wife. [5] I ranch on the Chad River (?) I have [6] some concerns about the EIS and I want to [7] address them.

[8] Why I'm concerned is that I notice [9] in the executive summary was dropped [10] from the summary, and that summary is one of [11] the documents that most people are going to [12] have time to read. All the other documents, [13] there are just too many, and I think that [14] should be in there because you did go on and [15] use it in the rest of the volumes. It's in [16] the DEIS which I appreciate.

[17] Another concern I have about that [18] same subject is on page 38 of the executive [19] summary it says fails to meet the [20] applicant's purpose and need. I think that's [21] a little bit one-sided some other needs [22] and purpose — ranchers and communities. So

Page 30

[1] again I think that needs to be in there.

[2] Another thing I have to take issue [3] with is scare tactics used throughout the [4] DEIS by DM&E where they say if they don't get [5] a new system, they can't upgrade their system [6] they'll fail to be a viable transportation [7] system and which probably puts a scare to the [8] ranchers in South Dakota and farmers, and [9] that's throughout the document to see these [10] things crop up. Another one is that not [11] granting this period that their safety record [12] will go down, and they already have a [13] terrible safety record. To me that's a real [14] poor reason to rebuild a railroad because of [15] your safety record [16] Take a little exception to the [17] favoritism displayed by the Surface [18] Transportation Board. Although I know that [19] this is mandated by Congress and it says in [20] here that part of your mandate was that the [21] STB is mandated by Congress to give a [22] proposed rail construction the benefit of the

Page 31

[1] doubt. I know that's what you're supposed to [2] do, but it does crop up quite a bit in here.

[3] Another thing I see in here is that [4] a lot of the data is from DM&E — a lot of [5] the information that doesn't seem to be [6] independently acquired. Another thing [7] was put in here, and this is in the last [8] paragraph of page 2-6, Volume I, it said [9] engineers consulted landowners to identify a [10] line of locations that would avoid or [11] minimize impacts such as crossing or dividing [12] lands or causing impact to ranches. That was [13] supposedly done prior to February of '98. I [14] don't think any of us has seen those people [15] out there, and if they did come out there, [16] some of them were out there illegally. We [17] had incidents of people being out in the area [18] without any permission. I suppose that's [19] going to be talked about here today.

[20] Another thing I take exception to [21] is on page 73 of the executive summary, [22] paragraph ES 10.5, negotiated agreements. It

Page 32

[1] says the STB has encouraged DM&E to negotiate [2] mutually acceptable agreements of affected [3] communities and other government entities to [4]

address the potential environmental impacts [5] including ways to share the costs associated [6] with the project.

[7] **BONNIE:** One minute left.

[8] **MR. JOHNSON:** That was a mouthful, [9] but I don't think anyone, any entity or any [10] county should have to share in this. I think [11] this is their project, and I just find it not [12] within the taxpayer's best interests to have [13] to share these costs. And you can bet the [14] DM&E will want to do that, cost-share with [15] the counties and possibly get away with it.

[16] There's a couple tables I take [17] issue with, and that's table 4.4-41, Volume [18] III-B, it's got 1994 for the date in there, [19] and that's that's 6 years old. Another [20] table, 4.4-44, Volume III-B, it's got 1997 [21] property tax. I'll just in closing say that [22] I'm for option A — alternative A or

Page 33

[1] alternative D — if alternative A — because [2] I think now is the time to [3] environmentally friendly and there's a lot of [4] water that runs through that and I think it's [5] time to look into that option and not build [6] the railroad. Thank you very much.

[7] **BONNIE:** Thanks. Make sure the [8] additional comments to a specific table to [9] make sure we get that in writing.

[10] Next is Glenn Hanson. Glenn, you [11] can go to that microphone right there.

[12] **MR. HANSON:** I'm Glenn Hanson. I [13] sure didn't read all them 2,200 pages, but I [14] did read quite a little bit of it. I will [15] agree with a lot of these other people that [16] it's inadequate and inaccurate.

[17] There's something that I'd like to [18] explain to you people up there that you [19] probably don't realize. Newcastle is our [20] closest town, our closest doctors, our [21] closest fire departments. There are quite a [22] bunch of us here that will be on the other

Page 34

[1] side of that railroad track if it's built. [2] I've been in the country a long time, but [3] there's been a few times in my wife, myself, [4] or my family that we have to get to a doctor [5] quick. Another 5 or 10 minutes might have [6] been too late.

[7] We're 42 miles from town. Some of [8] these people right here, in fact they're 50 [9] miles from town and I think they'll be on the [10] other side of the railroad track and there's [11] other people too the same way. So I just [12] wanted you people to understand that.

[13] I am concerned like everybody else [14] about acres. Like I said, the closest [15] fire department's in Newcastle, and we're one [16] of the few areas where

most all this railroad [17] one of the few areas where we actually [18] have clean air and very little noise, and we [19] sure do hate to see that disturbed. I've [20] been around — well, I'll just say this. I [21] remember back at one time when I never heard [22] of prairie fires. There wasn't enough grass

Page 35

[1] in that country to burn. I'll guarantee you [2] that we have much more grass on the ground in [3] this whole area where this railroad will run [4] across than we had 75 years ago.

[5] You're thinking maybe I'm 83 [6] years old and I've been here all my life. [7] I'm just worried about the whole situation [8] and noxious weeds that come in. The [9] railroads are famous for that. I guess [10] that's all I need to say.

[11] **BONNIE:** Thank you. Our next [12] speaker is Mayor Mike Mills.

[13] **MR. MILLS:** Thank you. For the [14] record, my name is Mike Mills. I'm the mayor [15] of Newcastle, Wyoming. I want to thank all [16] of you for the opportunity to speak. The [17] Newcastle community recognizes the time and [18] complexity of this issue and the time that [19] you have spent. Also the cooperating [20] agencies, the time that you have spent.

[21] It's been three years. A lot of [22] water under the bridge. I stand here

Page 36

[1] speaking on behalf of the majority of the [2] Newcastle community in favor of the expansion [3] project. We see some of the benefits as [4] follows. Creating new immediate jobs and [5] long-term permanent employment to help [6] replace jobs lost with the recent [7] closure.

[8] The completed project will increase [9] the taxable valuation of Weston County [10] taxes will be paid. This in turn will help [11] taxes for property owners low, continue [12] ongoing funding needs of government services. [13] Local business and service industries will be [14] strengthened and become more stable and will [15] grow.

[16] Real estate markets will strengthen [17] and stabilize. The project will bring an [18] increase in population. The Newcastle [19] community supports the growth manifested in [20] the survey done in April of 2000 by the [21] Chamber of Commerce. One of the challenges [22] small communities face is sustaining and

Page 37

[1] creating new business. This project will [2] help that process by increasing the need for [3] goods and services; taxes paid to stabilize [4] funding for continued operation of public [5] schools, hospitals,

fire departments, law [6] enforcement, road creation and maintenance, [7] and other necessary government services.

[8] The DM&E project when complete will [9] make the delivery of coal and coal companies [10] more efficient and help reduce coal train [11] congestion.

[12] In closing, I'd like to repeat that [13] I believe the majority of the Newcastle [14] public supports the project, and we are also [15] aware that DM&E has offered landowners and [16] communities on the proposed lines the [17] opportunity to work together to help mitigate [18] the potential impacts of the project.

[19] Thank you, and appreciate your [20] time.

[21] **BONNIE:** Thank you, mayor. Our [22] next speaker is Jean Harshbarger.

Page 38

[1] **MS. HARSHBARGER:** People are [2] addressing a lot of my concerns already. [3] However, for one thing, Mr. Mills, he says [4] that the community of Newcastle supports [5] this. I'm sure they do. However, if they do [6] support the whole plan, they should support [7] alternative D which brings the railroad [8] through Newcastle instead of 31 miles out in [9] the country where nobody can get the benefit [10] of it except for the fires.

[11] On speaking of the fires, it says [12] there will be an improved fire-suppression [13] plan or something like this in place. Where [14] can we see this fire-suppression plan? Where [15] can we get a copy of it to see what they [16] have? I know where there are other fires on [17] railroads, the railroads do nothing to fight [18] fires. They do nothing to pay for the people [19] who do fight the fires, and they do nothing [20] to pay for the damage they do if they can get [21] away with it, which they do a great many [22] times I guess.

Page 39

[1] Another thing is the safety. As [2] Mr. Hanson was saying, a lot of us will be on [3] the other side of this railroad. Are they [4] proposing to put in separated grade [5] crossings? I feel they should at least put [6] in separated crossings on the county roads. [7] And this is a very nifty thing, they could [8] put in cross arms with reflectors on the back [9] side so you can see them from either [10] direction. That doesn't sound like much of a [11] safety feature to me. But separated [12] crossings would not be quite so bad. They [13] would have to be large enough so that people [14] can haul large equipment through and things [15] like that. Another thing, and this doesn't [16] impact Wyoming, but it has been very me [17] in reading through this where they have [18] proposed bypasses that I think the first [19] in

Rochester. They want communities to help [20] pay for these bypasses. This is a silly [21] idea. The communities don't want the trains [22] in the first place. They should not have to

Page 40

[1] put their valuable money into a bypass for an [2] enterprise that it intends to try and get [3] through here and make a bunch of money. If [4] they're going to make all this money, they'd [5] better pay for their enterprise. We should [6] not have to worry about communities having to [7] pay part of the cost of this. I find it very [8] suspect that so many places through this [9] Draft EIS — this has been mentioned, but it [10] says, "the DM&E says," or "we assume," or "it [11] is asserted that," — these are not facts. [12] These are just somebody's explanation to make [13] something that looks good. Especially when [14] these things come from the DM&E straight from [15] them, I do not see how we can consider them [16] factual information. This should be nothing [17] but factual information, and that is not the [18] way it is.

[19] I guess that's enough. I know. [20] One other thing. With the errors in mileage [21] when they said that there was too many more [22] miles to go — alternative D. They're

Page 41

[1] assuming something there that may not be [2] true. In Wyoming to go on alternative D as [3] opposed to alternative C, the difference in [4] miles in Wyoming is very minute, and it would [5] alleviate a lot of our problems. We would [6] not be fighting this thing if they would stay [7] on that are already there and go through [8] the towns that want them and put the jobs in [9] the tax base where these people want them. [10] We don't want our lives disrupted by a [11] railroad. I think on these grade crossings, [12] any place where there's school children or [13] mail carriers that have to go across them, [14] that at the very least should preclude grade [15] crossings. Thank you.

[16] **BONNIE:** Thank you. Next is Clara [17] Wilson.

[18] **MS. WILSON:** My name is Clara [19] Wilson. I live 30 miles south of Newcastle [20] along the Chad River on Ranch Lake Road (?) [21] on a ranch my grandparents bought me in 1980. [22] The DEIS arrived about 3 weeks ago at a very

Page 42

[1] busy time for ranchers so I haven't read a [2] whole lot. I intend to make further comments [3] later after I've had time to read more.

[4] The proposed railroad would cross [5] land that belongs to my brother that we have [6] leased for about 35 years. This is a

great [7] concern. There's another concern. The route [8] we go up, Bobcat Creek, a tributary of the [9] Chad River that we have adjudicated water [10] rights, and they are dated 1905 and 1943. [11] Flood water from this watershed area is used [12] to irrigate about 80 acres of hay land on [13] state land. Even though there was a drought [14] here in our area, there was enough runoff to [15] irrigate this field earlier this year.

[16] The DEIS is outdated. The [17] information, a lot of it is at least two [18] years old, and some of it a lot older than [19] that. The Chad River in Medford County (?) [20] and Weston County both have a severe weed [21] problem, enough so to justify the of the [22] Chad River property resource management plan

Page 43

[1] in the fall of 1999. The CRRM is working [2] very hard in conjunction with various state [3] and county officials to solve the spread of [4] noxious weeds. A railroad will only [5] intensify the problem. Until about two years [6] ago the Chad River was listed as an impaired [7] stream. With the help of nine or ten natural [8] resource people and cooperation of the [9] landowners it has been removed from this [10] list. We are now concerned with coal dust, [11] diesel smoke, or silt, diesel, or other toxic [12] waste falling or running into the river and [13] again creating a problem.

[14] An archeological survey was never [15] done on our land. Both my brother and I have [16] told representatives of DM&E including their [17] archeological surveyors they were to [18] contact me in regards to this property. In [19] early-July of 1999, I received a map. I'll [20] show you this map. They requested permission [21] to do an archeological survey (?) of the [22] University of South Dakota. That had two

Page 44

[1] routes on it, and it was a very primitive [2] map. I told her that the map was [3] unsatisfactory because invading the [4] watershed on the creek where we have water [5] rights. We wanted to see a map that showed [6] the width of the right-of-way where the [7] would be made and where would come from [8] and how much it would impair this watershed [9] area. We also asked that the surveyors [10] identify themselves and show proof of [11] insurance. In a few days Ms. Hodging's [12] co-worker sent the very same map, but it [13] had one route highlighted. Again I told Ms. [14] Hodging what I needed to see in a map. The [15] next time, they sent an enlargement of the [16] first one, and that's all the maps I've [17] received.

[18] Then I got a phone call from [19]

another co-worker [20] **BONNIE:** One minute.

[21] **MS. WILSON:** He told me to come to [22] a room at the Fountain Inn in Newcastle and I

Page 45

[1] could look at a map, but I cannot have one [2] because it was copyrighted. He later called [3] back and told my husband I should call [4] Mr. Thornhill. I tried to do this. I was [5] told Mr. Thornhill was in Rapid City for a [6] meeting. The Rapid City Journal stated that [7] he and were there attempting to promote [8] the DM&E project to the Indians. Then [9] Ms. Hodging sent me a letter on July 7th [10] threatening, "if you do not want your land [11] surveyed we will skip it and it will not be [12] included in the environmental impact [13] statement." This threat has been carried [14] out. There's very little information on any [15] route South Dakota.

[16] **BONNIE:** Thank you. If you can [17] please submit that in writing that would be [18] great. Jerry Phelps has joined us hasn't he? [19] Jim Darlington? She's talking about you. [20] Jerry Phelps. Dilts. Dilts. You decided to [21] speak, Jerry? sorry about that.

[22] **MR. DILTS:** My name is Jerry Dilts,

Page 46

[1] D-i-l-t-s, and I live south of West Wyoming [2] on Animal Creek (?). Some years ago the [3] folks at Northern Railroad built a railroad [4] into Lenthorn Junction (?) to haul coal from [5] the mines in the Powder River Basin. The [6] folks from Northern came to Lenthorn [7] about changing the routes of the railroad to [8] accommodate landowners and to [9] mitigate the damages. The DM&E Railroad has [10] come. The DM&E Railroad wants to put a [11] track near Animal Creek cattle pasture. [12] This makes a huge impact on my [13] operation. I was a member of the landowner's [14] advisory board to the DM&E Railroad. [15] This board was organized so that the railroad [16] could better negotiate with the landowner.

[17] Through this board I tried to [18] convince DM&E Railroad to relocate either [19] north or south of the proposed route. I have [20] explained to DM&E Railroad that the [21] existing. I feel this is unnecessary [22] for the DM&E Railroad to build an additional

Page 47

[1] railroad to export coal when the existing [2] rails and tracks are already in place. By [3] allowing this railroad and its to be [4] built, the management of wildlife and [5] grasslands will be greatly affected.

[6] I support Alternative A in the [7]

proposed Draft EIS. Thank you.

[8] **BONNIE:** Okay, thank you. Can we [9] have Jim Darlington?

[10] **MR. DARLINGTON:** Okay. Sounds like [11] it's on now. I'd like to thank you folks for [12] giving me the opportunity to comment on this [13] proposal. I had several questions and [14] concerns on this matter, but I noticed in one [15] of the overheads there at the first there [16] were three items there that happen to fit [17] with three of the questions I had. Where one [18] overhead said the Surface Transportation [19] Board considers transportation aspects, [20] number one, being the financial fitness of [21] the applicant. And I would like to ask if [22] DM&E is any further along with their funding

Page 48

[1] for this project than they were in June [2] of 1997 when Mr. Shieffer told us it was [3] right — coming right around the corner.

[4] Number two, on was the public [5] need for this proposal. Much of the EIS [6] seems to be built around a predetermined [7] conclusion. For example, in Volume I, [8] page 2-54, it is stated that: [9] Nonconstruction alternatives were not [10] discussed because they "would not advance the [11] applicant's goals." This EIS is supposed to [12] be a discussion of the environmental impacts, [13] I believe, and the public need, I believe, is [14] the continued generation of electricity, not [15] necessarily the hauling of coal.

[16] Your third item you asked was the [17] impact on other rail services. Okay, that [18] relates to one of my questions. Do the coal [19] mines that are to be serviced by this [20] proposal have plans to construct additional [21] and separate access for DM&E? The [22] present bottlenecks from just driving around

Page 49

[1] the highway and watching trains stacked up [2] behind each other seems to be at the mines [3] themselves. So I, again, would ask how this [4] problem can be solved? It looks like it's [5] going to be exacerbated with one more [6] transporter waiting in line.

[7] You know, I would like to know what [8] the recyclable commodities are that may be [9] hauled on this proposed track. On Volume VI, [10] page C-75, this is mentioned briefly. DM&E [11] mentioned that in their original submission I [12] believe, but I have never heard of what these [13] recyclable commodities are. In France, they [14] recycle nuclear waste, so I would like an [15] explanation on that.

[16] Now as mentioned before, there [17] are many charts and graphs in the EIS

that [18] made absolutely no sense or are [19] indecipherable because everything is the same [20] shade of black and you can't differentiate [21] anything. There is a very misleading [22] statement about what national are in

Page 50

[1] effect. And listed on page 4.2-25, Volume [2] III-A: Much is only 40-acre tracts that are [3] inaccessible. Well, in looking at a map that [4] I had on your national grassland, this [5] goes through one 40-acre isolated tract. It [6] goes through several large accessible tracts, [7] one of the very first ones being a proposed [8] special interest area. So I think that needs [9] to be corrected.

[10] Okay, let's see, achievement of [11] the 1 percent grade I believe will be very [12] difficult through much of the chosen route. [13] Volume I, figures 2-15 and 16 show profiles [14] on the rejected Alternative D. Why are not [15] these same type of profiles available for [16] Alternative B and C? That would make it much [17] easier for people working on mitigation on [18] this project, which I was involved in being [19] ranch manager Association on part of the [20] Thunder Basin national grassland. I was told [21] this information wasn't available, so we just [22] had to guess. They used an average for the

Page 51

[1] whole thing. And — but in looking at some [2] of the — in one minute — engineering work, [3] a 100-foot cut would result in [4] an 80 — 848-foot ; a 100-foot fill would [5] result in a 648-foot . The in [6] Alternative B flood plain at the [7] convergence of and Spring Creek (?). [8] That is completely government water on a [9] not-so-rare basis. I mean, the engineers [10] might like a challenge, but this can't even [11] be seriously considered. An extension would [12] be beneficial would be nice, but this [13] should only take place after the proper [14] revising of this Draft Environmental Impact [15] Statement that had been created. Thank you.

[16] **BONNIE:** Thank you. Next we have [17] Richard Rabern.

[18] **MR. RABERN:** I'm Richard Rabern [19] from the Western Canyon Pass (?). I [20] haven't had an opportunity to read the EIS, [21] but at this time I would like to ask for at [22] least 180 days. We have asked, through

Page 52

[1] the Wheaton Pass Council, several times for [2] the Wheaton management program which we have [3] not received. One thing that I would like [4] you people to request is sort of reseeding, [5] re-vegetating certified seeds, certified . [6]

Where is the ballast for the tracks coming [7] from? Are they coming from the certified [8] pits? The gravel for the roads, are they [9] coming from certified pits? These are [10] basically my comments on mostly questions we [11] have asked and never got the answers to.

[12] The big concern at this point is [13] the proposed track running through the Black [14] Hill prairie dogs are threatened, but [15] which is also an environment for [16] burrowing owls, black footed ferrets, the [17] mountain are a big concern. We are [18] looking at the environment. We got .

[19] **BONNIE:** Thank you. Our next [20] speaker is — is Corby Myer here? Okay. [21] Anne and Kenneth Cassens? Anne? Anne, is [22] Kenneth here as well?

Page 53

[1] **MS. CASSENS:** All right. [2] members of the STB and cooperating agencies, [3] thank you for allowing me to comment on the [4] Draft EIS regarding the new DM&E line. My [5] name's Annie Cassens and my husband and I are [6] landowners. We own approximately 3,300 acres [7] in Far River County in South Dakota along [8] Creek. Prior to 1995, we were primarily [9] beef cattle ranchers, but because of the poor [10] agriculture/economic trends of the past few [11] years, we have broadened our scope of [12] business to include several other [13] enterprises, including grass seed harvesting, [14] renting outfit gear for a hunting service, [15] and a bed-and-breakfast that's located on the [16] ranch. The new DM&E approximately [17] one-half mile of land to be leased, as well [18] as two full miles of our beef land and will [19] take about . We had been cooperating [20] with the DM&E planning process late in 1997 [21] when we were identified as landowners [22] and we presently have a landowner

Page 54

[1] compensation and mitigation of \$3 million in [2] place.

[3] Our ranch is unique in that we [4] have 2,000 acres which is fenced for [5] alternative livestock. Fence that is 8-foot [6] high would require — it's very expensive to [7] build and approximately 8 miles of — 800 [8] miles of fencing, that type of fencing. We [9] will be enclosing another 1,000-acre parcel [10] as soon as we know the right-of-way going [11] forth with the new railroad. The proposed [12] DM&E line will go through a corner of the [13] presently enclosed area and will bisect the [14] new area we will — we plan to enclose. We [15] will also have no water source on the land; [16] it will be cut off by the rail line.

[17] The DM&E representatives from the [18] very beginning have been fair, polite, and [19] professional to us. They have

considered our [20] input and our special circumstances, and have [21] incorporated our suggestions into the [22] mitigation agreement considering our need for

Page 55

[1] an underpass that would be big enough for elk [2] and a casement for a water line and special [3] fencing requirements. They continue to allow [4] us to have input into the design and planning [5] of the line. Yes, their engineers did come [6] with our permission and did move the line [7] away from Plum Creek (?), which was one of [8] our concerns. And the archaeologists who [9] have had a contract for the study also did a [10] survey on the land.

[11] I wish to comment briefly on the [12] four points. First, I'd like to comment on [13] the economic impact the DM&E might have. We [14] believe that many people say they want [15] development and when it's offered, they don't [16] want this development. They are concerned [17] about losing population, decreasing class [18] sizes in the schools and losing businesses in [19] our towns, yet they're against every form of [20] development they're offered. We believe this [21] railroad can be a good neighbor if it [22] continues to be developed responsibly. We

Page 56

[1] believe it could help small communities by [2] creating jobs, increasing the tight space, [3] and bolstering the population for our area.

[4] From a global economic viewpoint, [5] it makes sense to build an efficient route to [6] take low sulphur coal to the eastern markets, [7] which currently rely heavily on the [8] types of coal which are much more detrimental [9] to the environment. It also makes sense to [10] provide a route to maintain Midwest corn and [11] other grains to economic. I support any [12] project that can make us less dependent on [13] foreign energy resources.

[14] Agriculture is a failing business [15] for many people involved. We would not have [16] survived in this business if we had not [17] diversified. Western South Dakota is not [18] prime agriculture land. Away from the lure [19] of the Black Hills, small towns along the [20] current DM&E line are struggling to get the [21] new prices and if revitalization of the old [22] DM&E line is not approved these small towns

Page 57

[1] with their don't have a chance.
[2] Another economic opportunity [3] is tourism through possible passenger train [4] service. Tourism brings \$1.23 billion into [5] South Dakota.

[6] Finally, there's the issue of [7] so-called noise pollution. Our house is [8] currently 4 miles from B&S (?), the train [9]. A new line will one of them [10] to the house. We're not worried. If you can [11] control the volume of your son's boombox, [12]. I believe change is here to stay. If [13] it isn't the DM&E interrupting our life, it [14] will be someone else. I hope we can learn to [15] roll with the changes and not waste energy [16] fighting change. Thank you very much.

[17] **BONNIE:** Thank you. Is V.L. [18] Childers in? Okay. Ben Hobbs?

[19] **MR. HOBBS:** As a landowner, DM&E [20] has been more than cooperative with me [21] personally. The contract for sale has more [22] than doubled, but and they've been more

Page 58

[1] cooperative about access.

[2] Another point that I would like to [3] make is that years ago when the Northwestern [4] prepared the connector line from they — [5] there were lots of people who voted for it. [6] But most of us in the livestock business, you [7] know, how can be. A lot of this land [8] was actually improved by the railroad because [9] of better grassland utilization. And you [10] find a lot of the people that originally were [11] so opposed to this project actually had [12] better things to say about the railroad now [13] than they did before it was built because of [14] their grassland utilization and better access [15] and better potential. That's all I have to [16] say.

[17] **BONNIE:** Thank you. I think [18] Dana — is Dana Gordon here? Okay. Mark [19] Tubbs?

[20] **MR. TUBBS:** My name's Mark Tubbs. [21] I'm from Edgemont, South Dakota. I'm just [22] going to bring up one thing before I. I

Page 59

[1] live in an area, Edgemont, South Dakota, the [2] largest railroad in the free world runs [3] through Edgemont, South Dakota. It has [4] whomever's comfortable to the south of [5] Edgemont and then there's the train. [6] The largest railroad in the free world goes [7] through there. There is a main street on [8] Edgemont — in Edgemont.

[9] Ten years ago, Edgemont had the [10] highest taxes per thousand valuation in the [11] state of South Dakota. The railroad does not [12] pay taxes because they're a utility and [13] they're tax everyone else. It reverts [14] back to the landowners and the businesses, [15] and DM&E engineers Northern [16] Railroad. Right now, Northern Railroad [17] has a lawsuit with the community of Edgemont [18] from Fall River County and they

have to pay a [19] million dollars back.
[20] Thank you for the opportunity to [21] speak at this hearing. My father as well as [22] myself have at least. We have land

Page 60

[1] directly across from this — from the [2] proposed line to the northeast corner, the [3] northeast corner to Section 21, the northwest [4] corner, the northwest corner to Section 22, [5] the northwest corner of Section 22. [6] This property lies in the Cheyenne River [7] flood plain and. This land starts at [8] the Wyoming state line and west for [9]. This land by runoff ride the [10] range forever. The proposed line from [11] the hills down through the into South [12] Dakota away from our property. Tubbs Land & [13] Cattle LLC is in the process of obtaining the [14] water rights in. This water right has [15] the priority dated September 7, 2000, with [16] the temporary of 30, 170. If this [17] railroad was built, I would like to think [18] that the drainage should be left the same as [19] it is for the last 10,000 years. Our [20] land should be protected and focus of scope [21] will allow water to pass. Coal dust has [22] not been addressed in the EIS.

Page 61

[1] If one thing not a problem [2] the Santa Fe train then breathe deeply. [3] The effects of the river moving on the [4] as to whether each given area, the soil [5] were all here. The issue need to [6] be addressed. We already Canadian [7] and less than half of them in the Cheyenne [8] River Valley. This new with all its old [9] soil season.

[10] We wanted to mention an important [11]. After the railroads are built, who [12] will take care of these problems? DM&E has [13] shown that they care less about noxious weeds [14] on their existing line through Fall River [15] County, South Dakota. This is a very [16] expensive and hard problem to solve. This is [17] not an engineering, this is a biological [18] problem. The railroad should mitigate the [19] weed problem before they have one, which they [20] will.

[21] In closing, my father, mother, and [22] myself will not be compensated by the

Page 62

[1] railroad for taking private property. But we [2] are because of the air pollution, [3] water sediments and construction, weed [4] infestation affect valuable property. These [5] issues need to be addressed. Thank you.

[6] **BONNIE:** Thank you. We have two [7] folks who weren't able to attend. I think in [8] that, so now that you could maybe [9] Richard Wayguns (?) I think, is it or [10] Dennis Reagan (?). Dennis Reagan, why [11] don't you read, and then Nancy [12]

before you .

[13] **MR. DENNIS:** This is Raymond Dennis [14] of , Wyoming. I'm in favor of [15] Alternative A and alternative. Now that [16] I went back to the . Mostly, [17] impacts that are listed in Volume III, [18] Chapter 4, page 4, part 3-2 are not [19] quantified and are not assertions made [20] — and are essentially assertions made [21] by the . Where are the studies that [22] actually show the industries would suffer if

Page 63

[1] there were no DM&E? We know the plan is [2] already to a new loading facility on the [3] land near Upton, Wyoming. In Moorcroft, [4] Wyoming, there's facility for the South [5] Dakota cement plant and in Newcastle, [6] there's a loading facility for try [7] to explain it. Both of these facilities are [8] on the BSF (?) line. There are [9] facilities in South Dakota, all of them . [10] Where in the facilities and others? [11] What percent of South Dakota does DM&E [12] hold? Why was this not studied? People are [13] required to Section 1503.24 of the code of [14] federal regulations that the agency shall [15] ensure the professional integrity of the [16] discussions, analyses, and environmental [17] impact statement. Mere assertions do not [18] qualify as a professional analysis.

[19] I request more time to study the [20] Draft EIS. Ninety days is an insufficient [21] amount of time to study a document that [22] weighs more than 30 pounds and is more

Page 64

[1] than 5,000 pages long. Even though I am [2] semi-retired, I have not had the necessary [3] time to accurately study and respond to this [4] document. A 180-day extension would be [5] reasonable. The is even more difficult [6] to . I live 70 miles from Gillette, [7] which is the closest complete copy. This [8] huge document takes hours to study and cannot [9] be understood by a few hours in a public [10] library. A November 29th deadline is [11] unacceptable and confusing to people all [12] documents may be not involved in the same [13] time frame. A lengthy extension should be [14] granted and it should be no earlier than the [15] DEIS's deadline.

[16] I'm proposing amendment, the [17] national grassland is no place to invest [18] operations like railroads. Provisions are [19] there pipeline, but the impact of a [20] railroad is far greater than for . In [21] fact, there's no comparison. The pipeline is [22] underground and has its impact only during

Page 65

[1] construction. A railroad is like a huge wall [2] across the grasslands, damaging

the wildlife [3] scenes part of the prairie ecosystem. [4] This is not to hide any impact from the [5] federal lands just because the farming [6] community the majority of the impact [7] comes from grassland owners. These [8] grasslands for the federal lands to [9] become without their private lands. [10] The Forest Service in both and the [11] harmful effects of this project and we can [12] conclude that the is an environmentally [13] friendly company. What evidence do you have [14] of environmental conscience?

[15] I and I'm litigation with [16] a former rancher who was supposed to become [17] an unwilling partner in the of the [18] grasslands. Well, I'm not an integration [19] developed by DM&E with their own [20] employees, these people are paid for their [21] services, and is not acceptable [22] mitigation. By issuing a license the Surface

Page 66

[1] Transportation Board prevents the use of [2] to take land from private citizens. The [3] Draft EIS is difficult to follow and read. [4] There's no index. The numbering system is [5] very difficult to follow because chapters [6] and pages . Generally, the [7] construction of the EIS is disgraceful. [8] Instead of trying to make the DEIS available [9] to a large number of people, you sought to [10] information inaccessible to the ordinary [11] person. You sought to material by [12] having it available — you sought to limit [13] those receiving the material and how and [14] now have it available CD, which is [15] inaccessible for anyone who does not have an [16] up-to-date computer system.

[17] **BONNIE:** One minute.

[18] **MR. DENNIS:** Even then, [19] they're difficult to read. income tax [20] and agriculture, just listing the impacts [21] inconvenience. Where are the studies [22] that show whether these are impacts or not?

Page 67

[1] People are required by Section 1502.22 [2] information is not readily available, but [3] information then the patience they [4] show . Studies of couldn't be [5] completed without great cost. These lines [6] were built in the recent past and [7] economic impacts, but impacts on wildlife as [8] well. And that's what the DEIS is [9] document essentially unavailable to me. This [10] is not fair.

[11] You have not studied Alternative D [12] and essentially dismissed it at the request [13] of the applicant. Also, where are the [14] studies on the joint line ? Studies of [15] the STB raises this possibility and there [16] appears to be no

mention of this alternative. [17] The safety of the new line is really a good [18] question. so that there will be no [19] until we . The most in South Dakota [20] highway and north-south arteries [21] area of . I'm opposed to granting the [22] license to DM&E. I'm opposed to license

Page 68

[1] the grasslands and I am opposed to . [2] I'm sorry I couldn't read it any faster .

[3] (Laughter)

[4] **BONNIE:** Ray, thank you, as [5] well. Great. Nancy, do you want to read the [6] ?

[7] **MS. DARNELL:** I'm sorry that [8] Marlene (?) couldn't be here today because of [9] the road conditions. Marlene is our state [10] representative from House District 1.

[11] The comments that I make today are [12] based on a quick review of the Draft [13] Environment Impact Statement. This DEIS that [14] we are to comment on weighs more than 30 [15] pounds and has been very difficult to read [16] and understand. I am requesting on behalf of [17] my constituents that you extend the comment [18] period a minimum of 180 days. To expect [19] citizens and businesspeople to comment on [20] such a gargantuan project in a short time [21] during some of the busiest months of the year [22] is ridiculous. Further, to require comment

Page 69

[1] which is to submit 11 copies of comment over [2] five pages is putting an unnecessary burden [3] on elderly or lower income people who usually [4] do not have home copiers or . Such [5] requirements discourage full participation by [6] the public. laws require that the [7] public be allowed full participation in the [8] environmental process. [9] I am also formally requesting an [10] extension of time to comment on the Army [11] Corps of Engineers' permits. The [12] comment period should be extended to coincide [13] with the comment period on the DEIS. Many [14] people may not even realize that the comment [15] period if more abbreviated because these [16] indicate that comments can be made for both.

[17] The Corps applications are also [18] very lengthy. Many of my constituents live [19] 90 miles or more from any of the libraries, [20] Rapid City and Gillette, that contain [21] complete copies of the document. When you [22] compare the size of the state's and civic

Page 70

[1] versions with the full copy, you realize that [2] the local versions are simply not adequate [3] for commenting. At the very minimum, that [4] should be at each of

the local libraries [5] along with the state-specific information.

[6] One major concern is for the [7] property rights of the landowners along the [8] route. DM&E gets the right, which [9] under Wyoming law does not offer adequate [10] protection to the landowner. A railroad that [11] cuts through an operating farm or ranch will [12] cause economic hardship as well as a hefty [13] decrease in quality of life. The working [14] landscapes are an important part of the [15] appeal that Wyoming has for tourists and [16] hunters, other major businesses that will be [17] impacted by continuing industrialization of [18] the state.

[19] Another concern is that the coal [20] mining industry is scaling back production so [21] that another railroad is not only [22] unnecessary, but also financially infeasible.

Page 71

[1] For the STB to issue a permit that can hang [2] open for a number of years while the [3] applicant searches vainly for investors is [4] unfair to landowners all along the line who [5] will not be able to make plans for [6] improvements or additions to their businesses [7] or they may make it difficult for them to [8] sell or lease property. A major defect of [9] the DEIS mitigation for landowners. The [10] landowner and the applicant, [11] which does nothing more for landowners than [12] the minimum required by Wyoming law. The [13] landowners in my district should not have to [14] sacrifice their land or lifestyle for the [15] benefit of a privately owned rail company.

[16] The Powder River Basin is presently [17] served by two of the largest railroads in the [18] U.S., who have made expensive upgrades to [19] their coal-hauling line. They actively [20] compete for the business of hauling coal, so [21] a third line is an unnecessary duplication of [22] service that will unnecessarily impact the

Page 72

[1] national grasslands and the private lands in [2] the area.

[3] The DEIS is difficult to read [4] because there's so much repetition. There's [5] no index so that the reader can follow a [6] subject throughout the document. Many terms [7] that may not be commonly known, such as [8] hydrophytic, are not defined. Even common [9] terms, such as business, need definition as [10] it appears the ranches and farms are not [11] considered businesses. The references to [12] various are difficult to follow because [13] of the obscure numbering system and the fact [14] that some pages are not numbered at all. The [15] graphs of election due to many [16] Many charts and graphs are located a number [17] of

pages away from the reading that explains [18] them.

[19] The maps in the DEIS are [20] inadequate. The maps are inadequate. They [21] do not show the existing railroad or the [22] county roads. The maps in the Corps document

Page 73

[1] are, at first glance, better as they are in [2] color and delineate the wetlands and the [3] streams. But by closer examination you find [4] that the county roads and even the main [5] highways are mislabeled. In northern Laramie [6] County and southern Weston County, Highway 85 [7] is labeled as Highway 18. Highway 415 runs [8] through Weston County, ends at the county [9] line in the Corps document and is simply not [10] shown on the maps of Campbell County. Other [11] roads in western Weston County are [12] mislabeled, making it difficult to understand [13] where the railroad is really projected to be. [14] None of them actually show where they'll put [15] the right of way.

[16] Since the rail line's projected to [17] cross many nature divides and stream [18] drainages, we know there will be massive cuts [19] and fills. Landowners have a right to know [20] how much of their property they'll be taking. [21] Maps in the EIS have no milepost markers so [22] the location sightings cannot be determined.

Page 74

[1] There are generally inadequate mitigation [2] requirements with much depending on the good [3] will and environmental sensitivity of the [4] applicant. For such a major project and with [5] the limited resources that DM&E presently [6] has, there will be much pressure to cut [7] corners. In fact, the applicant will have [8] every incentive to minimize cost and, [9] therefore, mitigation wherever possible in [10] order to compete with U.P. (?) and P&SA (?). [11] I'm also concerned that the air quality of [12] the national parks and monuments in the area [13] will be further impacted by the [14] She [15] goes on to say complete in many of the [16] areas.

[16] In conclusion, I want to reiterate [17] our request for a 180-day extension for [18] comment with the Corps of Engineers comment [19] deadline being on the same schedule. I [20] further request that a second draft be [21] written to correct deficiencies in this [22] document. Thank you.

Page 75

[1] BONNIE: Thank you. Find out how [2] many pages we can fit in in exactly 5 [3] minutes. Great. Thank you. Okay, Robert [4] Harshbarger.

[5] MAJOR HARSHBARGER: Good afternoon. [6] I'm Major Robert Harshbarger, President of [7] the Weston County Farm Bureau. I'm [8] presenting the following comments and on [9] behalf of myself as management and [10] project, 20 or so Farm Bureau members and our [11] neighbors whose land and ranching operations [12] will be directly impacted by the construction [13] of this ill-conceived project.

[14] The Weston County Farm Bureau is in [15] favor and supports the no-action alternative [16] to the Draft EIS for the following reasons. [17] The very foundation of the constitutional [18] rights of our rural community as landowners [19] are being challenged at this moment by the [20] DM&E, a private company designed to profit at [21] the expense of a few the whole [22] protection of the fight for property rights

Page 76

[1] is not being consistent. The full protection [2] of the private property rights is not being [3] consistent with the obtainment of important [4] public goals. Government bodies must be [5] willing to respect the private property [6] rights as they respect any other civil [7] liberty, also be willing to be [8] creative in finding solutions to the problems [9] of public importance outside of rights [10] of property owners.

[11] An individual's right to acquire, [12] own, and enjoy property has long been [13] recognized as being the most fundamental of [14] civil rights and foundation of all other [15] civil rights. Those who framed and ratified [16] the Constitution and the Bill of Rights [17] enjoyed these rights as being natural [18] liberties that pre-existed amendment of [19] the Constitution. The framers of the [20] Constitution considered the protection of [21] property rights to be one of the primary [22] purposes of the government. Private property

Page 77

[1] rights, which are among the most basic rights [2] in American culture, reigned supreme and [3] all consideration that has to do with any [4] governmental judicial, legislative, [5] executive, or regulatory action. We believe [6] that the right to own, enjoy, and profit from [7] one's own property is the most basic and [8] fundamental right of our society, and that [9] right must not be infringed upon.

[10] It is our intent for all the fine [11] citizens of this republic and these United [12] States of America to protect our individual [13] private property rights as guaranteed to us [14] by the Constitution of the United States of [15] America and the Constitution of the sovereign [16]

state of Wyoming. We are guaranteed life, liberty, and the pursuit of happiness. We are not guaranteed success, but only the right to attempt to achieve a success and remain secure within our property and our individual rights are not interference from government.

Page 78

[1] The Constitution does not guarantee [2] Kevin Shieffer and his DM&E railroad [3] will be a successful and profitable [4] operation. He's not guaranteed that. The [5] Constitution does not guarantee the citizens [6] of the Midwest cheap electricity or any [7] electricity at all. The Constitution does [8] not guarantee the American people cheap [9] gasoline, cheap food, cheap transportation, [10] cheap housing, or whatever. The American [11] citizen is only guaranteed his right to his [12] life, his right to his liberty, and his right [13] to his property.

[14] From the Fifth Amendment of the [15] U.S. Constitution: "No person shall be [16] deprived of life, liberty, or property [17] without due process of law." The 14th [18] Amendment: "No state shall deprive any [19] person of life, liberty, or property without [20] due process." Wyoming's Article I, [21] Declaration of —

[22] BONNIE: One minute.

Page 79

[1] MAJOR HARSHBARGER: Also enforces [2] the U.S. Constitution. But Section VII, [3] absolute arbitrary power over the lives and [4] liberty and property of republic, not [5] even in the largest majority. Here in the [6] sovereign state of Wyoming, all our elected [7] officials from the city councils to the [8] county commissioners to the state legislators [9] and to the governor himself take an oath of [10] office that reads in part: "I, whatever your [11] name is, do solemnly swear or affirm that I [12] will support, obey, and defend the [13] Constitution of the United States and the [14] Constitution of this state, and I will [15] discharge my duties in office whether it be [16] commissioner, town council, legislator, with [17] fidelity."

[18] As the mentioned earlier, the [19] primary purpose of government is the [20] protection of its citizens from . You [21] who are sitting here before me this evening, [22] federal employees, have charged to work

Page 80

[1] out a solution on the DM&E's request to [2] operation for the public good. Is it [3] really a public good? As federal employees [4] and civil servants, you are not only — also [5] in — are you not also in charge and have a [6] duty to support and defend the Constitution [7] of the

United States of America? Didn't you, [8] when you accepted to work as a federal [9] employee, accept the responsibility of [10] obeying the Constitution?

[11] Thank you for your time. I'm sorry [12] to be cut short. I have a few more words [13] . I reserve the right .

[14] BONNIE: Yes. Actually, what we'd [15] like to do right now is take about a 5- [16] or 10-minute break, so — and is there [17] folks that didn't speak at all? to sign [18] up. We'll probably go on another [19] half-hour, 40 minutes, or so when we come [20] back from our break. So if you want to sign [21] up 3- to 5-minute time frame, we can [22] take a few more speakers. We'll also, as

Page 81

[1] mentioned, if you have any questions, we [2] can take a look at those. You have to [3] and we'll in response to those. So [4] we'll take a break now. It's about — it's [6] (Recess)

[7] BONNIE: The question is — can [8] everyone hear me? The question is: Will the [9] STB grant a license to DM&E Railroad if the [10] majority of landowners along oppose the [11] building of the new railroad? And I just [12] wanted to make sure that everyone understands [13] that nobody knows what the Board is going to [14] do. I certainly don't and neither do my [15] colleagues. Our job is to make sure that the [16] Board has all the information in front of it [17] before they make the decision because that's [18] our job do that to make sure that when [19] we finish with the environmental review [20] process, the Board has all the information it [21] needs to make a decision on this case. Now [22] what that decision is going to be only the

Page 82

[1] board knows eventually. But our job is to [2] make sure that they take a hard look at the [3] environmental impact before they make a final [4] decision.

[5] Okay, thank you. All right, so Ann [6] Wehri is my first speaker.

[7] MS. WEHRI: I appreciate the [8] opportunity to speak to you tonight, and I [9] hope that you actually read the comments that [10] people are making because they are sincere [11] and we sure hope you're listening rather than [12] just going through the motions. I personally [13] think Newcastle's the majority of [14] the Newcastle committee is in favor. Many [15] of us, including me, are in the Newcastle [16] community and we are not in favor of this [17] project.

[18] In reference to some earlier [19] comments, I would say that our experience [20] with DM&E's president has been quite [21] different. I think Shieffer has more [22] personality and a looser

tongue than Al Gore.

Page 83

[1] And every time he's been to Newcastle he has [2] been sneaky and deceptive and he has a very [3] convenient memory. And also, I have to agree [4] as is hurting. And if the government [5] agencies continue to stick it to us, they may [6] not have to worry about foreign oil sources, [7] they may have to worry about foreign food [8] sources. And if you think a country can hold [9] you hostage with foreign oil, they can dang [10] sure do the same thing with foreign food [11] sources.

[12] Now in reference to the DEIS, I [13] found the DEIS very difficult to read as [14] there was no index, a guide. The number [15] pages of the Executive Summary is misleading [16] and there is no mention of the five [17] additional volumes that were then numbered B [18] and C for various volumes. The problems go [19] on and on as far as understanding it, and I [20] think that there certainly needs to be [21] additional time to get through it so we can [22] comment accurately.

Page 84

[1] On the content of the draft, it's [2] flawed a number of ways. There's blatant [3] disregard for the impacts on people. In [4] Volume III-B, page 4.4 to 50, if the visitor [5] has not previously visited the area they're [6] unfamiliar with the landscape and may not [7] recognize that their view is impaired. In [8] other words, if they had not been there [9] before, they would not realize that the views [10] of Badlands Park were hidden in the pollution [11] of the coal train. So I guess what they [12] don't know doesn't hurt them, right?

[13] The impacts to the business of [14] ranching and farming have not been included [15] in the DEIS. They are merely page 4.4 [16] through 11. There is no . Where are the [17] charts and graphs of cost in man-hours to [18] move livestock and feed across the rail line? [19] Where's the chart showing the comparisons of [20] the man-hours needed to watch for fire along [21] the rail line versus fire from natural [22] causes? There are two lengthy sections of

Page 85

[1] rail line already built in the last 25 years [2] in this area that seem a natural place to [3] study these impacts.

[4] In addition, the DEIS statement on [5] page 4.4-11, that the primary impact [6] resources will be the direct loss of forage [7] area through its conversion to railroad [8] during construction. This is absurd. There [9] is so much more impact. Where is the expert [10] opinion this came from?

Most landowners [11] have repeatedly written that the biggest [12] impact is the division of their business. [13] The Landowner Advisory Committee and the land [14] use litigation policy are touted in the [15] Executive Summary and in Volume IV as the [16] mitigation landowners. The Advisory [17] Board does not represent me. The land use [18] mitigation policy has not been shown to the [19] majority of landowners, only to the ones who [20] agreed to cooperate with the DM&E from the [21] very beginning. This is not "mitigation" by [22] meaning of the word.

Page 86

[1] In Volume VI, Appendix A, pages 41, [2] the STB accepts the applicant's view that the [3] will increase from 2002 to 2007. The [4] success of this project hinges on increased [5]. However, the DEIS in several places, [6] Volume I, pages 1 through 20, and Volume III, [7] pages 4.4 to 133, state that transportation [8] costs will be reduced by the increased [9] competition offered by DM&E. In comments [10] submitted at the Douglas meeting just the [11] other night, Mary Loomis (?), the director of [12] the Wyoming Mining Association stated that [13] when the Union Pacific and the Chicago [14] Northwestern railroads did a second line, [15] freight rates dropped 30 percent. We assume [16] that the third railroad would result in [17] similarly lowered rates which would doom the [18] success of the project.

[19] There are a huge amount of errors [20] in the DEIS. Highways and county roads are [21] mislabeled. In Appendix 8, there's no [22] mention of the crossing of Interstate

Page 87

[1] Highway 9 near Wall, South Dakota. There's [2] presently a separating that's not [3] shown in any of the charts in this. It [4] doesn't — in the STB by Shieffer, he [5] listed Exhibit A, I-90 is listed as a [6] proposed grade crossing and then it doesn't [7] appear in the DEIS. There's a number of [8] errors in the of the safety along [9] Alternative D. What is a passive device? Is [10] considered in the same category as the [11] preparation? There are 17 crops listed [12] for Weston County and I know that 10 of them [13] are incorrect. Two of them were for not [14] researched by others. Is this any indication [15] of the quality of the research done, 59 [16] percent of the information is incorrect? How [17] can you go and officials make correct [18] decisions with flawed information?

[19] The CD-ROM version of the Draft EIS [20] is useless. Is that the time? The U.S. Army [21] Corps of Engineers' document was unavailable. [22] It's 90 miles away. I

would like to request

Page 88

[1] that the comment period for both the 404 and [2] the DEIS be extended at least 180 days and [3] some revisions be done to the Draft EIS. [4] Thank you.

[5] **BONNIE:** Thank you. Don Higgins? [6] He was just here. Don?

[7] **SPEAKER:** He's right here.

[8] **BONNIE:** Don? set up [9] **MR. HIGGINS:** I'm coming, I'm just [10] so busy getting my around here. But I [11] know it's been a quite a day with this storm, [12] so but I did get my on. It's good [13] to see you people in Newcastle. So I'm going [14] to keep as much as we do today. Okay, [15] here's my statement expand upon it. [16] I've been all over, on foot and [17] road and airplane, along most of the 280 [18] miles of the construction to Wall, South [19] Dakota, and the coal mines. My opinion is [20] that Alternative C has no place for coal [21] trains. The Cheyenne River Valley in South [22] Dakota and Wyoming is no place for a

Page 89

[1] railroad. The current use of this grassland [2] is a working landscape producing agricultural [3] commodities, open space, and recreational [4] opportunities on public lands is the [5] preferred use. It is not only [6] destination-specific, a vacation opportunity [7] to breathe and see the clean air over our [8] at Badlands and. In no way can air [9] pollution from DM&E's old model locomotives [10] operating 6 miles to Badlands National [11] Park be mitigated. Diesel exhaust from [12] numerous moving or idling trains, as [13] addressed by the Clean Air Act, have [14] cumulative effects. The DEIS fails to [15] adequately address this matter. Even with an [16] air quality team looking at all the effects, [17] the absence of complete analysis of air [18] quality in the DEIS suggests a need for a [19] revised Draft EIS. So let's stop the process [20] after the Rochester hearing and go back to [21] the drawing board. South Dakota and [22] Wyoming, Alternative C the mandates are clear

Page 90

[1] in the Clean Water Act are not adequately [2] addressed to prevent impairment of already [3] impaired reaches of the Cheyenne River and [4] its tributaries. Again, proximal and [5] cumulative effects have not been sufficiently [6] considered by the STB and the Corps of [7] Engineers, nor by the states, in regard to [8] water quality in this Draft EIS. This, [9] again, suggests to me DEIS. My [10] suggestion is that Alternative A action [11] of the DM&E permit is the only reasonable [12] option for the STB.

[13] Here in Wyoming, the off-rail [14] impacts of DM&E's proposal are local, [15] regional, current, and cumulative as will be [16] obvious to residents and visitors to [17] Northeast Wyoming. Heavy-haul coal trains [18] create noise, air pollution, train wrecks, [19] fires without necessarily paying the costs [20] and not necessarily benefiting anyone. [21] I examined the Draft EIS and found [22] it inadequate, incomplete, inaccurate maps,

Page 91

[1] confusing, and applicant-driven. I repeat [2] the applicant-driven because DM&E's [3] unsubstantiated assertions are based on [4] proprietary information and are not balanced [5] or verifiable scientific information. The [6] entire section on economic analysis is [7] inadequate being based on fuzzy math left [8] over from the transportation phase of 1998. [9] Only document, a technical report from [10] the U.S. Forest Service out of BLM, including [11] information from. Only this volume is [12] balanced and DM&E are not present in the [13] tech report.

[14] So it is a no-build. It's a [15] no-build and a no-action, no permit expedient [16] decision will send a message to an upstart [17] railroad and to investors, national and [18] offshore, that this part of Wyoming, with the [19] big old spaces and private and public lands, [20] is a national treasure not for sale, [21] regardless of DM&E's promises for mitigation.

[22] **BONNIE:** One minute left.

Page 92

[1] **MR. HIGGINS:** This working [2] landscape will continue to function with the [3]. DM&E expansion is not an answer to [4] national transportation. DM&E coal [5] trains are private, for-profit, short-sighted [6], not in the national interest, and [7] actually destructive to the working landscape [8] of Northeastern Wyoming with no benefit to [9] local citizens and landowners. The cost of [10] the environmental impacts of this third [11] carrier are too high and far outweigh [12] that as prescribed by federal law. In [13] conclusion, no-build and Alternative A [14] is a positive decision to deny the permit as [15] stated by the no-action preference of the [16] U.S. Forest Service, one of the stewards of [17] this part of the nation. By extending the [18] comment period by 180 days of both the DEIS [19] and and by doing a second DEIS, the STB [20] and the Corps of Engineers can show some [21] leadership. Alternative A is a [22] responsible, dependable alternative to not

Page 93

[1] permitting irresponsible railroad pro-

ject. [2] Think of the no-build as a decision to save [3] time, money, energy, and STB Wyoming. [4] Use that time, energy, and money to [5] participate in a real energy issue, plan [6] for America. Otherwise, we will see you in [7] court for years and years on accountability [8] will still rest the DM&E as an [9] untrustworthy, bad neighbor pursuing a [10] destructive project not in anyone's interest. [11] Thank you.

[12] **BONNIE:** Thank you. Glenn Hanson? [13] **MR. HANSON:** I unemployed. [14] First, I do want to thank you for giving us [15] this opportunity and became friends with [16] the BLM and the Forest Service. But the BLM [17] out here in Wyoming the land they own is [18] the — the land that they control is land [19] homesteaders didn't want. It's just on [20] most of it. Nobody bothered them. And the [21] Forest Service, most of the land they have [22] down in that area is land that nobody can

Page 94

[1] make a living on, so they sold it back to the [2] government for \$2 an acre. Now said the [3] EIS is on private land, you know, there's a [4] lot of stipulations on BLM and the Forest [5] land, but nothing on private land. And [6] particular be sure to consider all [7] the thousands of people in the cities, [8] Minnesota, South Dakota, that are against [9] this. I mean, all the Ronald Reagan and [10] everything has . opposition [11] huge. I mean, relatively few people that [12] want .

[13] **BONNIE:** Okay, thank you. The next [14] speaker is Rhonda Stearns.

[15] **MS. STEARNS:** I would also say [16] thanks for the opportunity to express an [17] opinion here today. I have not had an [18] opportunity to look at the impact statement. [19] I have learned a lot listening here today. I [20] would strictly like to join Ann Wehri in [21] saying that I take exception to the Mayor's [22] statements that most of the people in the

Page 95

[1] Newcastle community support the railroad [2] because I've certainly lived here all my life [3] and I do not prefer the railroad. I mean, I [4] would support the no-action. I would also [5] support a lengthy extension of time for [6] ranchers and people who will be impacted by [7] this to have more time to understand what [8] this impact statement says, what it does not [9] say. And the things that are not clarified, [10] I certainly hope that you folks will have the [11] responsibility of sitting on this panel [12] insight into many of the things that are [13] wrong with this paper today.

[14] I would like to say that my family [15] for several generations on both sides, has

[16] occupied this land. The first explorers that [17] came out here said that this was the great [18] American desert and would never amount to [19] anything. came into the state of [20] Wyoming in the 1800s and proved to the world [21] that cattle can utilize one of the great [22] renewable assets that this world has, which

Page 96

[1] is grass and . Wyoming is not much of a [2] party country. Never has been; never will [3] be. But we've seen a lot of people on [4] and the grass that grows here naturally.

[5] I think back to . [6] watershed, the water rights, have been [7] established since the first — early '80s. [8] He came back, as people have, because [9] and you don't have much . What you do [10] have is extremely valuable. I would say that [11] it's a lot more valuable than any other — [12] than a big farming area where everybody is [13] fertilizing everything irrigation. If [14] you have a flood you every year and [15] something comes along and changes the [16] watershed that's been there for 100,000 years [17] and you lose that . I think the value of [18] that needs to be figured on a pro rated basis [19] as just exactly how much it's getting from [20] contributors to the success of your [21] operation.

[22] Furthermore, I think that our

Page 97

[1] livestock have lived on this land forever. [2] They have learned to range on this land. [3] They've learned the , everybody's [4] gathered onto the . They know how they [5] move from pasture to pasture in time. My [6] husband I do ranch and we do day work [7] for people all over Weston County and [8] Niobrara County on into Converse County and [9] some over into South Dakota. And you [10] discover that if you change the routine of [11] livestock, you lose hours and hours, and [12] everybody on the street downtown figures [13] their time, the value of their time by the [14] hours that they spend in a day and what they [15] get accomplished. And it's going to take [16] about five times as long to accomplish one [17] task than it should normally take you because [18] the railroad has to come through and disturb [19] the terrain and disturb the natural [20] tendencies of your livestock, the learned [21] rhythms, that are so natural to this land. I [22] think those things are probably not being

Page 98

[1] considered. And I also think, as Mr. Tubbs [2] said, there are many, many people who are [3] going to be affected by the railroad even [4] though their land

does not lie in the [5] right-of-way. Yes, perhaps they're going to [6] pay those people for right-of-way, perhaps [7] they're going to pay those people for the [8] ground that they disturb, but the people who [9] lie next to that and close to that or are [10] going to be impacted by all these other [11] factors are not going to be . And I [12] think that this is something that —

[13] **BONNIE:** One minute.

[14] **MS. STEARNS:** All these voices that [15] are being raised should be considered. You [16] know, area where there are . Many [17] of these archeological things are something [18] that we simply cannot replace; they're [19] priceless. This is a national treasure. The [20] quality of our air, the lack of sound [21] pollution that we now is priceless and [22] we need to really consider because that's not

Page 99

[1] a renewable resource, it's not something we [2] can bring back. I remember the first time I [3] ever saw smog hanging over Salt Lake City. I [4] remember the first time I saw smog hanging [5] over Albuquerque. I never thought that would [6] happen, but it has happened and it can happen [7] here. And I would certainly recommend that [8] you would accept the no-build and that we [9] would definitely give these people more time. [10] Thank you very much.

[11] **BONNIE:** Thank you. We had [12] formally we do want to encourage you to [13] submit written comments, certainly by the [14] January 5th deadline. If you would like to [15] submit a written comment today on that sheet, [16] that would be great. We do have a Web site [17] online way to contact us the [18] information up front and all participating [19] board. And most importantly, we really [20] want to thank you for making the comments [21] today and in this weather. We had [22] almost the entire list show up so we can

Page 100

[1] know that you all here and we appreciate [2] that.

[3] Thank you very much and have a nice [4] evening. We will be back here again at 6:00 [5] o'clock. We again making comments. [6] Thank you.

Page 101

EVENING SESSION

[2] (6:00 p.m.)

[3] **BONNIE:** Like to get started here. [4] We've got about a third of presentations [5] will and it will totally be your [6] comment time.

[7] The purpose of tonight's meeting is [8] to describe the agency in reviewing the [9] proposed DM&E construction, rail construction [10] project. Secondly, it's to

provide an [11] overview of the project. Third is to [12] describe the preliminary results of the [13] environmental review. And finally and most [14] importantly, we're here to receive your [15] your public comments. And I would like to [16] say on the Draft EIS —

[17] **SPEAKER:** At the [18] Transportation Board, I know a number of you [19] were here this afternoon. I'm pleased that [20] you decided to come back this evening, as [21] well. And please, be patient with us because [22] you're going to hear the same information

Page 102

[1] that you heard earlier. Thank you.

[2] **SPEAKER:** Some of the unique [3] characteristics just some of the ones [4] we'll highlight. We're to Buffalo Gap [5] national grassland, various tribal and Native [6] American concerns, again ranchers and farming [7] along existing live areas. The central [8] impact various communities located [9] within the five area, particularly those [10] along the line and near the new construction. [11] And then the potential impact that could [12] result due to DM&E's necessity to either [13] reconstruct its existing bridge over the [14] Missouri River or to construct a new bridge [15] at that location.

[16] In Minnesota, the existing DM&E [17] line will be reconstructed. There would be [18] new construction or there was proposed new [19] construction in the communities of Mankato, [20] Owatonna —

[21] **SPEAKER:** we have another [22] representative from one other federal agency

Page 103

[1] in the audience tonight. Jim Berkley from [2] the U.S. EPA is with us. EPA's role in this [3] project will be to review and rate the Draft [4] Environmental Impact Statement as well as [5] DM&E's proposal, and EPA will also be [6] reviewing the 404 permit application. Jim, [7] would you mind?

[8] Okay, let me just finish some of [9] the logistics around the time against [10] submitting your comments. All comments we [11] are receiving at this meeting tonight. [12] Written comments, there's a comment sheet, a [13] comment sheet that you can fill out [14] tonight and drop it in the box or, as we [15] mentioned before, you can send them in [16] writing by January 5th or any time between [17] now and then. You also — the agency will [18] respond to the comments in the Final [19] Environmental Impact Statement. You will see [20] formal responses to the comments that you [21] submit in writing.

[22] What we'd like to see your written

Page 104

[1] comments on are things. First, the [2] Draft Environmental Impact and keep your [3] comments to anywhere between three and five [4] minutes. I'll tell you when you have a [5] minute and then you'll hear the little beeper [6] go off when you five minutes. Thank [7] you.

[8] **SPEAKER:** I think are probably [9] just about all being used, Steve.

[10] **SPEAKER:** Mike.

[11] **SPEAKER:** Can you use the mike?

[12] **SPEAKER:** Don't worry about the [13] switch.

[14] **SPEAKER:** Is it on?

[15] **SPEAKER:** Yes, sir.

[16] **SPEAKER:** Try this again. I [17] don't — I guess I can't say exactly what it [18] was or when this Miss Nancy Hodges [19] when [19] she called to visit me about doing a — the [20] deal 3.3 miles of our ranch. We set up [21] an appointment to get started and she later [22] called and changed the appointment. I went

Page 105

[1] ahead and I changed it and there was — I [2] just about, it was about a week [3] later and she never showed up.

[4] A little bit later that month, a [5] guy by the name of Paul-somebody called and [6] he kind of asked what was going on with EIS [7] and we told him that we really didn't know, [8] that Nancy was supposed to be coming out. He [9] informed my wife that she'd unexpectedly left [10] on a vacation to England and he would set up [11] a time to come out. That's the last I ever [12] heard from him.

[13] Although I requested an EIS be done [14] on my place, there has never been one done. [15] I have concerns over dinosaur fossils in [16] these sites; also endangered and threatened [17] plants and animals. Numerous things, I feel, [18] have been overlooked in this EIS and the [19] facts all point to, as I would say, being [20] very poorly done and incomplete in an unfair [21] way being made on ridiculously [22] incomplete information. It's only — has

Page 106

[1] only been done on just a portion of the [2] route, also. A lot more studying needs to be [3] done on the water wells that are planned for [4] use in construction. I would like to know [5] who says their water table is going to come [6] back.

[7] I think a lot of work needs to be [8] done on air quality and extra traffic, that [9] they're going to have to — that they plan to [10] service our existing customers. I think that [11] we all need air quality and we need models [12] for people. We value our clean air and [13] there are laws in place to protect it, and

[14] you must follow them and consider the [15] emissions.

[16] Also, I would like to let you know [17] that the advisory committee that was set up [18] Shieffer has not and has never — has [19] not ever been authorized to speak for me. [20] They do not share the same opinions. I [21] requested to be on the board at the start. I [22] feel that I was never considered to be part

Page 107

[1] of the process. Not a single one has ever [2] contacted me about this whole thing; not a [3] single one.

[4] I think that this whole EIS needs [5] to be struck. I think that we should start [6] fresh and proceed according to the law set [7] out for the qualified people. And for [8] those of you as well as others that I reserve [9] the right to include at a later date, I [10] request an extension of the comment period [11] for at least six months. That's my view.

[12] **SPEAKER:** Thank you very much. [13] Okay, our second speaker is Joe Simmons.

[14] **MR. SIMMONS:** Is this one on? My [15] name is Joe Simmons. I'm a rancher on the [16] proposed line. We're opposed to the building [17] of the DM&E proposed new railway an [18] unnecessary railroad would cross [19] approximately 2 miles of our land and have a [20] serious adverse effect on our ranching [21] business. Noise will disturb the wildlife, [22] as well as the cattle, and noxious air

Page 108

[1] pollution from these trains will [2] increase our already existing levels from [3] the — our other railroads. The spread of [4] coal dust and diesel soot in the watersheds, [5] which are not currently being polluted by [6] coal trains, will be damaging to the [7] environment. Fire's a concern. There would [8] be fires from these trains. And if it's [9] built in undisturbed areas, well, there are [10] not natural firebreaks there, such as [11] highways, that help contain these fires.

[12] One of the biggest losses due to [13] the railroad is the water along some of our [14] pasture. The proposed route cuts off the [15] Black Thunder and Little Thunder creeks from [16] our pastures and that takes away the water [17] from the rest of the pasture. The loss of [18] livestock due to the railroad affects our [19] livelihood.

[20] I bring up all these things even [21] though some of them can supposedly be dealt [22] with through negotiations. I feel that under

Page 109

[1] current law many of these losses which occur [2] because of the proposed

new railroad will be [3] inadequately compensated for. Therefore, we [4] feel it's wrong for ranchers and the private [5] enterprise or even government to help fund [6] the private railroad that is being proposed [7] for a profitable venture.

[8] We feel that because there are [9] other rail lines in the Powder River coal [10] mines, the proposed railroad is a luxury that [11] is unnecessary. The price for tearing up now [12] undisturbed scenic land will cost future [13] generations for as long as the railroad [14] exists. Thank you.

[15] **BONNIE:** Thank you. Okay, our next [16] speaker is Lou Ann Borg-ee-all-ee?

[17] **SPEAKER:** Bor-jelly.

[18] **BONNIE:** Borgialli.

[19] **SPEAKER:** Lou Ann you want to [20] read them? Shall I read them?

[21] **SPEAKER:** Yeah.

[22] **SPEAKER:** Lou Ann was unable to

Page 110

[1] come tonight because of the weather [2] conditions in her area. She's from the [3] Wright (?) area, although interestingly [4] enough her address is Newcastle, Wyoming, but [5] she lives much closer to Wright. Here's what [6] she wrote:

[7] It is very hard for me to make it [8] clear comment on the draft. I have only had [9] the draft for 30 days. As you know, it's a [10] lengthy document, and I have been only able [11] to get through a little bit of it. I feel [12] that we should be given an additional 180 [13] days to review it.

[14] From what I've been able to read, [15] there are three areas of concerns that I [16] have: Exactly where the railroad is going, [17] the highway crossings, the noise issue, and [18] the air quality. When I looked at the maps [19] that were available to me, I found that there [20] will be four grade crossings between my [21] house and the Black Thunder line. That's [22] only a nine-mile distance. My concern is in

Page 111

[1] the fact that I have a child that will have [2] to ride a bus or drive herself to and from [3] school. The have made overpasses [4] on 450. Why doesn't the DM&E have to do the [5] same?

[6] When I saw the maps during the [7] scoping, I was under the assumption that the [8] railroad would go on the north side of [9] Highway 450; now it's on the south side. I'm [10] not sure from the maps just where it will be [11] in relation to my house. Why can't we be [12] given exact maps of where it will go?

[13] Why is the noise more of a concern [14] for the people in town than those of us who [15] live out of? Isn't our right to peace [16] and quiet as important as those

that live in [17] town? I have heard that in Arizona, a [18] railroad was trying to make a new route and [19] they were told that they would have to put up [20] sound barriers along the route. Will DM&E [21] have to do the same? Will we make them put [22] them up everywhere?

Page 112

[1] My main concern is for the air [2] quality. We are right now having problems in [3] my area with the mines blasting and producing [4] orange clouds that have been labeled lethal [5] by the EPA. From what I've been able to read [6] there haven't been any studies into the NOx [7] in my area. Why not? Were there studies [8] done on what the combination of the Two Elks [9] power plant will have in relation to the [10] railroad? If so, what are they?

[11] We know now that the train's just [12] sitting at center have increased their [13] NOx to a warning level. Will that be any [14] different for us by the yard that DM&E has [15] planned? From what I can see, the yard [16] on 450 is one of the lowest spots on the [17] route and that all trains will have a pull [18] going east and west. With that our NOx will [19] increase even more. What are the studies [20] that have been done on that? Where are they [21] so I can look at them? The only other place [22] in Wyoming that has a NOx problem is at Bill

Page 113

[1] (?), Wyoming, right beside the yard. [2] With everything else we have to contend with, [3] is having a yard on 450 really a good idea?

[4] I do not feel that the railroad [5] should be allowed to come over new ground at [6] all. Why is it better to go on existing [7] lines in some places and not in others? Why [8] is our area, even though less populated, less [9] valuable than one with more population? Why, [10] just because we have less people, should we [11] have to live with all the destruction the [12] railroad will make?

[13] Now I'd like to talk on behalf of [14] my neighbors, Dan and Joyce Tracy (?). They [15] are right now in the hospital with their [16] daughter not sure of how much longer she has [17] and unable to be here. Their ranch will be [18] split into several different sections. The [19] tracks are going to cut the water supply off [20] for a big part of their ranch. They're very [21] concerned with what this project will do to [22] their water. What has been done to study the

Page 114

[1] change of the Little Thunder Creek? Lou Ann [2] Borgialli.

[3] **SPEAKER:** Thank you. Our next [4] speaker is Rick Wehri.

[5] **MR. WEHRI:** My name's Rick Wehri. [6] ranch just across line. And all my [7] comments, although I've got a lot on [8] document, just the first thing that [9] struck me about the document talk about [10] was the fact that this Environmental Impact [11] Statement reads more like an editorial [12] than it does the unbiased analysis.

[13] On Section 1502, on the shall [14] not commit resources prejudicing selection of [15] alternatives before making a final decision. [16] And it also says the Environmental Impact [17] Statement shall serve as the means of [18] assessing the environmental impact of [19] proposed agency actions rather than [20] justifying decisions already made.

[21] Reading this I think that the EIS [22] was written with a predetermined judgment

Page 115

[1] that they were going to try and prove that [2] the railroad could be built. And then [3] reading through I can see several statements [4] that lead me to believe that. On Table 5.1 [5] of the EIS, phrases they used in here that [6] indicate to me a slight bias. One place it [7] says: Ingestion from fuel and lubricants [8] in the unlikely event of an accident. [9] DM&E has the worst safety record in — of all [10] the railroads in that state. Why are they [11]?, so there should be some effects.

[12] It says reduced access and [13] inconvenience to environmental ranchers. [14] This is a livestock woman. Whenever they [15] talk about an effect that's inconvenience or [16] a nuisance, it's not a problem, it's just a [17] simple inconvenience like standing in line at [18] Kmart. It's not an inconvenience. It says: [19] Potential damages to one house located [20] between 100 and 200 feet from the proposed [21] line, and it also goes on to state that these [22] structures could experience minor damages.

Page 116

[1] But the minor damage is determined as crack [2] in the foundations, breaking of items along [3] the tables and walls. And it also states [4] that this would be an inconvenience and [5] annoyance to someone. A crack in the [6] foundation is a minor flaw? I think that's [7] quite major.

[8] It says fencing may impede seasonal [9] migration. May impede? You got a fence on [10] two sides of the railroad track and that [11] might impede migration? It also says then we [12] go over 100 railroad tracks. These are [13] adjectives. This is supposed to be an [14] unbiased analysis and yet we're using all [15] these things that say over 900 construction [16] jobs, we got high-paying railroad jobs, those

[17] property values may increase in areas [18] suitable for commercial development. There's [19] no data for this; it just says it.

[20] No business industries are located [21] in close proximity to the proposed rail [22] corridor. What are all the ranches and

Page 117

[1] farms? Are these not businesses? It says [2] the only measurable impact on big game is the [3] amount of habitat lost to the conversion of [4] the rail line. The only impact was the loss [5] of this little bit of land. Is that not [6] misleading?

[7] One statement I particularly like [8] was talking about fires. It says: However, [9] sometimes, fires to be escaping, and [10] under the right conditions and if these fires [11] land in an area with fuel, a source of dry [12] grass, they can ignite fires. Isn't that [13] quite a qualified run-around statement? [14] If — it sounds like to me it's a very slim [15] chance that we have fire along the route. It [16] happens all the time. This makes it sound [17] like it hardly could ever happen, and if [18] there is a fire then the mitigation says the [19] shall develop an adequate plan for fire [20] prevention. What is an adequate plan for [21] fire prevention? What does that mean? It's [22] up to his discretion to do what he wants.

Page 118

[1] **SPEAKER:** One minute.

[2] **MR. WEHRI:** One minute? Okay, [3] I'll — I've got a lot more. I would also — [4] I also think that they are using scare [5] tactics to try to talk you into using the [6] DM&E. It says that actual alternative [7] would have serious environmental [8] consequences. It says the hardships, the [9] the ag communities, and all these [10] things, but none of these are substantiated. [11] They're just quoting from DM&E or preaching [12] for the DM&E that these alternative have [13] all these environmental constants, yet it [14] doesn't talk about any of them doesn't [15] characterize them.

[16] Therefore, I think that this Draft [17] EIS needs to be thrown out based on the fact [18] that it was prejudiced in the selection of [19] alternative before making their final [20] decision. It is justified and predetermined [21] decisions through the use of Environmental [22] Impact Statement and throw it out and

Page 119

[1] start new with an unbiased council. Thank [2] you.

[3] **SPEAKER:** Thank you, Rick. I do [4] want to remind we've got about three [5] more signed up to speak, so if you would [6] like to speak, please do. Go up the front [7] there and let Judy know so we

can add you to [8] the list.

[9] Okay, our next speaker is Maxine [10] Ripley. I'm sorry, Maxine.

[11] **MS. RIPLEY:**

[12] **SPEAKER:** Okay.

[13] **MS. RIPLEY:** Because I didn't get [14] her.

[15] **SPEAKER:** Okay, because the police [16] told us, right?

[17] **MS. RIPLEY:**

[18] **SPEAKER:** Okay. And then our next [19] speaker is Keith Anderson.

[20] **MR. ANDERSON:** Thank you. I'm a [21] landowner. I operate a ranch south of [22] the Wyoming line.

Page 120

[1] I'd like to start with some general [2] comments, first directed toward the Corps of [3] Engineers representative. I guess I object [4] to the fact that this proposed 404 permit is [5] not readily available for public inspection.

[6] In my specific instance, the [7] closest complete document I believe is in the [8] Rapid City Library. That's 100 miles distant [9] from me, and it's simply not practical for me [10] to go to Rapid City to a library and do an [11] adequate review of that document. And I [12] would request that the Corps of Engineers [13] make that document readily available to [14] interested landowners at the very least and [15] provide us with an opportunity to provide [16] meaningful comments.

[17] What struck me reading the [18] Environmental Impact Statement, it was [19] written with a total lack of cites listing [20] the investigations and appeared to have been [21] written largely in an office. It relied [22] heavily on representations by the applicant

Page 121

[1] and by consultants obtained by the applicant [2] and by industry organizations with a vested [3] interest in the outcome.

[4] The entire discussion of the [5] no-build Alternative A talks about a lot of [6] negative consequences of the no-build. [7] Again, that seems to be taken directly from [8] the applicant's promotional literature. And [9] it is highly speculative when you talk about [10] economic impacts, safety impacts, management [11] impacts, all those kinds of things that you [12] really have no way of predicting. And I [13] think that that kind of speculative [14] literature has no place in what's intended to [15] be a decision document.

[16] This EIS attempts to demonstrate [17] that there's a need for additional rail [18] capacity out of the Powder River Basin. [19] Again, that's based — appears to be based [20] largely on representations

made by the [21] applicant. The only thing that I could find [22] that was — comes close to being an unbiased

Page 122

[1] analysis was the in Section 5.2.3, paid [2] for by BNUP (?). I think they have correctly [3] identified that the bottleneck in moving coal [4] out of the Powder River Basin is in terms of [5] loading facilities. And I think if you had [6] spent some time talking with you'd find [7] that to be the case. The entire discussion [8] on air quality were to basically just dismiss [9] coal dust emissions for the train. It's [10] inadequate suggested because nobody has [11] complained that there's not a problem. And [12] the scoping area I indicated at that [13] time that we or I had the opportunity to [14] serve as chief engineer on a project where, [15] among other things, we did baseline [16] environmental monitoring for an environmental [17] impact statement written by Nancy Dallacory [18] (?). As part of that, system of [19] baseline air quality monitoring, we had one [20] ESD (?) monitor about 200 meters from the BN [21] track. certain atmospheric conditions, [22] fugitive coal dust from the BN trains would

Page 123

[1] blind single train. Again, with [2] the — what is known under Representative [3] Kramer (?), Representative Dare (?) that [4] indicated, under certain conditions, they [5] would look back at the train and it was just [6] a fog of dust. It's not on every train, but [7] again, you can't just summarily dismiss it, [8] not only with regard to visual impact on air [9] quality, I think you have to discuss [10] potential health impacts.

[11] I realize that there are — [12] probably are not specific epidemiological [13] studies that relate to congestion and low [14] concentrations of coal dust, but I would [15] suggest what you need to do is what they've [16] done with other contaminants and assume a [17] straight line in relationship between health [18] impacts and ingestion with the contaminant. [19] Most notably that's done. And I think [20] that that discussion, particularly where the [21] road goes through so many populated areas [22] needs to be discussed.

Page 124

[1] Just very quickly, the discussion [2] with regard to derailments being unlikely, [3] again, I think that's entirely inadequate. [4] We have records from other railroads and [5] we all of us here can remember on the [6] B&N. And I think that you need to make [7] some kind of prediction of derailments. It [8] also indicates that the small quantities of

[9] fuel and lubricants. I would point out to [10] you that the DM&E locomotive likely to be [11] used on this project has a fuel capacity of [12] 6,000 gallons. So with three units, you've [13] got a fuel capacity about 18,000 gallons. [14] And I don't know under any definition that [15] that would be considered to be spill.

[16] Finally, with relation to surface [17] quality impacts — surface water quality [18] impacts, the state of South Dakota has [19] identified the majority of the Cheyenne River [20] in the area under consideration. And [21] depending on what EPA ultimately does with [22], the impacts, the are not

Page 125

[1] primarily and this document indicates [2] that stretch of the operation will have [3] significant impacts on and the [4] watershed. And I think that's a significant [5] impact. Thank you.

[6] **SPEAKER:** Thank you. Anna Simmons?

[7] **MS. SIMMONS:** To the chairman and [8] the board and all present, this railroad —

[9] **SPEAKER:** Anna, would you come up a [10] little closer to the mike?

[11] **MS. SIMMONS:** To the chairman and [12] board and present, this railroad [13] Proposal 3-A and every day, 365 days a year, [14] pain in our side, like a sack of rocks [15] attached to our backs. The cost of losing [16] livestock in storms, water, fighting [17] prove the railroad has caused damage and [18] deaths and range fires, trying to use the [19] crossing with trains on the tracks most of [20] the time.

[21] There is noise pollution and dust [22] flying off the trains, settling on the range.

Page 126

[1] Horses are afraid of these noisy, smelly [2] trains, too. Dust from the coal is not [3] healthy. Could the Surface Transportation [4] Board get a study done on how healthy it is [5] to have the dust to breathe and eat the soot [6] on the grass for wildlife and domestic [7] animals?

[8] Emissions from the diesel [9] locomotives also is known to cause cancer. [10] We do not need another dirty, unhealthy [11] environment in our county. DM&E is a [12] private, I mean, private business. DM&E is [13] threatening to pay only one-fourth to [14] one-twelfth the cost of any bypasses around [15] cities to force the cities and rural [16] landowners to agree to what DM&E wants: To [17] not the rest of our cities and towns out [18] in public. The example given is Pierre, [19] South Dakota, \$1 million cost. But the [20] railroad would only pay \$12 million and the [21] DM&E railroad is causing cost. What [22] else and where else is DM&E going to shove

Page 127

[1] costs it is creating to landowners?

[2] Of the jobs the railroad has [3] proposed, it will bring in 1,176 jobs quoted [4] in the paper. 1,117 will be in South Dakota. [5] That leaves 59 jobs for Weston County, [6] Niobrara County, and Campbell County to [7] share. Is that construction only or [8] permanent jobs?

[9] Vern (?) and I've worked to drive [10] our pickups and trucks and ride our horses, [11] drive cattle, fix fence, enjoy open spaces [12] our private own business. We enjoy the [13] wildlife in this area of Weston County where [14] the railroad is proposing to cross. Our land [15] is in better shape now than 100 years ago. [16] There is water and grass distributed [17] everywhere. Vern can remember when his dad [18] first seen the first deer in its open range [19] area of Weston County. New water development [20] has increased wildlife presence, along with [21] a fine place to live and raise our [22] children and grandchildren. I have typed and

Page 128

[1] copied articles of where I got my facts from [2] and we agree with the comments we've received [3] over our e-mail service. I can give you [4] copies of that and I won't repeat it here.

[5] **Another question:** How soon will dirty coal [6] be out of popularity for generating [7] electricity and solar sun and natural gas [8] take its place? We need to use clean energy [9] whenever we can. We had the Burlington [10] Northern Santa Fe Railroad and the —

[11] **SPEAKER:** One minute.

[12] **MS. SIMMONS:** — Union Pacific. [13] That is on the northern, eastern, western, [14] and southern boundary of Weston County. We [15] do not need a duplication of services down [16] the middle of our county. DM&E should foot [17] all costs if it's agreed. There's a concern [18] of coal dust flying off the trains leaving [19] for Aspen. We have seen it firsthand. You [20] can see a coal train coming for miles because [21] of the black dust flying off in the air. The [22] further the coal full train travels, the

Page 129

[1] dustier the coal becomes. Remember the coal [2] miners in Kentucky and. Didn't they [3] develop black lung disease from working in [4] the coal mines? Do we who live along a coal [5] route suffer the same future? Thank you.

[6] **SPEAKER:** Thank you. Okay. Don [7] Higgins?

[8] **MR. HIGGINS:** a second chance [9] to speak today. I mean, I power of [10] storm for this evening's meeting. I've been [11]

listening carefully again because every time [12] I hear a new speaker, I hear more issues [13] regarding DM&E and regarding problems with [14] the EIS and I'm just wonderfully privileged [15] to hear all these new objections. I hope the [16] people up front are taking notes, and we are [17] just beginning this process, dialogue if you [18] will. We're very courteous and friendly at [19] this stage and we intend to remain that way [20] until we tell it to the judge.

[21] **BONNIE:** Thank you, Don. Okay, so [22] right now, I just want to make sure the folks

Page 130

[1] who didn't get an opportunity to speak, [2] excuse me, or those folks who have had an [3] opportunity, right now would be the time. So [4] if anybody would like an additional 3 to 5 [5] minutes to speak, we just ask you to come up [6] and spell your name, and if you represent any [7] group, into the microphone so we can make [8] sure we capture it clearly. So are there [9] folks who haven't spoken at all? Did you [10] raise your hand, sir? Would you want to come [11] back up?

[12] **MR. ANDERSON:** I have already [13] spoken. I would like some additional time, [14] though.

[15] **BONNIE:** Some additional time? [16] Okay, that's fine. Come on up. Again, just [17] for the purposes of the transcript, if you [18] wouldn't mind just spelling — saying your [19] name again, that'd be great.

[20] **MR. ANDERSON:** I'm Keith Anderson. [21] I think your clock might be fast. (Laughter)

[22] **BONNIE:** No, it's not.

Page 131

[1] **MR. ANDERSON:** But I do get a [2] chance to —

[3] **BONNIE:** It's not.

[4] **MR. ANDERSON:** —. It seems [5] pretty clear that there would be an access [6] road that would be along the track for the [7] purpose of crew changes and providing [8] maintenance for the track. Nowhere can I [9] find where that's discussed in the draft and [10] certainly there will be impacts on air [11] quality and surface water quality from that. [12] The other aspect with regard to derailments, [13] you enter into that discussion, you need to [14] talk about spilled coal and how that's going [15] to be dealt with, where that might be [16] disposed of.

[17] A couple of other issues that might [18] discussed talks about emergency response [19] vehicles. Again, I specifically addressed [20] this during the scoping process. It was [21] submitted

with this document. My suggestion [22] was that — my understanding of what's

Page 132

[1] included in this document is that it's [2] proposed in there to be some type of [3] communication between the trains themselves [4] and the emergency response vehicles so that [5] if the train crossing is blocked they can [6] communicate with the emergency response [7] vehicles, then choose an alternate route. [8] That's fine if you're in Washington, D.C., [9] but throughout much of this area if a route [10] is blocked there simply is no other [11] reasonable access. And while we recognize [12] the intent of this project is to run things [13] along the track, those of us familiar with [14] train operations know that from time to time [15] they will be stopped. Sometimes they're [16] stopped across crossings and yet if a [17] emergency vehicle is denied access it could [18] be a fatal consequence. My suggestion to you [19] during the scoping was that you review those [20] situations where a sole access or the only [21] access might be blocked by the train that you [22] make a requirement under mitigation that

Page 133

[1] there be an alternate access provided, for [2] example, through a drainage structure or [3] something. In other words, you could route [4] the emergency vehicle down alongside the [5] track on the access road drainage [6] structure. I think it might be in that [7] situation where the train route would be [8] could deny us access.

[9] The discussion on construction [10] workers, 4.4.16-1, seems to, I think, miss [11] the point entirely. Again, when you're [12] talking about a few hundred workers. Perhaps [13] in Washington, D.C., it's hard to make — see [14] how that's a significant impact. You look at [15] I call them, a few hundred workers has a [16] huge impact on emergency services [17] particularly, the police, and the court [18] system. I don't mean that to discourage [19] construction workers, but it's a fact of [20] life. That kind of activity has a huge [21] impact and there needs to be a consideration [22] mitigating that impact.

Page 134

[1] The discussion on taxes, that [2] somehow those taxes would magically be paid [3] for those costs, entirely misses the point. [4] There's a common sales taxes, taxes [5] are available from the counties, that's [6] not the case, sales tax goes directly to the [7] state with no local benefit. In terms of [8] property tax, over two years between the [9] time that the construction occurs before [10] those property taxes, so again, there's [11] no real mechanism to the effect to pay [12]

for the. And I would point out on this [13] that the Table 4.4-44 on property tax has [14] originally been taken directly from DM&E's [15] promotional literature. It overstated the [16] tax revenues under the laws that were in [17] place at that time. The law's been changed [18] for over a year, so that table is based on a [19] law that is no longer in existence.

[20] And also with regard to sales and [21] use taxes there's some indication that [22] construction sales tax revenues. In

Page 135

[1] reality on a project this size, those types [2] of materials are not going to be purchased [3] locally; they're going to be bid. You might [4] have some suppliers from Rapid City or even [5] as far away as Denver and they're simply not [6] going to go down to the local five and dime [7] for railroad or even diesel fuel [8] for that matter.

[9] **BONNIE:** One minute.

[10] **MR. ANDERSON:** I think that hits [11] some of the major points that I wanted to [12] bring up. Thanks for your time.

[13] **BONNIE:** Okay, Ron Allemani. Ron, [14] I don't think you were here in the beginning. [15] I'll give you — you have about 5 minutes or [16] so. I'll tell you when you have a minute.

[17] **MR. ALLEMAN:** Ron Allemani, [18] A-L-L-E-M-A-N. I'm here working with [19] Santa Fe. I have a few comments to [20] make. And first off, I'll start with about [21] this taking from the Powder River [22] Burlington Northern Santa Fe. It's a company

Page 136

[1] in-house newspaper that's put out [2] September 2000, holds small town [3] meeting. B&SF (?) president and chief [4] operating officer to come in and coming [5] back division. absolutely hard [6] time of year and I will give you problems [7] values and increase somewhat [8] with a mild winter and a cooler summer in [9] many part of the country. complication [10] has to do with the various styles most [11] certainly, although expects that without [12] power the near future. The coal cycle [13] time has been so bad, BNSF is overburdened [14] with coal. Additionally, when Union [15] Pacific recovered from their post-merger [16] service difficulties business back.

[17] He was asked questions by the [18] people in the audience or the regulars at [19] this town meeting financially set of [20] questions asked. Will we continue to invest [21] in the coal corridor? The answer was rose by [22] rose. In 2001, you will not see significant

Page 137

[1] expansion in the Powder River Basin.

[2] Investments in this area are a little ahead [3] of the. There is nothing as important [4] to BNSF as businesses in this area. More and [5] more predictions will dictate.

[6] I would love to have the problem of [7] trying to convince to put more money [8] into the Powder River Basin. Things [9] used to. Why are we not putting any [10] maintenance money out here? there have [11] been many capital available [12] surfacing and undercutting while was [13] serviced this year. There's over a million [14] dollars spent on maintenance on [15] tracks alone. That's questionable. The [16] weight of trains is off of the track is [17] to engineer Steve had cancer. We [18] asked that will continue. Past [19] experience with railroads as far as [20] and the.

[21] I went up to the ranch and as [22] a roadmaster. Now I am the new ranch track

Page 138

[1] inspector ranch. I've been on both [2] sides of railroad and this is a [3] different side of things. Railroads are not [4] good neighbors.

[5] When I was confronted about selling [6] my property to DM&E, they came back with — [7] and my question was how about fixing the [8] fence? What happens if my cows 4 miles [9] up on track? What do you do? They didn't [10] know. I told them, put the cow where [11] you find it. It doesn't matter. There's a [12] brand on the side of the cow. In [13] Section 4, we have the where that cow [14] came from, then does not care. His main [15] job is to get the thing off the right of [16] way — so hopefully, it's because then [17] he might have to carry.

[18] **SPEAKER:** One minute.

[19] **MR. ALLEMAN:** I'm going to [20] emphasize. You have problem with a [21] fence, have you got someone to fix it, yeah, [22] we'll get someone out to fix it. They won't

Page 139

[1] fix it. They do fix it on their time. And [2] then they propose to pay you one and one-half [3] times the rate of labor, whatever the minimum [4] wage is. It doesn't say anything about your [5] vehicles, it doesn't say anything about your [6] material, all it says is that's what they [7] will pay you. Farmers won't fix for the [8] railroad, I have a contract. The railroad is [9] not a good neighbor.

[10] DM&E will not address what they [11] will do, how they will keep trespassers off. [12] They don't know and have no control over it. [13] Thank you.

[14] **SPEAKER:** Okay, Allen Slagle.

[15] **MR. SLAGLE:** Thank you for the time [16] to let me speak. I appreciate the [17]

opportunity. Do I need to spell my name for [18] you? Okay, it's —

[19] **BONNIE:** Yeah, S-l-a-g-l-e.

[20] **MR. SLAGLE:** That's correct.

[21] **SPEAKER:** And A-l-l-e-n?

[22] **MR. SLAGLE:** Correct. And I'm a

Page 140

[1] rancher here in the area. I have just a few [2] concerns. I haven't had time to really go [3] over the Draft EIS, but I guess some of the [4] concerns I have, I've been dealing a lot with [5] the Forest Service lately and grazing [6] horse. And the problem we're having with [7] them is the Forest Service doesn't want us to [8] put any fence in to divide up grazing land [9] because it inhibits migration of wildlife. [10] And I guess what I see is a railroad is going [11] to be even twice as bad or more for that kind [12] of migration of wildlife because we should [13] have two fences that are a lot more [14] substantial and more they even allow us [15] to build, plus you've got a set of railroad [16] tracks, if not more. I see that as a [17] major problem for wildlife migration.

[18] Another thing that you're looking [19] at, Forest Service was even proposing some [20] wilderness and areas in our area real [21] close to where the railroad would be going [22] through. And as I look at that, if they're

Page 141

[1] proposing these kind of areas here, you know, [2] we're one of the last few areas that's [3] actually got some pretty wide open spaces [4] without highways or railways. And we do have [5] wilderness area if we wanted it, but I [6] guess we prefer to have the same quiet, [7] uninterrupted atmosphere as the wilderness [8] area without actually having the limitations [9] on it because this way, we can actually allow [10] people to come in. We get people from the [11] East come out hunting. They're all amazed at [12] the silence and the quietness that we get out [13]. And I know just had a railroad [14] cut through there not too long ago. They no [15] longer have the quiet up there. The railroad [16] comes — the trains come through and at any [17] time of the day or night, you hear a train [18] rumbling through and the noise that it makes, [19] I guess. I think that is a concern. I mean, [20] we enjoy our silent areas out here and the [21] ability to invite people to come out and [22] enjoy it with us.

Page 142

[1] I guess probably a lot of the other [2] issues have been addressed. I know fire is a [3] big issue for us. This last summer was a big [4] one, a little extra dry. Railroads do

cause [5] fire.

[6] And another thing would be the [7] state. Just about time DM&E was proposing [8] this, there was a big deal on railroad [9] safety, accidents at railroad crossings. [10] look at DM&E's proposal here, most of [11] their road crossings are just a regular old [12] crossing, no separation between the train and [13] the vehicles crossing. And I guess, you [14] know, if we're going to build a new railroad, [15] let's build a safe one; let's have them put [16] split crossings at all major county roads and [17] highways and not have to worry about it when [18] they — UP did a. They closed a lot of [19] the road crossings that were going across [20] some of railroad at that time because it [21] was too dangerous. And so I guess my concern [22] for the Surface Transportation Board is that

Page 143

[1] it's supposed to be required to make this a [2] safe railroad. That's one of their comments, [3] they want it to be safe. Let's make it that [4] way.

[5] And I guess that's about all I have [6] for you. I thank you for coming.

[7] **BONNIE:** Okay. Do we some — any [8] other individuals who'd like to speak, take [9] the 3 to 5 minutes? Is there a repeat [10] speaker, any new speakers?

[11] **MS. DARNELL:** I'd like to just make [12] a quick repeat, please.

[13] **BONNIE:** Sure, go ahead. Again, [14] for the transcript if you could just say your [15] name.

[16] **MS. DARNELL:** Nancy Darnell from [17] South Newcastle. The license to cross the [18] grasslands should not be granted and the [19] forest plans should not be amended. There's [20] a huge number of reasons why I think that's [21] true and some of them are incompatibility [22] with raptors and other birds that you find on

Page 144

[1] pages 4.108-114 in Volume VIII-B. That's [2] confusing numbers. It says — because [3] if you can go back and find that, you're [4] better than me.

[5] Other impacts that cannot be [6] mitigated on the grasslands are noise and the [7] visual impact on the grasslands. In the [8] amendment, it says that this is a [9] nonsignificant impact. We need to make the [10] point to you that building a railroad across [11] both Center (?) Basin and the Mountain View [12] Gap national grasslands is really very [13] significant. The grasslands are a [14] checkerboard of public and private land. [15] Just because the applicant can shift the [16] problems to the private sector doesn't — the [17] problems to the private sector does a lot [18] less than the cumulative impact on

federal [19] lands. Without the adjacent private lands [20] these federal grasslands are only a scattered [21] remnant prairie that loses much of their [22] scientific and ecosystem value.

Page 145

[1] While Alternative C is supposed to [2] be much more environmentally friendly, that's [3] what we're told, yet on page — I've got to [4] find this, on page 4.4-28, are listed [5] for each alternative along the Cheyenne. [6] Alternative B would pass within 500 feet of [7] the Cheyenne River and its perennial for [8] a total of 21.9 miles. Alternative C, the [9] preferred alternative, is for 20.8 miles. [10] Only 1.1 mile less? And Alternative D is [11] only 13.5 miles. Now those seem a little odd [12] figures to me. I can't understand why anyone [13] could stand up or write that Alternative C is [14] so much less impact because there's only 1 [15] mile less.

[16] Also, in the DEIS it states that [17] Alternative C is much less of an impact [18] because it will go 500 feet from a rare tube [19] area, which a rogues area, which is an area [20] eligible for wilderness. Well, when it [21] goes 500 feet from that kind of area it will [22] wipe out the wilderness qualities of the

Page 146

[1] area. The noise impacts are shown in the [2] DEIS to travel at least five miles, so that [3] pretty well wipes out any possibility of [4] those areas being preserved. [5] Another assertion that's made, [6] page 4.4-27, asserts: "It is like in many of [7] the intermittent stream crossings could be [8] installed and reformation measure implemented [9] without water ever being present in the [10] stream channel." Again, that's pure [11] assertion. Without prohibitions about we're [12] keeping wet places during wet weather, [13] construction schedules can be pursued during [14] any weather and mitigation is long.

[15] Page 4.4-8, it states: "During [16] rail operation, the offer to obtain rail [17] service may attract businesses to the area [18] along these alternatives for future [19] development. Property values may increase in [20] areas suitable for commercial development." [21] Where is the hard data to show that a new [22] railroad ever brings new business? Where is

Page 147

[1] the study of the joint line in the coal [2] corridors that show that business has [3] developed along the lines that were [4] established there in the last 25 years? This [5] is pure pie-in-the-sky speculation and [6] cheerleading for the DM&E.

[7] In the economic studies, they talk [8] only about benefits and not costs. What are [9] the costs? There are many costs

related to [10] this and all the economic studies show —

[11] **SPEAKER:** One minute.

[12] **MS. DARNELL:** It's the increase in [13] taxes. The DEIS misconstrues the likely [14] economic impacts of the project without the [15] required footnotes and references and, in [16] some cases, gives supposed economic benefits [17] for the project way too much weight for an [18] Environmental Impact Statement. Negative [19] social and economic impacts on the existing [20] population are not considered or understated. [21] Ranchers, townspeople, and farmers should not [22] be asked to provide land through eminent

Page 148

[1] domain or to sacrifice their way of life for [2] a private profit project.

[3] **BONNIE:** Thank you. Any — [4] before Ron comes up, any of the new — or new [5] speakers. If you're a repeat speaker let me [6] get Ron first. Any other folks who haven't [7] spoken before who want the opportunity? [8] Okay, so we've got Ron and Rick, I think, as [9] repeat speakers. Go ahead, Ron.

[10] Ron, can you, again, spell your [11] last name for me?

[12] **MR. ALLEMAN:** A-l-l-e-m-a-n. Okay, [13] how — what it boils down to, from my [14] perspective in working with the railroad, I [15] don't care whether UP hauls it, BN hauls it, [16] or DM&E hauls it. I'm not for [17] Alternative C. I think there is a better [18] route — it's Alternative D. But you got two [19] pieces — two people in there now that are [20] tied to coal. Put another one in, you got [21] three who won't make it. All this is doing [22] DM&E. It ups the value of the DM&E

Page 149

[1] rail system, the merger, the takeover by one [2] of the larger railroads that is now in [3] existence. Unless there is really the [4] Union Pacific about, about one of the [5] coming in with them. We sacrificed our [6] lives for this and we work, a lot of ranchers [7] are done for the land out there? No. [8] We make it so that nobody can line their [9] pockets when this is all said and done [10] because they sell their product to someone [11] else at higher cost at our expense? No.

[12] From what I've seen of a lot of the [13] maps you can't tell where it's going. These [14] maps by the Corps of Engineers, they're [15] outdated. They don't even show Highway 450 [16] out here. How do we gauge where this thing's [17] going? Sure, I can look at my piece of land [18] and I can see going to tear me apart, go [19] right through the middle of the cattle [20] pasture. It destroys my cattle pasture. Are [21] they willing to put

an underpass under it? [22] Not really. That's what they've stated to

Page 150

[1] me, negotiated way, yeah, they [2] might do that for me. Their fences or the [3] roads that are oil field, are they going [4] to accommodate that oil field? No, not [5] unless they absolutely have to.

[6] The cost to the county and the [7] cities, Weston County, Converse County, [8] Niobrara County, it's going to be more — [9] Campbell County, Weston County, it's going to [10] be more us. People pay their taxes to [11] the counties. We want better crossings out [12] there, we'll have to pay. There's some [13] question about a deal lights on some [14] crossings. Unless they're forced to and we [15] force the federal government to step in [16] through our counties and our cities, they [17] won't those crossings until we [18] probably run over somebody or have a close [19] call. New business on — bringing new [20] business in with the rail line from Gillette [21] where it is called the Donkey Creek (?) where [22] to the south. We're pleased it goes

Page 151

[1] . How many businesses, other than the [2] coal mines that have been there, have come in [3] since it started in 1979? Two. You've got a [4] rail shop that repairs the rail cars. [5] You've got which is an agent for [6] distributing plastic and materials to the [7] mines up by Belair (?). You've got gas [8] line; that was there before. They finally [9] put in a couple switches so that they can [10] get — how often do they serve? They're [11] served there every day as practical. [12] line and everything else, these people will [13] not put in any additional lines. They don't [14] want them. They don't want to come. [15] They want to move coal.

[16] There is no benefit to the [17] taxpayers and the ranchers and the people of [18] Weston and the other counties, Campbell, [19] . You're going to tear apart our life, [20] you're going to tear apart our system. They [21] wanted everything. Alternative D [22] and make an agreement with Burlington

Page 152

[1] Northern. Let them do that. I don't care [2] . Thank you.

[3] **SPEAKER:** Okay, thank you. Okay, [4] Rick?

[5] **MR. WEHRI:** Let me make just a few [6] comments. Reading this thing through, I [7] would like to know why the federal and state [8] land is so much more highly valued and [9] . [9] This looks to me like avoiding federal [10] land wherever it could be on private land. [11] Reading through here, Section 4.11- 231, 233, [12] whatever, it says: This option is — [13]

referring to Option B — most of this option [14] would impact greatly on private property [15] . However, this option would cost [16] state property, eliminating the use of [17] this land for grazing, plus this grazing on [18] state-owned land will be a significant [19] impact. As soon as it gets on state land [20] it's a significant impact. And so private [21] land is not a big deal. They say there's [22] lots of grazing land within the area, it's

Page 153

[1] abundant, it's not a big — they'd say the [2] same thing about prime farmlands in South [3] Dakota, there's a law against. [4] Just because we have that doesn't mean [5] we don't look at it, we don't analyze it, we [6] don't see what we're doing to this? That [7] doesn't make sense to me.

[8] They also talked about [9] paleontological things. As soon as you get [10] on federal ground, Forest Service, you have [11] to categorize and do all this stuff old [12] bones and everything, none of them mentioned [13] it on private land. It doesn't matter — it [14] will be publicly by the (?) Landowners [15] Advisory Board. Who is what? Appointed by [16] the DM&E. The Landowners Advisory Board, [17] anyone in this room who wanted to get on it, [18] couldn't get on it. It was a handpicked [19] group by Kevin Shieffer. Every one of them [20] people was paid by Shieffer, but they're [21] all handpicked by him to speak for him.

[22] The other representatives, when

Page 154

[1] they come and negotiate for our land and [2] threaten us to leave, do you think we have [3] anything to say about it? The Landowners [4] Advisory come in and say, you know, we're [5] going to give you \$25. take \$25 and [6] they condemn it, we get nothing, fair market [7] value, which is — well, you know.

[8] So I don't see if we go through the [9] mitigation parts of this thing, they talk [10] about — there's a little short paragraph [11] about fire. A little short paragraph about [12] landowner use all being addressed by the [13] Landowner Advisory Committee. Most of those [14] railroads are on private lands and are going [15] to be negotiated by the Landowners Advisory [16] Group and the Surface Transportation Board is [17] supposed to be testing us to make sure that [18] things are mitigated properly. It doesn't [19] say anything about how they're going to do [20] it. It doesn't say, you know, if they don't [21] then what? It just says it will be [22] negotiated by. So I don't see any

Page 155

[1] protection there and I think that needs

to be [2] addressed.

[3] **SPEAKER:** Thank you. Donnelly [4] Darnell.

[5] **MR. DARNELL:** Thank you. My name's [6] Donnelly Darnell. I'd like to speak to the [7] Forest Service amendment.

[8] Certain linear rights-of-way, such [9] as pipelines or electric line corridors, may [10] be very similar to natural conditions. [11] Railroad operations dramatically from [12] these existing uses. A Wyoming facility [13] require linear corridors, however, the impact [14] of linear corridors for rail and highway [15] transport vary greatly in use from the [16] corridors for pipeline and electric [17] lines. While all these are linear corridors, [18] railroad highway corridors are generally high [19] in and the land use varies from — land [20] use — this is a typo, I can't read it [21] straight. It says: And the land use and [22] differs from the surrounding environs. The

Page 156

[1] land use within the pipeline and electrical [2] corridors in contrast may be very similar to [3] what there is adjacent to the right-of-way. [4] Therefore, the impacts made by the different [5] corridors may be significantly [6] different. This is why their proposed [7] amendment is a very significant amendment. [8] My source, Chapter 2, Draft EIS, page 2.46, [9] and I think it speaks as eloquently to this [10] issue as I could. Thank you.

[11] **SPEAKER:** Thank you. Okay, anyone [12] else, speakers? We want to remind people [13] one process question. Do you want to [14] respond to that, Wendy?

[15] **WENDY:** We had a person that had a [16] question on process and the question is: Is [17] there going to be information publicized in [18] the rest of the country to comment on the [19] Forest Service amendment plan and if not, [20] why? [21] The Forest Service planned [22] amendment is not — it's not like a revision

Page 157

[1] like we're working with on the national [2] grasslands plan now. There are two old [3] forest plans that are now in existence that [4] are about to be superseded by the national [5] grasslands planned revision, and that's the [6] Medicine Burrow (?) National Forest plan and [7] the Nebraska National Forest plan. Both of [8] those plans have major prescriptions for the [9] Thunder Basin and the Buffalo Gap national [10] grasslands.

[11] When we received this proposal and [12] after the analysis was completed to the draft [13] stage, we both recognized that any [14] alternative is inconsistent with both of [15] those plans. When those

plans were written, [16] they're about 15 years old now and that's why [17] they're being revised, they did not [18] contemplate a linear corridor, like a [19] railroad corridor, at the time they were [20] written. And forest plans are very often [21] revised facing changing circumstances, such [22] as the introduction of a T&E species and the

Page 158

[1] way we have to manage the land for those.

[2] As far as advertising changes to [3] the forest plans to the rest of the country, [4] we have associated the forest plan amendment [5] with the Draft EIS and the analysis that's [6] been completed, and that has been published [7] in the Federal Register and a notice of the [8] forest plan amendments have been published in [9] the Federal Register, and anybody can comment [10] on those.

[11] So we have tried to reach out and [12] get as many people involved with the forest [13] plan amendment. And frankly, I have to tell [14] you, the existing forest plans now which you [15] would be commenting on are going to be [16] superseded by the national grasslands plan [17] revision. The reason why we're still dealing [18] with the old forest plans is that we don't [19] have any forest plan decision out. And so it [20] was a question of what decision was going to [21] go first, DM&E or the grasslands plan. And I [22] will tell you that when the grasslands plan

Page 159

[1] comes out, if it's ahead of DM&E, the [2] grasslands plan will be the plan that will be [3] amended.

[4] That make sense? Probably not.

[5] (Laughter) [6] I tried, but that's as close as an [7] answer I can give you right now without [8] getting too more bureaucratic. Thanks.

[9] **SPEAKER:** on a calendar when [10] the forest plan might being considered?

[11] **WENDY:** For which plan, Don? For [12] which plan?

[13] **SPEAKER:**

[14] **WENDY:** Oh, okay. In order to — [15] we would have to have a decision now on that [16] grasslands plan and we're not expecting the [17] grasslands plan to come out till January. [18] And so, you know, the likelihood of that [19] coming out ahead of — obviously it's going [20] to come out ahead of DM&E, the decision on [21] DM&E.

[22] So the likely scenario is that we

Page 160

[1] will be amending the national grasslands plan [2] revision with input if

there's an actual [3] alternative finally selected on DM&E.

[4] That answer your question, Don? [5] The forest the national grasslands plan [6] is due out in January. That's the final [7] decision and a decision.

[8] **SPEAKER:** I'm confused, but I [9] because who is going to the grasslands [10] amendment plan? Who —

[11] **WENDY:** The Forest Service. There [12] will be another process associated with the [13] grasslands plan, which will involve [14] scoping and involvement.

[15] **SPEAKER:** Not at the direction of [16] DM&E?

[17] **WENDY:** No, no, no. Yeah. No, and [18] not the Surface Transportation Board. It'll [19] be solely the responsibility of the Forest [20] Service to amend the grasslands plan. And [21] we'll initiate that plan if an action [22] alternative is determined to .

Page 161

[1] **SPEAKER:**

[2] **BONNIE:** Recommending you take it [3] offline meeting. Okay. We're going to [4] formally adjourn the meeting. I would like [5] very much to thank you all for taking the [6] time to come tonight for honoring each other, [7] listening to one another, respecting the time [8] agreements. We will be tomorrow night [9] at Rapid City and then a week from this week, [10] we'll be completing South Dakota and [11] into Minnesota.

[12] So again, thank you very much. We [13] know the weather was a little harsh today. [14] We appreciate you taking the time to come out [15] and we urge you to submit your written [16] comments before the deadline of January 5th.

[17] Thank you. Have a safe drive back [18] and a nice evening.

[19] (Whereupon, the PUBLIC MEETING [20] was adjourned.)

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

**DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2000**

\$ \$1 million 126:19 \$1.23 billion 57:4 \$10 million 23:1 \$110 million 22:21 \$12 million 126:20 \$2 94:2 \$25 154:5, 5 \$3 million 54:1	1980 41:21 1994 32:18 1995 53:8 1997 32:20; 48:2; 53:20 1998 91:8 1999 17:6; 43:1, 19 1:00 2:2	4.2-25 50:1 4.4 84:4, 15; 86:7 4.4-11 26:6; 85:5 4.4-27 146:6 4.4-28 145:4 4.4-31 9:16 4.4-41 32:17 4.4-44 8:19; 32:20; 134:13 4.4-8 146:15 4.4-9 26:4 4.4.16-1 133:10 40 80:19	8 8 54:7; 86:21 8-foot 54:5 80 7:5; 42:12; 51:4 800 14:11; 54:7 80s 96:7 83 35:5 848-foot 51:4 85 73:6	acquired 31:6 acre 94:2 acreage 21:13, 14 acres 21:15, 22; 22:1, 1, 2; 26:12; 34:14; 42:12; 53:6; 54:4 across 35:4; 41:13; 60:1; 65:2; 84:18; 114:6; 132:16; 142:19; 144:10 Act 89:13; 90:1 action 8:12, 14, 16, 17; 77:5; 90:10; 160:21 actions 114:19 actively 71:19 activity 133:20 actual 118:6; 160:2 actually 5:2; 34:17; 58:8, 11; 62:22; 73:14; 80:14; 82:9; 92:7; 141:3, 8, 9 add 13:1; 119:7 addition 6:7; 13:8; 15:13; 16:16; 85:4 additional 19:7; 33:8; 46:22; 48:20; 85:17, 21; 110:12; 121:17; 130:4, 13, 15; 151:13 Additionally 136:14 additions 71:6 address 2:5; 7:1; 24:18, 22; 29:7; 32:4; 89:15; 110:4; 139:10 addressed 60:22; 61:6; 62:5; 89:13; 90:2; 131:19; 142:2; 154:12; 155:2 addressing 38:2 adequacy 4:11; 7:2 adequate 70:2, 9; 117:19, 20; 120:11 adequately 89:15; 90:1 adjacent 144:19; 156:3 adjectives 116:13 adjourn 161:4 adjourned 161:20 adjudicated 42:9 advance 48:10 advantages 17:18 adverse 107:20 advertising 158:2 advisory 46:14; 85:13, 16; 106:17; 153:15, 16; 154:4, 13, 15 affect 62:4 affected 21:21; 23:22; 32:2; 47:5; 98:3 affects 108:18 affirm 79:11 afraid 126:1 afternoon 12:15; 75:5; 101:19 afterwards 20:10 ag 83:4; 118:9 again 3:1; 5:14; 6:4, 18; 9:21; 11:20; 12:1, 7; 30:1; 43:13; 44:13; 49:3; 90:4, 9;
1 1 6:16; 7:3; 15:3; 21:8, 18; 22:20; 50:11, 13; 68:10; 86:6; 145:14 1,000-acre 54:9 1,117 127:4 1,176 127:3 1-5 21:8 1.1 21:9; 145:10 1.3 7:3 10 34:5; 87:12 10,000 60:19 10-minute 80:16 10.5 31:22 100 19:18; 115:20; 116:12; 120:8; 127:15 100,000 96:16 100-foot 51:3, 4 11 69:1; 84:16 118 7:3; 22:4 13-volume 12:21 13.5 145:11 131 7:4 133 86:7 14th 78:17 15 157:16 1502 114:13 1502(25 8:10 1502.10 11:12 1502.14(e 11:9 1502.21 9:12 1502.22 67:1 1502.24 9:21 1503.24 63:13 16 50:13 17 87:11 170 60:16 179.4 21:14 18 73:7 18,000 124:13 180 19:7; 51:22; 68:18; 88:2; 92:18; 110:12 180-day 13:12; 24:7; 25:5, 15; 64:4; 74:17 1800s 95:20 1905 42:10 1943 42:10 1979 151:3	2 2 21:17; 107:19; 156:8 2,000 54:4 2,200 33:13 2-15 50:13 2-54 48:8 2-6 31:8 2.46 156:8 20 75:10; 86:6 20.8 145:9 200 115:20; 122:20 2000 36:20; 60:15; 136:2 2001 136:22 2002 86:3 2007 86:3 2010 21:5 21 60:3 21.9 145:8 211 22:1 22 60:4, 5 231 152:11 233 152:11 25 85:1; 147:4 280 88:17 29th 19:13; 64:10	5 5 5:18, 19; 6:2, 15, 19; 7:8; 17:6; 34:5; 75:2; 80:15; 130:4; 135:15; 143:9 5,000 64:1 5,000-page 11:18 5-minute 80:21 5.1 115:4 5.2.3 122:1 50 34:8; 84:4 500 145:6, 18, 21 510 13:19 530 22:1 59 87:15; 127:5 5th 99:14; 103:16; 161:16	9 9 87:1 90 69:19; 87:22 900 116:15 92 7:20 96 7:20 98 31:13	A A-L-L-E-M-A-N 135:18; 148:12 A-l-l-e-n 139:21 A61 20:20 abandon 15:11 abbreviated 69:15 ability 13:7; 141:21 able 17:19; 27:21; 62:7; 71:5; 110:10, 14; 112:5 about-face 27:5, 10 absence 89:17 absolute 79:3 absolutely 27:1; 49:18; 136:5; 150:5 absurd 85:8 abundant 153:1 accept 80:9; 99:8 acceptable 32:2; 65:21 accepted 80:8 accepts 86:2 access 48:21; 58:1, 14; 115:12; 131:5; 132:11, 17, 20, 21; 133:1, 5, 8 accessible 50:6 accident 115:8 accidents 142:9 accommodate 5:16; 46:8; 150:4 accomplish 97:16 accomplished 97:15 according 107:6 accountability 93:7 accurate 26:4 accurately 64:3; 83:22 achieve 77:19 achievement 50:10 acknowledged 5:13 acquire 76:11
	3 3 5:18; 6:19; 14:13; 41:22; 80:21; 130:4; 143:9 3,300 53:6 3-2 62:18 3-A 125:13 3.3 104:20 30 41:19; 60:16; 63:22; 68:14; 86:15; 110:9 31 14:1; 38:8 319 21:22 32 19:12, 14 35 42:6 350.6 22:2 365 125:13 38 29:18	6 6 21:17; 32:19; 89:10 6,000 124:12 648-foot 51:5 6:00 100:4; 101:2	A A-L-L-E-M-A-N 135:18; 148:12 A-l-l-e-n 139:21 A61 20:20 abandon 15:11 abbreviated 69:15 ability 13:7; 141:21 able 17:19; 27:21; 62:7; 71:5; 110:10, 14; 112:5 about-face 27:5, 10 absence 89:17 absolute 79:3 absolutely 27:1; 49:18; 136:5; 150:5 absurd 85:8 abundant 153:1 accept 80:9; 99:8 acceptable 32:2; 65:21 accepted 80:8 accepts 86:2 access 48:21; 58:1, 14; 115:12; 131:5; 132:11, 17, 20, 21; 133:1, 5, 8 accessible 50:6 accident 115:8 accidents 142:9 accommodate 5:16; 46:8; 150:4 accomplish 97:16 accomplished 97:15 according 107:6 accountability 93:7 accurate 26:4 accurately 64:3; 83:22 achieve 77:19 achievement 50:10 acknowledged 5:13 acquire 76:11	A A-L-L-E-M-A-N 135:18; 148:12 A-l-l-e-n 139:21 A61 20:20 abandon 15:11 abbreviated 69:15 ability 13:7; 141:21 able 17:19; 27:21; 62:7; 71:5; 110:10, 14; 112:5 about-face 27:5, 10 absence 89:17 absolute 79:3 absolutely 27:1; 49:18; 136:5; 150:5 absurd 85:8 abundant 153:1 accept 80:9; 99:8 acceptable 32:2; 65:21 accepted 80:8 accepts 86:2 access 48:21; 58:1, 14; 115:12; 131:5; 132:11, 17, 20, 21; 133:1, 5, 8 accessible 50:6 accident 115:8 accidents 142:9 accommodate 5:16; 46:8; 150:4 accomplish 97:16 accomplished 97:15 according 107:6 accountability 93:7 accurate 26:4 accurately 64:3; 83:22 achieve 77:19 achievement 50:10 acknowledged 5:13 acquire 76:11
	4 4 57:8; 62:18, 18; 138:8, 13 4.1-7 21:12 4.108-114 144:1 4.11 152:11	7 7 60:15 70 64:6 73 31:21 75 21:4; 35:4 750 16:19 7th 45:9		

100:4, 5; 102:6; 104:16;
121:7, 19; 123:1, 7; 124:3;
129:11; 130:16, 19;
131:19; 133:11; 134:10;
143:13; 146:10; 148:10;
161:12
against 55:19; 94:8;
103:9; 153:3
agencies 2:5, 21; 3:14;
22; 26:19, 22; 27:8; 28:10;
35:20; 53:2; 83:5
agency 26:20; 63:14;
101:8; 102:22; 103:17;
114:19
agenda 5:11
agent 151:5
ago 35:4; 41:22; 43:6;
46:2; 58:3; 59:9; 127:15;
141:14
agree 33:15; 83:3;
126:16; 128:2
agreeable 3:4
agreed 85:20; 128:17
agreement 4:14; 54:22;
151:22
agreements 2:22; 25:10;
31:22; 32:2; 161:8
agricultural 13:4; 89:2
Agriculture 56:14, 18;
66:20
agriculture/economic
53:10
ahead 105:1; 137:2;
143:13; 148:9; 159:1, 19,
20
aide 5:6
aides 5:5
air 13:14; 15:5; 34:18;
62:2; 74:11; 89:7, 8, 13,
16, 17; 90:18; 98:20;
106:8, 11, 12; 107:22;
110:18; 112:1; 122:8, 19;
123:8; 128:21; 131:10
airplane 88:17
AI 82:22
Albuquerque 99:5
ALLEMAN 135:17, 17;
138:19; 148:12
Allemoni 135:13
Allen 139:14
alleviate 41:5
allotted 19:10
allow 55:3; 60:21; 140:14;
141:9
allowed 9:11; 69:7; 113:5
allowing 47:3; 53:3
almost 22:10; 99:22
alone 137:15
along 28:12; 41:20;
47:22; 53:7; 56:19; 70:5, 7;
71:4; 81:10; 84:20; 87:8;
88:17; 96:15; 102:7, 10;
108:13; 111:20; 116:2;
117:15; 127:20; 129:4;
131:6; 132:13; 145:5;

146:18; 147:3
alongside 133:4
alphabetize 20:8
alternate 132:7; 133:1
alternative 10:11; 11:5;
10; 15:6; 20:17; 32:22;
33:1, 1; 38:7; 40:22; 41:2,
3; 47:6; 50:14, 16; 51:6;
54:5; 62:15, 15; 67:11, 16;
75:15; 87:9; 88:20; 89:22;
90:10; 92:13, 21, 22;
118:6, 12, 19; 121:5;
145:1, 5, 6, 8, 9, 10, 13, 17;
148:17, 18; 151:21;
157:14; 160:3, 22
alternatives 15:4; 16:4;
48:9; 114:15; 146:18
Although 30:18; 105:13;
110:3; 114:7; 136:11
amazed 141:11
amend 160:20
amended 143:19; 159:3
amending 160:1
amendment 64:16;
76:18; 78:14, 18; 144:8;
155:7; 156:7, 7, 19, 22;
158:4, 13; 160:10
amendments 4:21;
158:8
America 77:12, 15; 80:7;
93:6
American 77:2; 78:8, 10;
95:18; 102:6
among 77:1; 122:15
amount 16:9; 17:12;
25:16; 63:21; 86:19;
95:18; 117:3
analyses 63:16
analysis 4:2; 15:7; 63:18;
89:17; 91:6; 114:12;
116:14; 122:1; 157:12;
158:5
analyze 153:5
Anderson 119:19, 20;
130:12, 20, 20; 131:1, 4;
135:10
Animal 46:2, 11
animals 24:21; 105:17;
126:7
Ann 82:5; 94:20; 109:16,
19, 22; 114:1
Anna 125:6, 9
Anne 52:21, 21, 21
Annie 53:5
annoyance 116:5
apart 149:18; 151:19, 20
appeal 70:15
appear 17:21; 87:7
appeared 120:20
appears 15:6; 67:16;
72:10; 121:19
appendix 13:16; 14:1,
13; 16:12; 17:3; 86:1, 21
applicant 47:21; 67:13;
71:3, 10; 74:4, 7; 120:22;

121:1, 21; 144:15
applicant's 17:17; 29:20;
48:11; 86:2; 121:8
applicant-driven 91:1, 2
applicants 17:16
application 15:10; 19:11,
21; 21:19; 103:6
applications 4:16, 19;
69:17
apply 10:18
Appointed 153:15
appointment 104:21, 22
appreciate 29:16; 37:19;
82:7; 100:1; 139:16;
161:14
appropriate 10:5
approved 3:9; 56:22
approximately 14:6;
53:6, 16; 54:7; 107:19
April 36:20
arbitrary 79:3
archaeologists 55:8
archeological 43:14, 17,
21; 98:17
area 2:16; 10:2; 16:2;
26:8, 14; 27:4; 31:17; 35:3;
42:11, 14; 44:9; 50:8;
54:13, 14; 56:3; 59:1; 61:4;
67:21; 72:2; 74:12; 84:5;
85:2, 7; 93:22; 96:12;
98:16; 102:9; 110:2, 3;
112:3, 7; 113:8; 117:11;
122:12; 124:20; 127:13,
19; 132:9; 137:2, 4; 140:1,
20; 141:5, 8; 145:19, 19,
19, 21; 146:1, 17; 152:22
areas 4:9; 14:17; 21:2;
34:16, 17; 74:15; 102:7;
108:9; 110:15; 116:17;
123:21; 140:20; 141:1, 2,
20; 146:4, 20
Arizona 111:17
arms 39:8
Army 4:17; 21:20; 69:10;
87:20
around 34:20; 48:3, 6,
22; 88:10; 103:9; 126:14
arrived 41:22
arteries 67:20
Article 78:20
articles 128:1
ashamed 22:15
aspect 131:12
aspects 47:19
Aspen 128:19
asserted 40:11
assertion 14:20; 146:5,
11
assertions 21:7; 62:19,
20; 63:17; 91:3
asserts 146:6
assessing 114:18
assessment 4:15
assets 95:22

assist 3:1
associated 32:5; 158:4;
160:12
Association 50:19;
86:12
assume 40:10; 86:15;
123:16
assuming 41:1
assumption 111:7
assumptions 20:22;
21:7; 28:6, 12, 13
atmosphere 141:7
atmospheric 122:21
attached 125:15
attempt 77:19
attempting 45:7
attempts 121:16
attend 62:7
attract 146:17
attributed 7:7
audience 103:1; 136:18
authority 21:6
authorized 106:19
available 9:9, 14; 13:16;
14:4, 12; 16:15; 19:17;
20:18; 50:15, 21; 66:8, 12,
14; 67:2; 110:19; 120:5,
13; 134:5; 137:11
average 14:10; 50:22
avoid 31:10
avoiding 152:9
awarded 10:10
aware 37:15
away 14:16; 32:15; 38:21;
55:7; 56:18; 60:12; 72:17;
87:22; 108:16; 135:5

B

B 15:4; 16:4; 50:16; 51:6;
83:17; 145:6; 152:13
B&N 124:6
B&S 57:8
B&SF 136:3
back 3:10; 9:19; 11:22;
20:11; 34:21; 39:8; 45:3;
59:14, 19; 62:16; 70:20;
80:20; 89:20; 94:1; 96:5, 8;
99:2; 100:4; 101:20;
106:6; 123:5; 130:11;
136:5, 16; 138:6; 144:3;
161:17
backs 125:15
backwards 26:21
bad 39:12; 93:9; 136:13;
140:11
Badlands 84:10; 89:8, 10
bag 16:16
Bailey 5:6
balanced 91:4, 12
ballast 52:6
Barbara 5:7
barge 17:13, 19

barging 17:22
barriers 111:20
base 41:9
based 2:15; 68:12; 91:3,
7; 118:17; 121:19, 19;
134:18
baseline 122:15, 19
basic 77:1, 7
basically 52:10; 122:8
basin 7:18; 8:3, 13;
14:16, 22; 16:19; 46:5;
50:20; 71:16; 121:18;
122:4; 137:1, 8; 144:11;
157:9
basis 13:17; 28:6; 51:9;
96:18
became 93:15
become 36:14; 65:9, 16
becomes 129:1
bed-and-breakfast
53:15
beef 53:9, 18
beeper 104:5
begin 25:17
beginning 54:18; 85:21;
129:17; 135:14
begun 25:13
behalf 36:1; 68:16; 75:9;
113:13
behind 21:11; 49:2
Belair 151:7
belongs 42:5
Ben 57:18
bending 26:21
beneficial 2:16; 3:3;
51:12
benefit 30:22; 38:9;
71:15; 92:8; 134:7; 151:16
benefits 36:3; 147:8, 16
benefitting 90:20
Berkley 103:1
beside 113:1
best 32:12
bet 32:13
better 15:17, 20; 40:5;
46:16; 58:9, 12, 14, 15;
73:1; 113:6; 127:15;
144:4; 148:17; 150:11
beyond 6:3
bias 115:6
bid 135:3
big 52:12, 17; 55:1; 91:19;
96:12; 113:20; 117:2;
142:3, 3, 8; 152:21; 153:1
biggest 85:11; 108:12
Bill 76:16; 112:22
biological 4:14; 61:17
birds 24:20; 143:22
bisect 54:13
bit 3:13; 5:10; 27:21;
29:21; 31:2; 33:14; 105:4;
110:11; 117:5
black 49:20; 52:13, 16;

56:19; 108:15; 110:21;
128:21; 129:3
black-footed 10:21
blame 7:12
blasting 112:3
blatant 84:2
blend 23:20
blind 123:1
BLM 91:10; 93:16, 16;
94:4
blocked 132:5, 10, 21
BN 122:20, 22; 148:15
BNSF 136:13; 137:4
BNUP 122:2
board 12:17; 22:12; 28:7;
30:18; 46:14, 15, 17;
47:19; 66:1; 81:13, 16, 20;
82:1; 85:17; 89:21; 99:19;
101:18; 106:21; 125:8, 12;
126:4; 142:22; 153:15, 16;
154:16; 160:18
Bobcat 42:8
bodies 76:4
boggles 26:15
boils 148:13
bolstering 56:3
bones 153:12
Bonnie 3:11, 13; 11:1, 3,
20; 17:14; 18:18, 21; 19:1,
3; 23:8; 24:10; 25:8; 28:17;
20; 29:2; 32:7; 33:7; 35:11;
37:21; 41:16; 44:20;
45:16; 47:8; 51:16; 52:19;
57:17; 58:17; 62:6; 66:17;
68:4; 75:1; 78:22; 80:14;
81:7; 88:5, 8; 91:22; 93:12;
94:13; 98:13; 99:11;
101:3; 109:15, 18; 129:21;
130:15, 22; 131:3; 135:9,
13; 139:19; 143:7, 13;
148:3; 161:2
boombox 57:11
Bor-jelly 109:17
Borg-ee-all-ee 109:16
Borgialli 109:18; 114:2
both 10:12; 15:7; 42:20;
43:15; 63:7; 65:10; 69:16;
88:1; 92:18; 95:15; 138:1;
144:11; 157:7, 13, 14
bothered 93:20
bottleneck 122:3
bottlenecks 48:22
bought 41:21
boundary 128:14
box 103:14
branch 22:14
brand 138:12
break 12:10; 80:16, 20;
81:4
breaking 116:2
breaks 10:15
breathe 61:2; 89:7; 126:5
bridge 35:22; 102:13, 14
briefly 49:10; 55:11

bring 36:17; 58:22; 99:2;
108:20; 127:3; 135:12
bringing 150:19
brings 38:7; 57:4; 146:22
broadened 53:11
brother 42:5; 43:15
brought 6:8; 20:13
BSF 63:8
Buffalo 102:4; 157:9
build 25:4; 33:5; 46:22;
54:7; 56:5; 140:15;
142:14, 15
building 81:11; 107:16;
144:10
built 34:1; 46:3; 47:4;
48:6; 58:13; 60:17; 61:11;
67:6; 85:1; 108:9; 115:2
bunch 33:22; 40:3
burden 69:2
Bureau 75:7, 10, 14
bureaucratic 159:8
Burlington 16:17; 128:9;
135:22; 151:22
burn 35:1
Burrow 157:6
burrowing 52:16
bus 111:2
busiest 13:3; 68:21
business 24:2; 28:3;
36:13; 37:1; 53:12; 56:14,
16; 58:6; 71:20; 72:9;
84:13; 85:12; 107:21;
116:20; 126:12; 127:12;
136:16; 146:22; 147:2;
150:19, 20
businesses 15:21;
23:21; 55:18; 59:14;
70:16; 71:6; 72:11; 117:1;
137:4; 146:17; 151:1
businesspeople 68:19
busy 28:1; 42:1; 88:10
bypass 40:1
bypasses 39:18, 20;
126:14

C

C 15:5; 16:4; 20:17; 41:3;
50:16; 83:18; 88:20;
89:22; 145:1, 8, 13, 17;
148:17
C-75 49:10
calculated 10:17
calendar 159:9
call 22:11; 44:18; 45:3;
133:15; 150:19
called 4:2; 45:2; 104:19,
22; 105:5; 150:21
calls 21:15
came 46:6; 85:10; 95:17,
19; 96:8; 138:6, 14; 151:2
Campbell 73:10; 127:6;
150:9; 151:18
can 3:7; 4:4; 6:9, 10, 17,

18; 10:6; 12:8, 11; 13:15;
22:9; 24:22; 28:15; 17;
32:13; 33:11; 38:9, 14, 15,
20; 39:9, 14; 40:15; 45:16;
47:8; 49:4; 55:21; 56:12;
57:10, 14; 58:7; 65:11;
69:16; 71:1; 72:5; 75:2;
80:21; 81:2, 7; 83:8, 9, 21;
87:17; 89:8; 92:20; 93:22;
95:21; 99:2, 6, 22; 103:13,
15; 104:11; 108:21;
112:15, 21; 115:3; 117:12;
119:7; 124:5; 127:17;
128:3, 9, 20; 130:7; 131:8;
132:5; 141:9; 144:3, 15;
146:13; 148:10; 149:8, 17,
18; 151:9; 158:9; 159:7
Canadian 61:6
cancer 126:9; 137:17
candidate 10:9, 11, 18
Canyon 51:19
capacity 21:3; 121:18;
124:11, 13
capital 137:11
capture 130:8
card 12:8
care 61:12, 13; 138:14;
148:15; 152:1
carefully 25:11
Carolyn 25:10; 28:17;
29:4
carried 45:13
carrier 92:11
carriers 7:17; 8:3; 41:13
carry 138:17
cars 16:22; 151:4
case 14:4, 8; 81:21;
122:7; 134:6
casement 55:2
cases 3:1; 147:16
Cassens 52:21; 53:1, 5
categorize 153:11
category 87:10
cattle 46:11; 53:9; 60:13;
95:21; 107:22; 127:11;
149:19, 20
cause 70:12; 126:9;
142:4
caused 125:17
causes 84:22
causing 31:12; 126:21
CD 66:14
CD-ROM 87:19
CEM 13:22; 14:3, 15, 20
cement 63:5
center 112:12; 144:11
central 102:7
certain 122:21; 123:4;
155:8
certainly 81:14; 83:20;
95:2, 10; 99:7, 13; 131:10;
136:11
certified 52:5, 5, 7, 9
Chad 29:5; 41:20; 42:9,
19, 22; 43:6

chairman 125:7, 11
challenge 51:10
challenged 75:19
challenges 36:21
Chamber 36:21
chance 57:1; 117:15;
129:8; 131:2
change 16:20; 57:12, 16;
97:10; 114:1
changed 104:22; 105:1;
134:17
changes 57:15; 96:15;
131:7; 158:2
changing 46:7; 157:21
channel 146:10
Chapter 7:3; 21:8; 62:18;
156:8
chapters 66:5
characteristics 102:3
characterize 118:15
charge 80:5
charged 79:22
chart 18:13; 84:19
charts 23:16, 20; 49:17;
72:16; 84:17; 87:3
cheap 78:6, 8, 9, 9, 10
checkerboard 144:14
cheerleading 147:6
Cheyenne 16:4; 60:6;
61:7; 88:21; 90:3; 124:19;
145:5, 7
Chicago 86:13
chief 122:14; 136:3
child 111:1
Childers 57:18
children 41:12; 127:22
choose 132:7
chosen 50:12
Christmas 13:10
circumstances 54:20;
157:21
cite 8:11
cites 120:19
cities 94:7; 126:15, 15,
17; 150:7, 16
citizen 78:11
citizens 12:18; 66:2;
68:19; 77:11; 78:5; 79:20;
92:9
City 45:5, 6; 69:20; 79:7;
99:3; 120:8, 10; 135:4;
161:9
civic 69:22
civil 76:6, 14, 15; 80:4
Clara 41:16, 18
clarified 95:9
class 15:3; 55:17
clean 34:18; 89:7, 13;
90:1; 106:12; 128:8
clear 89:22; 110:8; 131:5
clearly 12:6; 130:8
clock 130:21
close 98:9; 116:21;

121:22; 140:21; 150:18;
159:6
closed 142:18
closer 73:3; 110:5;
125:10
closest 15:2; 33:20, 20,
21; 34:14; 64:7; 120:7
closing 32:21; 37:12;
61:21
closure 36:7
clouds 112:4
co-worker 44:12, 19
coal 7:17; 16:6, 9, 16, 21;
17:2, 12, 19; 37:9, 9, 10;
43:10; 46:4; 47:1; 48:15,
18; 56:6, 8; 60:21; 70:19;
71:20; 84:11; 88:19, 20;
90:17; 92:4; 108:4, 6;
109:9; 122:3, 9, 22;
123:14; 126:2; 128:5, 18,
20, 22; 129:1, 1, 4, 4;
131:14; 136:12, 14, 21;
147:1; 148:20; 151:2, 15
coal-fired 21:2
coal-hauling 71:19
Coast 18:11
code 63:13
coincide 69:12
Cole 23:9, 10; 24:10
colleagues 81:15
collected 16:17
colonies 10:12
color 73:2
combination 112:8
comfortable 59:4
coming 3:2; 48:3; 52:6, 7,
9; 88:9; 105:8; 128:20;
136:4; 143:6; 149:5;
159:19
comment 7:2; 9:11;
10:21; 11:4, 5, 12; 12:6,
19; 13:2, 10, 12, 15; 19:8,
12; 20:19; 24:7; 25:6;
28:16; 47:12; 53:3; 55:11,
12; 68:14, 17, 19, 22; 69:1,
10, 12, 13, 14; 74:18, 18;
83:22; 88:1; 92:18; 99:15;
101:6; 103:12, 13; 107:10;
110:8; 156:18; 158:9
commenting 2:12; 70:3;
158:15
comments 2:13; 3:12,
14, 15, 16, 19; 4:1, 4, 7, 11,
20, 22; 5:18; 6:2, 4, 5, 7,
17, 19; 7:1; 12:2, 22; 13:1;
16:13, 14; 17:3; 18:5, 13,
20; 23:6; 24:9; 25:7, 11;
27:12; 33:8; 42:2; 52:10;
68:11; 69:16; 75:8; 82:9,
19; 86:9; 99:13, 20; 100:5;
101:15; 103:10, 10, 12, 18,
20; 104:1, 3; 114:7; 120:2,
16; 128:2; 135:19; 143:2;
152:6; 161:16
Commerce 36:21
commercial 116:18;
146:20

Commission 14:10
commissioner 79:16
commissioners 79:8
commit 114:14
committee 82:14; 85:13;
 106:17; 154:13
commodities 49:8, 13;
 89:3
common 20:2; 72:8;
 134:4
commonly 72:7
communicate 132:6
communication 132:3
communities 2:20;
 29:22; 32:3; 36:22; 37:16;
 39:19, 21; 40:6; 56:1;
 102:8, 19; 118:9
community 35:17; 36:2,
 19; 38:4; 59:17; 65:6;
 75:18; 82:16; 95:1
companies 14:20; 37:9
company 65:13; 71:15;
 75:20; 135:22
compare 69:22
comparison 64:21
comparisons 84:19
compelling 11:15, 17
compensated 61:22;
 109:3
compensation 54:1
compete 71:20; 74:10
competition 86:9
complained 122:11
complete 19:18; 37:8;
 64:7; 69:21; 74:14; 89:17;
 120:7
completed 36:8; 67:5;
 157:12; 158:6
completely 23:5; 51:8
completing 161:10
complexity 35:18
complication 136:9
comprehend 25:18
computer 66:16
concentrations 123:14
concern 29:17; 42:7, 7;
 52:12, 17; 70:6, 19; 108:7;
 110:22; 111:13; 112:1;
 128:17; 141:19; 142:21
concerned 29:8; 34:13;
 43:10; 55:16; 74:11;
 113:21
concerns 2:6; 7:3; 29:6;
 38:2; 47:14; 55:8; 102:6;
 105:15; 110:15; 140:2, 4
conclude 65:12
conclusion 8:7; 48:7;
 74:16; 92:13
conclusions 9:6; 10:4;
 28:5
condemn 154:6
conditions 68:9; 110:2;
 117:10; 122:21; 123:4;
 155:10

confirm 28:18
confronted 138:5
confused 160:8
confusing 64:11; 91:1;
 144:2
congestion 37:11;
 123:13
Congress 30:19, 21
conjunction 43:2
connector 58:4
conscience 65:14
consensus 3:2
consequence 132:18
consequences 118:8;
 121:6
Conservation 14:9
consider 40:15; 94:6;
 98:22; 106:14
consideration 10:17;
 77:3; 124:20; 133:21
considered 3:7; 15:13;
 51:11; 54:19; 72:11;
 76:20; 87:10; 90:6; 98:1,
 15; 106:22; 124:15;
 147:20; 159:10
considering 54:22
considers 47:19
consistent 76:1, 3
constants 118:13
constituents 68:17;
 69:18
Constitution 76:16, 19,
 20; 77:14, 15; 78:1, 5, 7,
 15; 79:2, 13, 14; 80:6, 10
constitutional 75:17
construct 48:20; 102:14
construction 9:18;
 10:16; 26:9; 30:22; 62:3;
 65:1; 66:7; 75:12; 85:8;
 88:18; 101:9, 9; 102:10,
 18, 19; 106:4; 116:15;
 127:7; 133:9, 19; 134:9,
 22; 146:13
constructive 4:6
consultants 121:1
consulted 31:9
contact 43:18; 99:17
contacted 107:2
contain 69:20; 108:11
contained 4:13
contaminant 123:18
contaminants 123:16
contemplate 157:18
contend 113:2
content 84:1
contents 20:4
continue 36:11; 55:3;
 83:5; 92:2; 136:20; 137:18
continued 37:4; 48:14
continues 55:22
continuing 70:17
contract 55:9; 57:21;
 139:8

contrast 156:2
contributors 96:20
control 57:11; 93:18;
 139:12
convenient 83:3
convergence 51:7
Converse 97:8; 150:7
conversion 26:8; 85:7;
 117:3
convince 46:18; 137:7
cooler 136:8
cooperate 26:21; 85:20
cooperating 28:10;
 35:19; 53:2, 19
cooperation 43:8
cooperative 57:20; 58:1
coordinate 2:4; 26:19
copied 128:1
copiers 69:4
copies 6:8, 8; 69:1, 21;
 128:4
copy 12:21; 19:18; 38:15;
 64:7; 70:1
copyrighted 45:2
Corby 52:20
core 21:2
corn 56:10
corner 15:2; 48:3; 54:12;
 60:2, 3, 4, 4, 5
corners 74:7
Corps 4:17; 20:16; 21:20;
 69:11, 17; 72:22; 73:9;
 74:18; 87:21; 90:6; 92:20;
 120:2, 12; 149:14
corrected 50:9
correctly 20:15; 122:2
corridor 116:22; 136:21;
 157:18, 19
corridors 147:2; 155:9,
 13, 14, 16, 17, 18; 156:2, 5
cost 40:7; 67:5; 74:8;
 84:17; 92:9; 109:12;
 125:15; 126:14, 19, 21;
 149:11; 150:6; 152:15
cost-share 32:14
costs 24:4, 4, 4, 4, 5;
 25:2; 32:5, 13; 86:8; 90:19;
 127:1; 128:17; 134:3;
 147:8, 9, 9
Council 52:1; 79:16;
 119:1
councils 79:7
counties 32:15; 134:5;
 150:11, 16; 151:18
country 24:21; 34:2;
 35:1; 38:9; 83:8; 96:2;
 136:9; 156:18; 158:3
county 8:20; 12:16;
 21:13; 32:10; 36:9; 39:6;
 42:19, 20; 43:3, 53:7;
 59:18; 61:15; 72:22; 74:4,
 6, 6, 8, 8, 10, 11; 75:7, 14,
 79:8; 86:20; 87:12, 9; 7, 8,
 8; 126:11; 127:5, 6, 6, 13,
 19; 128:14, 16; 142:16,

150:6, 7, 7, 8, 9, 9
couple 16:11; 32:16;
 131:17; 151:9
court 93:7; 133:17
courteous 129:18
cow 138:10, 12, 13
cows 138:8
crack 116:1, 5
create 90:18
created 51:15
Creating 36:4; 37:1;
 43:13; 56:2; 127:1
creation 37:6
creative 76:8
Creek 42:8; 44:4; 46:2,
 11; 51:7; 53:8; 55:7; 114:1;
 150:21
creeks 108:15
crew 131:7
crop 30:10; 31:2
crops 87:11
cross 39:8; 42:4; 73:17;
 107:18; 127:14; 143:17
crosses 16:3
crossing 17:1; 31:11;
 86:22; 87:6; 125:19;
 132:5; 142:12, 13
crossings 39:5, 6, 12;
 41:11, 15; 110:17, 20;
 132:16; 142:9, 11, 16, 19;
 146:7; 150:11, 14, 17
CRRM 43:1
Cubin's 5:7
cultural 13:9
culture 77:2
cumulative 89:14; 90:5,
 15; 144:18
current 15:9, 14; 56:20;
 89:1; 90:15; 109:1
currently 56:7; 57:8;
 108:5
customers 15:17;
 106:10
cut 51:3; 54:16; 74:6;
 80:12; 113:19; 141:14
cuts 70:11; 73:18; 108:14
cycle 7:18; 8:4; 136:12

D

D 15:6; 33:1; 38:7; 40:22;
 41:2; 50:14; 67:11; 87:9;
 145:10; 148:18; 151:21
D-i-l-t-s 46:1
D.C 132:8; 133:13
dad 127:17
Dakota 4:18; 10:13;
 21:13, 21; 22:1; 24:12;
 30:8; 43:22; 45:15; 53:7;
 56:17; 57:5; 58:21; 59:1, 3,
 11; 60:12; 61:15; 63:5, 9,
 11; 67:19; 87:1; 88:19, 22;
 89:21; 94:8; 97:9; 124:18;
 126:19; 127:4; 153:3;

161:10
Dallacory 122:17
damage 38:20; 116:1;
 125:17
damages 46:9; 115:19,
 22
damaging 65:2; 108:6
Dan 113:14
Dana 58:18, 18
dang 83:9
dangerous 142:21
Dare 123:3
Darlington 45:19; 47:9,
 10
Darnell 6:20, 22; 7:1;
 11:2, 4; 12:13, 15, 16;
 17:15; 18:19, 22; 19:2;
 68:7; 143:11, 16, 16;
 147:12; 155:4, 5, 6
data 31:4; 116:19; 146:21
date 32:18; 107:9
dated 42:10; 60:15
daughter 113:16
day 28:3; 88:11; 97:6, 14;
 125:13; 141:17; 151:11
days 19:7; 44:11; 51:22;
 63:20; 68:18; 88:2; 92:18;
 110:9, 13; 125:13
deadline 19:12, 14;
 64:10, 15; 74:19; 99:14;
 161:16
deal 104:20; 142:8;
 150:13; 152:21
dealing 140:4; 158:17
deals 8:10
dealt 108:21; 131:15
deaths 125:18
debacle 23:7
deceptive 83:2
decided 45:20; 101:20
decision 17:6; 81:17, 21,
 22; 82:4; 91:16; 92:14;
 93:2; 114:15; 118:20;
 121:15; 158:19, 20;
 159:15, 20; 160:7, 7
decisions 87:18; 114:20;
 118:21
Declaration 78:21
decrease 70:13
decreasing 55:17
deeply 61:2
deer 127:18
defect 71:8
defend 79:12; 80:6
deficiencies 74:21
deficiency 16:5, 17:4
defined 72:8
definitely 16:20; 99:9
definition 20:6; 72:9;
 124:14
DEI's 64:15
DEIS 2:9; 3:5; 7:2; 14:7;
 15:4, 11; 16:5; 7:18; 5, 7;
 19:8, 15; 20:1; 22:7, 9, 14,

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

**DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2000**

20; 23:4, 15; 24:7, 9; 25:1;
29:16; 30:4; 41:22; 42:16;
66:8; 67:8; 68:13; 69:13;
71:9; 72:3, 19; 83:12, 13;
84:15; 85:4; 86:5, 20; 87:7;
88:2; 89:14, 18; 90:9;
92:18, 19; 145:16; 146:2;
147:13
DEISs 22:2
delineate 73:2
delivery 37:9
demonstrate 121:16
denied 132:17
Dennis 62:10, 10, 13, 13;
66:18
Denver 135:5
deny 92:14; 133:8
department's 34:15
departments 33:21; 37:5
dependable 92:22
dependent 56:12
depending 74:2; 124:21
deprive 78:18
deprived 78:16
derailment 9:22
derailments 124:2, 7;
131:12
describe 101:8, 12
desert 95:18
design 55:4
designed 75:20
destination-specific
89:6
destroys 149:20
destruction 113:11
destructive 92:7; 93:10
detailed 16:8; 18:6
determined 73:22;
116:1; 160:22
detrimental 56:8
develop 117:19; 129:3
developed 55:22; 65:19;
147:3
development 14:5, 15,
21; 55:15, 16, 20; 116:18;
127:19; 146:19, 20
developments 14:3
device 87:9
dialogue 129:17
dictate 137:5
diesel 43:11, 11; 89:11;
108:4; 126:8; 135:7
difference 6:6; 22:2; 41:3
different 82:21; 112:14;
113:18; 138:3; 156:4, 6
differentiate 49:20
differs 155:22
difficult 2:11; 19:11;
20:10; 50:12; 64:5; 66:3, 5,
19; 68:15; 71:7; 72:3, 12;
73:12; 83:13
difficulties 136:16
digest 28:3

Dilts 45:20, 20, 22, 22
dime 135:6
dinosaur 105:15
direct 26:7, 14; 85:6
directed 120:2
direction 39:10; 160:15
directly 7:7; 60:1; 75:12;
121:7; 134:6, 14
director 86:11
dirty 126:10; 128:5
discharge 79:15
discourage 69:5; 133:18
discover 97:10
discrepancy 22:3
discretion 117:22
discuss 123:9
discussed 4:17; 48:10;
123:22; 131:9, 18
discussion 2:20; 16:6;
18:9; 48:12; 121:4; 122:7;
123:20; 124:1; 131:13;
133:9; 134:1
discussions 63:16
disease 129:3
disgraceful 66:7
dismiss 122:8; 123:7
dismissed 67:12
displayed 30:17
disposed 131:16
disregard 84:3
disrupted 41:10
distance 21:16; 110:22
distant 120:8
distributed 127:16
distributing 151:6
district 27:4; 68:10;
71:13
disturb 97:18, 19; 98:8;
107:21
disturbed 34:19
diversified 56:17
divide 140:8
divides 73:17
dividing 31:11
division 85:12; 136:5
DM&E 2:4, 22; 14:18;
15:15, 19; 17:12; 19:5;
20:14, 21; 21:5; 22:17, 18;
23:11; 25:2; 26:18, 21;
28:13; 30:4; 31:4; 32:1, 14;
37:8, 15; 40:10, 14; 43:16;
45:8; 46:9, 10, 14, 18, 20,
22; 47:22; 48:21; 49:10;
53:4, 16, 20; 54:12, 17;
55:13; 56:20, 22; 57:13;
19; 59:15; 61:12; 63:1, 11;
65:19; 67:22; 70:8; 74:5;
75:20; 78:2; 81:9; 85:20;
86:9; 90:11; 91:12; 92:3, 4;
93:8; 101:9; 102:16;
107:17; 111:4, 20; 112:14;
115:9; 118:6, 11, 12;
124:10; 126:11, 12, 16, 21,
22; 128:16; 129:13; 138:6;

139:10; 142:7; 147:6;
148:16, 22, 22; 153:16;
158:21; 159:1, 20, 21;
160:3, 16
DM&E's 80:1; 82:20;
89:9; 90:14; 91:2, 21;
102:12; 103:5; 134:14;
142:10
doctor 34:4
doctors 33:20
document 4:10, 12, 13;
11:18; 30:9; 63:21; 64:4, 8;
67:9; 69:21; 72:6, 22; 73:9;
74:22; 87:21; 91:9;
110:10; 114:8, 9; 120:7;
11, 13; 121:15; 125:1;
131:21; 132:1
documentation 14:19
documents 29:11, 12;
64:12
dogs 10:7, 9, 16; 52:14
dollars 59:19; 137:14
domain 148:1
domestic 126:6
Don 88:5, 6, 8; 129:6, 21;
159:11; 160:4
done 2:22; 31:13; 36:20;
43:15; 87:15; 88:3;
105:13, 14, 20; 106:1, 3, 8;
112:8, 20; 113:22; 123:16,
19; 126:4; 149:7, 9
Donkey 150:21
Donnelly 6:21, 22; 155:3,
6
doom 86:17
doubled 57:22
doubt 31:1
Douglas 86:10
down 17:20; 30:12;
60:11; 93:22; 128:15;
133:4; 135:6; 148:13
downtown 97:12
draft 2:12; 4:9; 10:7;
11:10, 13; 12:19; 13:13;
17:4, 7; 18:2, 16; 40:9;
47:7; 51:14; 53:4; 63:20;
66:3; 68:12; 74:20; 75:16;
84:1; 87:19; 88:3; 89:19;
90:8, 21; 101:16; 103:3;
104:2; 110:8, 9; 118:16;
131:9; 140:3; 156:8;
157:12; 158:5
drafts 20:9; 23:17
drainage 60:18; 133:2, 5
drainages 73:18
dramatically 155:11
drawing 89:21
drive 111:2; 127:9, 11;
161:17
driving 48:22
drop 103:14
dropped 29:9; 86:15
drought 42:13
dry 117:11; 142:4
due 10:16; 14:18; 72:15;

78:17, 20; 102:12; 108:12,
18; 160:6
Dumont 5:3
duplication 71:21;
128:15
during 9:17, 19; 11:8;
13:6; 26:9; 27:13; 64:22;
68:21; 85:8; 111:6;
131:20; 132:19; 146:12,
13, 15
dust 16:6, 9; 17:2; 43:10;
60:21; 108:4; 122:9, 22;
123:6, 14; 125:21; 126:2,
5; 128:18, 21
dustier 129:1
duties 79:15
duty 80:6

E

E 14:1, 13
e-mail 128:3
earlier 19:14; 42:15;
64:14; 79:18; 82:18; 102:1
early 96:7
early-July 43:19
easier 50:17
easily 20:18
east 112:18; 141:11
eastern 21:21; 56:6;
128:13
eat 126:5
economic 24:17; 55:13;
56:4, 11; 57:2; 67:7; 70:12;
91:6; 121:10; 147:7, 10,
14, 16, 19
ecosystem 65:3; 144:22
Edgemont 58:21; 59:1, 3,
5, 8, 9, 17
Edison 17:22
editorial 114:11
effect 26:18; 50:1;
107:20; 115:15; 134:11
effectively 2:11
effects 61:3; 65:11;
89:14, 16; 90:5; 115:11
efficient 37:10; 56:5
EIS 4:2; 8:9, 22; 10:5, 7;
11:8, 13; 13:17; 18:16;
29:6; 40:9; 47:7; 48:5, 11;
49:17; 51:20; 53:4; 60:22;
63:20; 66:3, 7; 73:21;
75:16; 87:19; 88:3; 89:19;
90:8, 21; 94:3; 101:16;
105:6, 13, 18; 107:4;
114:21; 115:5; 118:17;
121:16; 129:14; 140:3;
156:8; 158:5
either 39:9; 46:18; 102:12
elderly 69:3
elected 5:1, 12; 79:6
election 72:15
Electric 17:22; 155:9, 16
electrical 156:1

electricity 21:1; 48:14;
78:6, 7; 128:7
eligible 145:20
eliminating 152:16
elk 55:1
Elks 112:8
eloquently 156:9
else 34:13; 57:14; 59:13;
113:2; 126:22, 22; 149:11;
151:12; 156:12
emergency 131:18;
132:4, 6, 17; 133:4, 16
eminent 147:22
emissions 13:19, 20;
14:2; 15:8, 12; 106:15;
122:9; 126:8
emphasize 138:20
employee 80:9
employees 65:20; 79:22;
80:3
employment 36:5
enclose 54:14
enclosed 54:13
enclosing 54:9
encourage 99:12
encouraged 32:1
end 6:1; 11:21
endangered 10:19;
24:21; 105:16
ends 73:8
energy 56:13; 57:15;
93:3, 4, 5; 128:8
enforcement 37:6
enforces 79:1
engineer 122:14; 137:17
engineering 51:2; 61:17
Engineers 4:17; 21:20;
31:9; 51:9; 55:5; 59:15;
69:11; 74:18; 87:21; 90:7;
92:20; 120:3, 12; 149:14
England 105:10
enjoy 76:12; 77:6;
127:11, 12; 141:20, 22
enjoyed 76:17
enlargement 44:15
enough 34:22; 39:13;
40:19; 42:14, 21; 55:1;
110:4
ensure 63:15
enter 131:13
enterprise 40:2, 5, 109:5
enterprises 53:13
entire 91:6; 99:22; 121:4;
122:7
entirely 124:3; 133:11;
134:3
entities 32:3
entity 32:9
environment 16:20;
52:15, 18; 56:9; 68:13;
108:7; 126:11
environmental 4:1, 8, 9;
12:20; 23:2; 32:4; 45:12;
48:12; 51:14; 63:16;

65:14; 69:8; 74:3; 81:19;
82:3; 92:10; 101:13;
103:4, 19; 104:2; 114:10,
16, 18; 115:13; 118:7, 13,
21; 120:18; 122:16, 16;
147:18
environmentally 33:3;
65:12; 145:2
environs 155:22
Enzi's 5:5
EPA 103:2, 5; 112:5;
124:21
EPA's 103:2
epidemiological 123:12
equipment 39:14
errors 18:4, 7; 40:20;
86:19; 87:8
ES 31:22
escaping 117:9
ESD 122:20
especially 21:6; 40:13
essentially 62:20; 67:9,
12
established 96:7; 147:4
estate 36:16
estimate 8:20; 10:6
estimation 18:7
even 19:11; 20:7, 15;
25:13, 17; 26:13; 27:13,
16; 42:13; 51:10; 64:1, 5;
66:18; 69:14; 72:8; 73:4;
79:5; 89:15; 98:3; 108:20;
109:5; 112:19; 113:8;
135:4, 7; 140:11, 14, 19;
149:15
evening 79:21; 100:4;
101:1, 20; 161:18
evening's 129:10
event 9:22; 115:8
eventually 82:1
everybody 34:13; 96:12;
97:12
everybody's 97:3
Everyone 19:19; 59:13;
81:8, 12
everywhere 111:22;
127:17
evidence 65:13
exacerbated 49:5
exact 111:12
exactly 6:5, 15; 12:3;
75:2; 96:19; 104:17;
110:16
examination 73:3
examined 90:21
example 48:7; 126:18;
133:2
examples 8:8
exceed 21:4
except 38:10
exception 30:16; 31:20;
94:21
Excuse 25:21; 130:2
executive 29:9, 18;

31:21; 77:5; 83:15; 85:15
exhaust 89:11
Exhibit 87:5
exist 2:18
existence 134:19; 149:3;
157:3
Existing 13:19, 20;
15:17; 46:21; 47:1; 61:14;
72:21; 102:7, 13, 16;
106:10; 108:2; 113:6;
147:19; 155:12; 158:14
exists 109:14
expand 88:15
expansion 14:18; 19:6;
23:11; 36:2; 92:3; 137:1
expect 9:13; 14:17;
21:10; 22:21; 68:18
expected 9:19
expecting 159:16
expects 20:22; 136:11
expedient 91:15
expense 75:21; 149:11
expensive 54:6; 61:16;
71:18
experience 82:19;
115:22; 137:19
expert 85:9
explain 9:3; 23:18; 33:18;
63:7
explained 46:20
explains 72:17
explanation 9:1, 2;
40:12; 49:15
explicit 8:6; 9:4
explorers 95:16
export 47:1
express 94:16
extend 68:17
extended 19:16; 69:12;
88:2
extending 92:17
extension 13:12; 25:6,
15; 51:11; 64:4, 13; 69:10;
74:17; 95:5; 107:10
extra 106:8; 142:4
extremely 96:10

F

face 36:22
facilities 13:21, 22; 15:1;
63:7, 9, 10; 122:5
facility 63:2, 4, 6; 155:12
facing 157:21
fact 18:5; 22:10; 34:8;
64:21; 72:13; 74:7; 111:1;
114:10; 118:17; 120:4;
133:19
factor 11:7
factors 21:4; 98:11
facts 40:11; 105:19;
128:1
factual 18:17; 40:16, 17

fail 30:6
failed 7:18; 8:3; 15:7
failing 56:14
fails 29:19; 89:14
fair 54:18; 67:10; 154:6
fall 43:1; 59:18; 61:14
falling 18:10; 43:12
familiar 132:13
family 13:8; 34:4; 95:14
famous 35:9
far 14:16; 53:7; 64:20;
83:19; 92:11; 135:5;
137:19; 158:2
farm 70:11; 75:7, 10, 14
farmers 30:8; 139:7;
147:21
farming 65:5; 84:14;
96:12; 102:6
farmlands 153:2
farms 72:10; 117:1
fast 130:21
faster 68:2
fatal 132:18
fatally 13:13
father 59:21; 61:21
favor 36:2; 62:14; 75:15;
82:14, 16
favoritism 30:17
FDA 16:7
Fe 16:18; 61:2; 128:10;
135:19, 22
feature 39:11
February 31:13
federal 5:1; 22:15; 63:14;
65:5, 8; 79:22; 80:3, 8;
92:12; 102:22; 144:18, 20;
150:15; 152:7, 9; 153:10;
158:7, 9
feed 84:18
feel 2:15; 39:5; 46:21;
105:17; 106:22; 108:22;
109:4, 8; 110:11; 113:4
feels 2:10
feet 115:20; 145:6, 18, 21
Fence 54:5; 116:9;
127:11; 138:8, 21; 140:8
fenced 54:4
fences 140:13; 150:2
fencing 54:8, 8; 55:3;
116:8
ferrets 10:21; 52:16
fertilizing 96:13
few 28:2; 34:3, 16, 17;
44:11; 53:10; 64:9; 75:21;
80:12, 22; 94:11; 133:12,
15; 135:19; 140:1; 141:2;
152:5
fidelity 79:17
field 42:15; 150:3, 4
fifth 23:12; 78:14
fight 38:17, 19; 75:22
fighting 41:6; 57:16;
125:16

figured 96:18
figures 50:13; 97:12;
145:12
file 24:2
fill 12:8; 51:4; 103:13
fills 73:19
final 4:1; 17:7; 82:3;
103:18; 114:15; 118:19;
160:6
Finally 4:19; 57:6;
101:13; 124:16; 151:8;
160:3
financial 22:18; 47:20
financially 27:17, 18;
70:22; 136:19
find 10:6; 16:14; 20:6, 10,
12; 32:11; 40:7; 58:10;
73:3; 75:1; 121:21; 122:6;
131:9; 138:11; 143:22;
144:3; 145:4
finding 76:8
fine 12:1; 28:16; 77:10;
127:21; 130:16; 132:8
finish 3:11; 81:19; 103:8
fire 10:14; 33:21; 34:15;
37:5; 84:20, 21; 117:15,
18, 19, 21; 142:2, 5;
154:11
Fire's 108:7
fire-suppression 38:12,
14
firebreaks 108:10
fires 34:22; 38:10, 11, 16,
18, 19; 90:19; 108:8, 11;
117:8, 9, 10, 12; 125:18
first 5:1; 6:20; 7:2, 19;
19:6; 20:13, 14; 26:4; 27:6,
6; 39:18, 22; 44:16; 47:15;
50:7; 55:12; 73:1; 82:6;
93:14; 95:16; 96:7; 99:2, 4;
104:1; 114:8; 120:2;
127:18, 18; 135:20; 148:6;
158:21
firsthand 128:19
fit 27:17, 18; 47:16; 75:2
fitness 47:20
five 7:17, 19, 22; 69:2;
83:16; 97:16; 102:9;
104:3, 6; 135:6; 146:2
fix 24:20; 127:11; 138:21,
22; 139:1, 1, 7
fixing 138:7
flaw 116:6
flawed 13:13; 84:2; 87:18
Flood 42:11; 51:6; 60:7;
96:14
flying 125:22; 128:18, 21
focus 60:20
fog 123:6
folks 5:20; 12:7; 46:3, 6;
47:11; 62:7; 80:17; 95:10;
129:22; 130:2, 9; 148:6
follow 66:3, 5; 72:5, 12;
106:14
following 75:8, 16

follows 36:4
food 78:9; 83:7, 10
foot 88:16; 128:16
footed 52:16
footnote 8:6, 11, 22; 9:5;
20:20; 22:7, 7
footnotes 147:15
footnoting 8:10
for-profit 92:5
forage 26:8, 14; 85:6
force 126:15; 150:15
forced 150:14
foreign 56:13; 83:6, 7, 9,
10
foreseeable 15:18; 17:10
forest 4:21; 65:10; 91:10;
92:16; 93:16, 21; 94:4;
140:5, 7, 19; 143:19;
153:10; 155:7; 156:19, 21;
157:3, 6, 7, 20; 158:3, 4, 8,
12, 14, 18, 19; 159:10;
160:5, 11, 19
forever 60:10; 97:1
forgotten 22:16
form 12:7; 55:19
formal 3:18; 103:20
formally 3:20; 13:11;
69:9; 99:12; 161:4
format 11:13, 14
former 65:16
forth 17:7; 54:11
fossils 105:15
found 21:16; 83:13;
90:21; 110:19
foundation 75:17; 76:14;
116:6
foundations 116:2
Fountain 44:22
four 55:12; 110:20
foxes 10:20
frame 64:13; 80:21
framed 76:15
framers 76:19
France 49:13
frankly 158:13
fraudulent 22:11
free 59:2, 6
freight 86:15
Frequent 13:6
fresh 107:6
friendly 33:3, 65:13;
129:18; 145:2
friends 93:15
front 25:15; 81:16; 99:18;
119:6; 129:16
FTE 17:8
fuel 115:7; 117:11; 124:9,
11, 13; 135:7
fugitive 122:22
full 53:18; 69:5, 7, 70:1;
76:1; 128:22
function 92:2
fund 109:5

fundamental 76:13; 77:8
funding 36:12; 37:4;
47:22
further 23:6, 7; 24:8;
25:7; 42:2; 47:22; 68:22;
74:13, 20; 128:22
Furthermore 96:22
future 109:12; 129:5;
136:12; 146:18
fuzzy 91:7

G

gallons 124:12, 13
game 117:2
Gap 102:4; 144:12; 157:9
gargantuan 68:20
Gas 14:9; 128:7; 151:7
gasoline 78:9
gathered 97:4
gauge 149:16
gear 53:14
general 21:17; 25:12;
120:1
Generally 66:6; 74:1;
155:18
generated 21:1
generating 128:6
generation 23:13; 48:14
generations 95:15;
109:13
gets 70:8; 152:19
Gillette 64:6; 69:20;
150:20
given 28:13; 61:4;
110:12; 111:12; 126:18
gives 147:16
giving 47:12; 93:14
glance 73:1
Glenn 33:10, 10, 12;
93:12
global 56:4
glossary 20:5
goals 48:11; 76:4
goes 14:13; 50:5, 6; 59:6;
74:14; 115:21; 123:21;
134:6; 145:21; 150:22
Good 12:15; 22:9; 40:13;
55:21; 67:17; 74:2; 75:5;
80:2, 3; 88:12; 113:3;
138:4; 139:9
goods 37:3
Gordon 58:18
Gore 82:22
government 22:15; 32:3;
36:12; 37:7; 51:8; 76:4, 22;
77:22; 79:19; 83:4; 94:2;
109:5; 150:15
governmental 77:4
governor 79:9
grade 39:4; 41:11, 14;
50:11; 87:6; 110:20
grains 56:11

grandchildren 127:22
grandparents 41:21
grant 81:9
granted 64:14; 143:18
granting 30:11; 67:21
graphs 49:17; 72:15, 16;
84:17
grass 34:22; 35:2; 53:13;
96:1, 4; 117:12; 126:6;
127:16
grassland 50:4, 20; 58:9;
14; 64:17; 65:7; 89:1;
102:5
grasslands 47:5; 65:2, 8,
18; 68:1; 72:1; 143:18;
144:6, 7, 12, 13, 20; 157:2,
5, 10; 158:16, 21, 22;
159:2, 16, 17; 160:1, 5, 9,
13, 20
gravel 52:8
grazing 140:5, 8; 152:17,
17, 22
great 6:10, 12, 19; 18:21;
27:12; 38:21; 42:6; 45:18;
67:5; 68:5; 75:3; 95:17, 21;
99:16; 130:19
greater 64:20
greatly 47:5; 152:14;
155:15
ground 5:15; 35:2; 98:8;
113:5; 153:10
groundwater 9:17
group 130:7; 153:19;
154:16
grow 36:15
grows 96:4
growth 21:1, 9; 24:17;
36:19
guarantee 35:1; 78:1, 5,
8
guaranteed 7:18; 8:4;
77:13, 16, 18; 78:4, 11
guess 9:2; 14:4; 35:9;
38:22; 40:19; 50:22;
84:11; 104:17; 120:3;
140:3, 10; 141:6, 19;
142:1, 13, 21; 143:5
Guessing 14:7, 8
guide 83:14
guy 105:5

H

habitat 10:6, 9, 13; 117:3
half 61:7
half-hour 80:19
hand 130:10
handpicked 153:18, 21
hang 71:1
hanging 99:3, 4
Hanson 33:10, 12, 12;
39:2; 93:12, 13
happen 22:4; 26:20;
47:16; 99:6, 6; 117:17

happened 99:6
happens 117:16; 138:8
happiness 77:17
hard 25:14; 43:2; 61:16;
82:2; 110:7; 133:13;
136:5; 146:21
hardly 117:17
hardship 70:12
hardships 118:8
harmful 65:11
harsh 161:13
Harshbarger 37:22;
38:1; 75:4, 5, 6; 79:1
harvesting 53:13
hate 24:13; 34:19
haul 24:19; 39:14; 46:4
hailed 49:9
hauling 48:15; 71:20
hauls 148:15, 15, 16
hay 42:12
health 123:10, 17
healthy 126:3, 4
hear 81:8; 101:22; 104:5;
129:12, 12, 15; 141:17
heard 26:17; 34:21;
49:12; 102:1; 105:12;
111:17
hearing 12:17; 59:21;
89:20
hearings 12:18
heavily 56:7; 120:22
Heavy-haul 90:17
hefty 70:12
help 36:5, 10; 37:2, 10,
17; 39:19; 43:7; 56:1;
108:11; 109:5
helpful 2:16
here's 88:15; 110:5
herself 111:2
hidden 84:10
hide 65:4
Higgins 88:5, 9; 92:1;
129:7, 8
high 17:11; 54:6; 92:11;
155:18
high-paying 116:16
higher 149:11
higher-up 27:2, 3
highest 14:17; 59:10
highlands 20:15
highlight 102:4
highlighted 44:13
highly 121:9; 152:8
highway 49:1; 67:20;
73:6, 7, 7; 87:1; 110:17;
111:9; 149:15; 155:14, 18
highways 73:5; 86:20;
108:11; 141:4; 142:17
Hill 52:14
Hills 56:19; 60:11
himself 79:9
hinges 86:4
hits 135:10

Hobbs 57:18, 19
Hodges 104:18
Hodging 44:14; 45:9
Hodging's 44:11
hold 63:12; 83:8
holding 12:18
holds 136:2
holidays 13:9
home 69:4
homesteaders 93:19
Honor 5:4
honoring 25:9; 161:6
hope 57:14; 82:9, 11;
95:10; 129:15
Hopefully 6:6; 138:16
horse 140:6
Horses 126:1; 127:10
hospital 113:15
hospitals 37:5
hostage 83:9
hour 19:19
hours 64:8, 9; 97:11, 11,
14
house 57:7, 10; 68:10;
110:21; 111:11; 115:19
housing 78:10
huge 11:7; 46:12; 64:8;
65:1; 86:19; 94:11;
133:16, 20; 143:20
hundred 133:12, 15
hunters 70:16
hunting 13:5; 53:14;
141:11
hurt 84:12
hurting 83:4
husband 28:1; 45:3;
53:5; 97:6
hydrophytic 72:8

I

I-90 87:5
idea 9:2; 39:21; 113:3
identified 53:21; 122:3;
124:19
identifies 16:7
identify 11:9; 31:9; 44:10
idling 89:12
ignite 117:12
Ill 62:17; 86:6
Ill-A 21:12; 50:2
Ill-B 8:19; 9:16; 16:7;
25:19; 32:18, 20; 84:4
ill-conceived 75:13
illegally 31:16
illegible 20:9
immediate 18:1; 36:4
impact 4:2, 9; 12:20;
13:7; 15:5; 17:8; 23:3;
26:7; 31:12; 39:16; 45:12;
46:12; 48:17; 51:14;
55:13; 63:17; 64:19, 22;

65:4, 6; 68:13; 71:22; 82:3;
85:5, 9, 12; 94:18; 95:8;
102:8, 11; 103:4, 19;
104:2; 114:10, 16, 18;
117:2, 4; 118:22; 120:18;
122:17; 123:8; 125:5;
133:14, 16, 21, 22; 144:7,
9, 18; 145:14, 17; 147:18;
152:14, 19, 20; 155:13
impacted 70:17; 74:13;
75:12; 95:6; 98:10
impacts 2:7, 10, 17;
14:18; 16:1; 17:6; 18:2;
21:18; 31:11; 32:4; 37:18;
48:12; 62:17; 66:20, 22;
67:7, 7; 84:3, 13; 85:3;
90:14; 92:10; 121:10, 10,
11; 123:10, 18; 124:17, 18,
22; 125:3; 131:10; 144:5;
146:1; 147:14, 19; 156:4
impair 44:8
impaired 10:3; 43:6;
84:7; 90:3
impairment 90:2
impede 116:8, 9, 11
implemented 146:8
importance 76:9
important 2:8; 13:8;
27:15; 61:10; 70:14; 76:3;
111:16; 137:3
importantly 99:19;
101:14
imposed 2:14
imposition 3:8
improved 38:12; 58:8
improvements 71:6
improvise 3:5
in-house 136:1
inaccessible 50:3; 66:10
inaccurate 22:13; 26:11;
33:16; 90:22
inadequacies 22:18
inadequate 33:16; 72:20,
20; 74:1; 90:22; 91:7;
122:10; 124:3
inadequately 109:3
incentive 74:8
incidents 31:17
include 15:8; 18:2; 53:12;
107:9
included 2:20; 13:10;
16:12; 45:12; 84:14; 132:1
including 10:20; 32:5;
43:16; 53:13; 82:15; 91:10
inclusion 10:5
income 24:2; 66:19; 69:3
incompatibility 143:21
incomplete 13:15; 20:4;
90:22; 105:20, 22
inconsistent 157:14
inconvenience 26:13;
66:21; 115:13, 15, 17, 18;
116:4
incorporated 9:8; 54:21
incorrect 87:13, 16

increase 15:19; 36:8, 18;
86:3; 108:2; 112:19;
116:17; 136:7; 146:19;
147:12
increased 86:4, 8;
112:12; 127:20
increasing 37:2; 56:2
indecipherable 49:19
independently 31:6
Index 11:16, 18; 20:5;
66:4; 72:5; 83:14
Indians 45:8
indicate 2:9; 14:21;
69:16; 115:6
indicated 122:12; 123:4
indicates 124:8; 125:1
indication 87:14; 134:21
individual 77:12, 21
individual's 76:11
individuals 143:8
industrialization 70:17
industries 36:13; 62:22;
116:20
industry 70:20; 121:2
infeasible 70:22
infestation 62:4
information 4:12; 7:21;
8:2; 13:14; 14:2; 16:8;
19:13; 20:1; 25:2; 31:5;
40:16, 17; 42:17; 45:14;
50:21; 66:10; 67:2, 3; 70:5;
81:16, 20; 87:16, 18; 91:4;
5, 11; 99:18; 101:22;
105:22; 156:17
informed 105:9
infringed 77:9
Ingestion 115:7
ingestion 123:18
inhibits 140:9
initiate 160:21
Inn 44:22
input 2:13; 27:15; 54:20;
55:4; 160:2
inquiries 14:20
insight 95:12
inspection 9:9; 120:5
inspector 138:1
installed 146:8
instance 120:6
instead 38:8; 66:8
insufficient 63:20
insurance 44:11
integration 65:18
integrity 63:15
intend 42:2; 129:19
intended 121:14
intends 15:20; 40:2
intensify 43:5
intent 77:10; 132:12
interest 50:8; 92:6;
93:10; 121:3
interested 9:10, 15;
19:20; 20:7; 120:14

interestingly 110:3
interests 32:12
interference 77:21
intermittent 146:7
Internet 16:11
interrupting 57:13
Interstate 86:22
into 23:7, 20; 25:13;
27:22; 28:4; 33:5; 40:1;
43:12; 46:4; 54:21; 55:4;
57:4; 60:11; 95:12, 19;
97:8, 9; 112:6; 113:18;
118:5; 130:7; 131:13;
137:8; 161:11
introduction 157:22
invading 44:3
invest 64:17; 136:20
investigations 120:20
Investments 137:2
investors 71:3; 91:17
invite 141:21
invited 10:21; 11:4
involve 160:13
involved 2:3; 26:22;
50:18; 56:15; 64:12;
158:12
involvement 160:14
irresponsible 93:1
irrigate 42:12, 15
irrigation 96:13
isolated 50:5
issue 4:8; 30:2; 32:17;
35:18; 57:6; 61:5; 71:1;
93:5; 110:17; 142:3;
156:10
issues 62:5; 129:12;
131:17; 142:2
issuing 14:10; 65:22
item 11:16; 48:16
items 47:16; 116:2
IV 85:15

J

J 11:16
J.R 28:22
Jack 5:8
January 99:14; 103:16;
159:17; 160:6; 161:16
Jean 37:22
Jerry 4:16; 45:18, 20, 21,
22
Jim 45:19; 47:9; 103:1, 6
job 81:15, 18; 82:1;
138:15
jobs 36:4, 6; 41:8; 56:2;
116:16, 16; 127:2, 3, 5, 8
Joe 107:13, 15
Johnson 25:10, 11;
28:19; 29:1, 3, 4; 32:8
join 94:20
joined 45:18
joint 67:14; 147:1

Journal 45:6
Joyce 113:14
judge 129:20
judgment 114:22
judicial 77:4
Judy 119:7
July 45:9
Junction 46:4
June 48:1
justified 118:20
justify 42:21
justifying 114:20

K

keep 5:18; 6:1, 18; 88:14;
104:2; 139:11
keeping 146:12
Keith 119:19; 130:20
Kenneth 52:21, 22
Kentucky 129:2
Kevin 78:2; 153:19
kind 105:6; 121:13;
124:7; 133:20; 140:11;
141:1; 145:21
kinds 24:3; 121:11
King 5:8
Kmart 115:18
knowledge 2:15
known 72:7; 123:2; 126:9
knows 81:13; 82:1
Kramer 123:3

L

labeled 20:15; 73:7;
112:4
labor 24:4; 139:3
lack 16:6; 17:5; 98:20;
120:19
lacking 20:5
Lake 41:20; 99:3
land 4:21; 24:15; 42:5, 12,
13; 43:15; 45:10; 53:17,
18; 54:15; 55:10; 56:18;
58:7; 59:22; 60:7, 9, 12,
20; 63:3; 66:2; 71:14;
75:11; 85:13, 17; 93:17,
18, 18, 21, 22; 94:3, 5, 5;
95:16; 97:1, 2, 21; 98:4;
107:19; 109:12; 117:5, 11;
127:14; 140:8; 144:14;
147:22; 149:7, 17; 152:8,
10, 10, 17, 18, 19, 21, 22;
153:13; 154:1; 155:19, 19,
21; 156:1; 158:1
landowner 46:16; 53:22;
57:19; 70:10; 71:10;
85:13; 119:21; 154:12, 13
landowner's 46:13
landowners 31:9; 37:15;
43:9; 46:8; 53:6, 21; 59:14;
70:7; 71:4, 9, 11, 13;
73:19; 75:18; 81:10;
85:10, 16, 19; 92:9;
120:14; 126:16; 127:1;
153:14, 16; 154:3, 15
lands 25:21; 31:12; 65:5,
8, 9; 72:1; 89:4; 91:19;
144:19, 19; 154:14
landscape 84:6; 89:2;
92:2, 7
landscapes 70:14
Laramie 73:5
large 39:13, 14; 50:6;
66:9
largely 120:21; 121:20
larger 149:2
largest 59:2, 6; 71:17;
79:5
Last 2:19; 17:15; 31:7;
60:19; 85:1; 105:11;
141:2; 142:3; 147:4;
148:11
late 34:6; 53:20
lately 140:5
later 8:22; 42:3; 45:2;
104:21; 105:3, 4; 107:9
Laughter 68:3; 130:21;
159:5
law 37:5; 70:9; 71:12;
78:17; 92:12; 107:6;
109:1; 134:19; 153:3
law's 134:17
laws 69:6; 106:13; 134:16
lawsuit 59:17
Lea 19:3, 4
lead 115:4
leadership 92:21
leading 18:10
learn 57:14
learned 94:19; 97:2, 3, 20
lease 71:8
leased 42:6; 53:17
least 9:1; 26:20; 39:5;
41:14; 42:17; 51:22;
59:22; 88:2; 107:11;
120:14; 146:2
leave 154:2
leaves 127:5
leaving 128:18
left 6:16; 17:14; 32:7;
60:18; 91:7, 22; 105:9
legal 8:12, 14, 16, 17
legislative 77:4
legislator 79:16
legislators 79:8
lengthier 6:18
lengths 27:12
lengthy 64:13; 69:18;
84:22; 95:5; 110:10
Lenthorn 46:4, 6
less 15:5; 56:12; 61:7, 13;
113:8, 8, 10; 144:18;
145:10, 14, 15, 17
lethal 112:4
letter 45:9

level 17:11; 112:13
levels 108:2
liberties 76:18
liberty 76:7; 77:17; 78:12,
16, 19; 79:4
libraries 69:19; 70:4
library 64:10; 120:8, 10
license 65:22; 67:22, 22;
81:9; 143:17
lie 98:4, 9
lies 60:6
life 23:14; 24:12; 35:6;
57:13; 70:13; 77:16;
78:12, 16, 19; 95:2;
133:20; 148:1; 151:19
lifestyle 71:14
lights 150:13
likelihood 159:18
likely 124:10; 147:13;
159:22
limit 66:12
limitations 141:8
limited 74:5
line 15:9; 16:2, 18; 31:10;
49:6; 53:4; 54:12, 16; 55:2,
5, 6; 56:20, 22; 57:9; 58:4;
60:2, 8, 10; 61:14; 63:8;
67:14, 17; 71:4, 19, 21;
73:9; 84:18, 21; 85:1;
86:14; 102:10, 17; 107:16;
110:21; 114:6; 115:17, 21;
117:4; 119:22; 123:17;
147:1; 149:8; 150:20;
151:8, 12; 155:9
line's 73:16
linear 155:8, 13, 14, 17;
157:18
lines 25:3; 37:16; 67:5;
109:9; 113:7; 147:3;
151:13; 155:17
list 5:20, 22; 19:20; 43:10;
99:22; 119:8
listed 11:16; 43:6; 50:1;
62:17; 87:5, 5, 11; 145:4
listening 82:11; 94:19;
129:11; 161:7
listing 66:20; 120:19
literature 121:8, 14;
134:15
litigation 65:15; 85:14
little 3:13; 5:10; 27:21;
28:4; 29:21; 30:16; 33:14;
34:18; 45:14; 104:5;
105:4; 108:15; 110:11;
114:1; 117:5; 125:10;
137:2; 142:4; 145:11;
154:10, 11; 161:13
live 23:12; 41:19; 46:1;
59:1; 64:6; 69:18; 102:7;
111:15, 16; 113:11;
127:21; 129:4
lived 24:11; 95:2; 97:1
livelihood 108:19
lives 41:10; 79:3; 110:5;
149:6

livestock 13:5; 54:5;
58:6; 84:18; 97:1, 11, 20;
108:18; 115:14; 125:16
living 94:1
LLC 60:13
loading 63:2, 6; 122:5
local 27:4; 36:13; 70:2, 4;
90:14; 92:9; 134:7; 135:6
locally 135:3
located 14:6; 53:15;
72:16; 102:8; 115:19;
116:20
location 14:14; 73:22;
102:15
locations 31:10
locomotive 124:10
locomotives 89:9; 126:9
logistics 103:9
long 16:14; 21:16; 34:2;
64:1; 76:12; 97:16;
109:13; 141:14; 146:14
long-term 36:5
longer 113:16; 134:19;
141:15
look 7:15; 12:10; 33:5;
45:1; 81:2; 82:2; 94:18;
112:21; 123:5; 133:14;
140:22; 142:10; 149:17;
153:5
looked 110:18
looking 50:3; 51:1; 52:18;
89:16; 140:18
looks 40:13; 49:4; 152:9
Loomis 86:11
looser 82:22
lose 96:17; 97:11
loses 144:21
losing 55:17, 18; 125:15
loss 10:7, 13; 26:7, 14;
85:6; 108:17; 117:4
losses 108:12; 109:1
lost 16:9; 36:6; 117:3
lot 18:11; 27:14; 31:4, 4;
33:3, 15; 35:21; 38:2; 39:2;
41:5; 42:2, 17, 18; 58:7;
10; 94:4, 19; 96:3, 11;
106:2, 7; 114:7; 118:3;
121:5; 140:4, 13; 142:1,
18; 144:17; 149:6, 12
lots 25:1; 58:5; 152:22
Lou 109:16, 19, 22; 114:1
love 137:6
low 36:11; 56:6; 123:13
lower 69:3
lowered 86:17
lowest 112:16
lubricants 115:7; 124:9
ludicrous 20:13
lung 129:3
lure 56:18
luxury 109:10

M

magically 134:2
mail 3:21; 41:13
main 59:7; 73:4; 112:1;
138:14
maintain 56:10
maintenance 37:6;
131:8; 137:10, 14
major 15:16; 18:6; 22:3;
70:6, 16; 71:8; 74:4; 75:5;
6; 79:1; 116:7; 135:11;
140:17; 142:16; 157:8
majority 36:1; 37:13;
65:6; 79:5; 81:10; 82:13;
85:19; 124:19
makes 10:10; 46:12;
56:5, 9; 117:16; 141:18
making 21:15; 73:12;
82:10; 99:20; 100:5;
114:15; 118:19
man-hours 84:17, 20
manage 158:1
management 42:22;
47:4; 52:2; 75:9; 121:10
manager 50:19
mandate 30:20
mandated 30:19, 21
mandates 89:22
manifested 36:19
Mankato 102:19
many 20:5; 23:15; 24:20;
29:13; 38:21; 40:8, 21;
49:17; 55:14; 56:15;
69:13, 18; 72:6, 15, 16;
73:17; 74:14; 75:2; 82:14;
95:12; 98:2, 2, 16; 109:1;
123:21; 136:9; 137:11;
146:6; 147:9; 151:1;
158:12
map 43:19, 20; 44:2, 2, 5,
12, 14; 45:1; 50:3
maps 20:12, 13, 16;
44:16; 72:19, 20, 22;
73:10, 21; 90:22; 110:18;
111:6, 10, 12; 149:13, 14
March 17:6
Mark 58:18, 20
marker 17:2
markers 73:21
market 21:2; 154:6
markets 36:16; 56:6
Marlene 68:8, 9
Mary 86:11
massive 73:18
matches 22:8
material 9:7; 13:16;
66:11, 13; 139:6
materials 16:10; 135:2;
151:6
math 91:7
matter 47:14; 89:15;
135:8; 138:11; 153:13

maximum 5:20
Maxine 119:9, 10
may 4:11; 9:8; 13:6;
26:10; 41:1; 49:8; 64:12;
69:14; 71:7; 72:7; 83:5, 7;
84:6; 116:8, 9, 17; 146:17,
19; 155:9; 156:2, 5
maybe 35:5; 62:8
mayor 5:9; 35:12, 14;
37:21
Mayor's 94:21
mean 51:9; 94:9, 11;
95:3; 117:21; 126:12;
129:9; 133:18; 141:19;
153:4
meaning 85:22
meaningful 120:16
means 114:17
measurable 117:2
measure 146:8
measures 2:14, 14, 19;
3:3
mechanism 3:6; 134:11
Medford 42:19
Medicine 157:6
meet 7:18; 8:3; 17:9;
29:19
meeting 3:16; 11:21, 22;
17:16, 17; 20:14; 45:6;
86:10; 101:7; 103:11;
129:10; 136:3, 19; 161:3,
4, 19
member 46:13
members 53:2; 75:10
memory 83:3
mention 7:9, 11; 19:10;
61:10; 67:16; 83:16; 86:22
mentioned 3:16; 4:8, 5; 3;
40:9; 49:10, 11, 16; 79:18;
81:1; 103:15; 153:12
mere 16:19; 63:17
merely 84:15
merger 149:1
message 91:16
meters 122:20
methane 13:21
methodology 9:1
Michael 5:5
microphone 33:11;
130:7
middle 128:16; 149:19
Midwest 56:10; 78:6
might 6:8; 34:5; 51:10;
55:13; 116:11; 130:21;
131:15, 17; 132:21; 133:6;
135:3; 138:17; 150:2;
159:10
migration 116:9, 11;
140:9, 12, 17
Mike 5:9, 10; 35:12, 14;
104:10, 11; 125:10
mild 146:8
mile 53:17, 145:10, 15
mileage 40:20

milepost 73:21
miles 16:19, 22; 18:9;
19:18; 34:7, 9; 38:8; 40:22;
41:4, 19; 53:18; 54:7, 8;
57:8; 64:6; 69:19; 87:22;
88:18; 89:10; 104:20;
107:19; 120:8; 128:20;
138:8; 145:8, 9, 11; 146:2
million 7:4, 5; 59:19;
137:13
Mills 5:9; 35:12, 13, 14;
38:3
mind 26:15; 103:7;
130:18
mine 17:1; 18:8
miners 129:2
mines 7:9, 11; 46:5;
48:19; 49:2; 88:19;
109:10; 112:3; 129:4;
151:2, 7
minimize 31:11; 74:8
minimum 19:7; 25:5;
68:18; 70:3; 71:12; 139:3
mining 70:20; 86:12
Minnesota 4:19; 94:8;
102:16; 161:11
minor 115:22; 116:1, 6
minute 6:16; 11:1, 2, 3,
12; 17:14; 32:7; 41:4;
44:20; 51:2; 66:17; 78:22;
91:22; 98:13; 104:5;
118:1, 2; 128:11; 135:9,
16; 138:18; 147:11
minutes 5:19, 19; 6:2, 15,
19; 28:2; 34:5; 75:3; 80:19;
104:4, 6; 130:5; 135:15;
143:9
misconstrues 147:13
misleading 73:5, 12;
86:21
misleading 22:10; 49:21;
83:15; 117:6
Miss 104:18; 133:10
misses 134:3
Mississippi 17:5, 9, 20;
18:3
Missouri 102:14
mitigate 2:6, 11; 37:17;
46:9; 61:18
mitigated 89:11; 144:6;
154:18
mitigating 133:22
mitigation 2:14, 19; 3:2;
10:8; 50:17; 54:1, 22;
65:22; 71:9; 74:1, 9; 85:16,
18, 21; 91:21; 117:18;
132:22; 146:14; 154:9
model 89:9
modeling 15:13, 15
models 106:11
moment 75:19
money 40:1, 3, 4; 93:3, 4;
137:7, 10
monitor 122:20
monitoring 122:16, 19

month 14:11; 105:4
months 13:6; 68:21;
107:11
monuments 74:12
Moorcroft 63:3
more 3:14; 15:14; 16:1;
19:11, 16; 20:16, 19; 35:2;
36:14; 37:10; 40:21; 42:3;
49:5; 56:8; 57:20, 21, 22;
63:19, 22, 22; 64:5; 68:14;
69:15, 19; 71:11; 80:12;
22; 82:21; 85:9; 95:7;
96:11; 99:9; 106:2;
111:13; 112:19; 113:9;
114:11; 118:3; 119:5;
129:12; 137:4, 5, 7;
140:11, 13, 14, 16; 145:2;
150:8, 10; 152:8; 159:8
mortality 10:15
most 4:5; 13:8; 26:1;
29:11; 34:16; 58:6; 67:19;
76:13; 77:1, 7; 85:10;
88:17; 93:20, 21; 94:22;
99:19; 101:13; 123:19;
125:19; 136:10; 142:10;
152:13; 154:13
mostly 52:10; 62:16
mother 61:21
motions 82:12
mountain 10:20; 52:17;
144:11
mouthful 32:8
move 55:6; 84:18; 97:5;
151:15
moving 61:3; 89:12;
122:3
much 9:3; 18:9, 12;
19:13; 20:16; 24:15; 25:8;
33:6; 35:2; 39:10; 44:8;
48:5; 50:2, 12, 16; 56:8;
57:16; 72:4; 73:20; 74:2, 6;
85:9; 88:14; 96:1, 9, 19;
99:10; 100:3; 107:12;
110:5; 113:16; 132:9;
144:21; 145:2, 14, 17;
147:17; 152:8; 161:5, 12
must 15:12; 18:2; 76:4;
77:9; 106:14
mutually 32:2
Myer 52:20
myself 34:3; 59:22;
61:22; 75:9

N

name 6:22; 7:10; 19:4;
20:6; 23:10; 24:11; 35:14;
41:18; 45:22; 79:11;
105:5; 107:15; 130:6, 19;
139:17; 143:15; 148:11
name's 53:5; 58:20;
114:5; 155:5
Nancy 12:13, 16; 62:11;
68:5; 104:18; 105:8;
122:17; 143:16
nation 92:17

national 49:22; 50:4, 20;
64:17; 72:1; 74:12; 89:10;
91:17, 20; 92:4, 6; 98:19;
102:5; 144:12; 157:1, 4, 6,
7, 9; 158:16; 160:1, 5
Native 102:5
natural 43:7; 76:17;
84:21; 85:2; 97:19, 21;
108:10; 128:7; 155:10
naturally 96:4
nature 73:17
near 46:11; 63:3; 87:1;
102:10; 136:12
nearest 19:17
Nebraska 15:9; 157:7
necessarily 48:15;
90:19, 20
necessary 14:8; 37:7;
64:2
necessity 102:12
need 11:22; 23:1; 24:19,
20; 29:20; 35:10; 37:2;
48:5, 13; 54:22; 61:5; 62:5;
72:9; 89:18; 98:22;
106:11, 11; 121:17;
123:15; 124:6; 126:10;
128:8, 15; 131:13; 139:17;
144:9
needed 44:14; 84:20
needing 20:6
needs 5:19; 29:21; 30:1;
36:12; 50:8; 81:21; 83:20;
96:18; 106:2, 7; 107:4;
118:17; 123:22; 133:21;
155:1
negative 121:6; 147:18
negotiate 32:1; 46:16;
154:1
negotiated 31:22; 150:1;
154:15, 22
negotiating 2:21
negotiations 108:22
neighbor 55:21; 93:9;
139:9
neighbors 75:11;
113:14; 138:4
neither 81:14
NEPA 8:9; 9:3, 7, 15
new 14:3, 11, 22; 18:1;
25:3, 4; 30:5; 36:4; 37:1;
53:4, 16; 54:11, 14; 56:21;
57:9; 61:8; 63:2; 67:17;
81:11; 102:10, 14, 18, 18;
107:17; 109:2; 111:18;
113:5; 119:1; 127:19;
129:12, 15; 137:22;
142:14; 143:10; 146:21,
22; 148:4, 4; 150:19, 19
Newcastle 5:9; 33:19;
34:15; 35:15, 17; 36:2, 18;
37:13; 38:4, 8; 41:19;
44:22; 88:13; 95:1; 110:4;
143:17
Newscastle 63:5; 82:14,
15; 83:1
Newscastle's 82:13

newspaper 136:1
next 7:16; 12:14; 23:9;
25:10; 28:21; 33:10;
35:11; 37:22; 41:16;
44:15; 51:16; 52:19;
94:13; 98:9; 109:15;
114:3; 119:9, 18
nice 51:12; 100:3; 161:18
nifty 39:7
night 17:15, 17; 86:11;
141:17; 161:8
nine 43:7
nine-mile 110:22
Ninety 63:20
Niobrara 97:8; 127:6;
150:8
no-action 75:15; 91:15;
92:15; 95:4
no-build 91:14, 15;
92:13; 93:2; 99:8; 121:5, 6
nobody 38:9; 81:13;
93:20, 22; 122:10; 149:8
noise 34:18; 57:7; 90:18;
107:21; 110:17; 111:13;
125:21; 141:18; 144:6;
146:1
noisy 126:1
nonbiased 27:1
Nonconstruction 48:9
None 73:14; 118:10;
153:12
nonsignificant 144:9
nor 20:3; 90:7
normally 97:17
north 46:19; 111:8
north-south 67:20
northeast 60:2, 3; 90:17
Northeastern 92:8
Northern 16:18; 46:3, 6;
59:15, 16; 73:5; 128:10,
13; 135:22; 152:1
northwest 60:3, 4, 5
Northwestern 58:3;
86:14
not-so-rare 51:9
notably 123:19
note 2:8
notes 3:17; 129:16
notice 12:5; 29:8; 158:7
noticed 47:14
November 19:13; 64:10
Nowhere 7:8, 10, 12;
131:8
NOx 112:6, 13, 18, 22
noxious 35:8; 43:4;
61:13; 107:22
nuclear 49:14
nuisance 115:16
number 2:10; 7:8; 8:13,
15, 16; 11:6, 7, 8; 13:14,
21; 15:14; 17:21; 18:4;
24:14; 26:12; 47:20; 48:4;
66:9; 71:2; 72:16; 83:14;
84:2; 87:7; 101:18; 143:20

numbered 72:14; 83:17
numbering 66:4; 72:13
numbers 144:2
numerous 10:12; 89:12;
105:17

O

o'clock 100:5
oath 79:9
obey 79:12
obeying 80:10
object 120:3
objecting 25:22
objections 129:15
obscure 72:13
obtain 146:16
obtained 121:1
obtaining 60:13
obtainment 76:3
obvious 90:16
Obviously 4:3; 159:19
occupied 95:16
occur 109:1
occurring 14:22
occurs 134:9
odd 145:11
off 54:16; 104:6; 108:14;
113:19; 125:22; 128:18,
21; 135:20; 137:16;
138:15; 139:11
off-rail 90:13
offer 8:20, 22; 70:9;
146:16
offered 37:15; 55:15, 20;
86:9
office 5:6, 8; 79:10, 15;
120:21
officer 136:4
offices 27:4, 5
officials 5:2, 12; 43:3;
79:7; 87:17
offline 161:3
offshore 91:18
offer 151:10; 157:20
Oil 14:9; 83:6, 9; 150:3, 4
old 32:19; 35:6; 42:18;
56:21; 61:8; 89:9; 91:19;
142:11; 153:11; 157:2, 16;
158:18
older 42:18
One 2:8; 5:10; 8:13; 11:1,
2, 3, 6, 11, 12; 12:5; 13:3,
15; 16:12; 17:14, 16, 17,
18; 18:6; 25:19; 26:20;
27:22; 29:10; 30:10; 32:7;
34:15, 17, 21; 36:21; 38:3;
40:20; 44:13, 16, 20; 45:1;
47:14, 17, 20; 48:18; 49:5;
50:5, 7; 51:2; 52:3; 55:7;
57:9; 58:22; 61:1, 19;
66:17; 70:6; 76:21; 78:22;
91:22; 92:16; 95:21;
97:16; 98:13; 102:22;

105:14; 107:1, 3, 14;
108:12; 112:16; 113:9;
115:6, 19; 117:7; 118:1, 2;
122:19; 128:11; 135:9;
138:18; 139:2; 141:2;
142:4, 15; 143:2; 147:11;
148:20; 149:1, 4; 153:19;
156:13; 161:7
one's 77:7
one-fourth 126:13
one-half 53:17; 139:2
one-sided 29:21
one-twelfth 126:14
ones 4:5, 16; 6:1; 27:8;
50:7; 85:19; 102:3
ongoing 36:12
online 99:17
only 7:5; 20:17; 21:9;
24:15; 43:4; 50:2; 51:13;
64:22; 70:21; 77:18;
78:11; 80:4; 81:22; 85:19;
89:5; 90:11; 91:9, 11;
105:22; 106:1; 110:8, 10,
22; 112:21; 117:2, 4;
121:21; 123:8; 126:13, 20;
127:7; 132:20; 144:20;
145:10, 11, 14; 147:8
onto 97:4
open 71:2; 89:3; 127:11,
18; 141:3
opening 3:11; 26:17
operate 119:21
operating 70:11; 89:10;
136:4
operation 9:20; 37:4;
46:13; 78:4; 80:2; 96:21;
125:2; 146:16
operations 64:18; 75:11;
132:14; 155:11
opinion 85:10; 88:19;
94:17
opinions 28:5; 106:20
opportunities 89:4
opportunity 12:19;
35:16; 37:17; 47:12;
51:20; 57:2; 59:20; 82:8;
89:6; 93:15; 94:16, 18;
120:15; 122:13; 130:1, 3;
139:17; 148:7
oppose 81:10
opposed 19:5; 23:11;
41:3; 58:11; 67:21, 22;
68:1; 107:16
opposition 94:10
option 32:22; 33:5;
90:12; 152:12, 13, 13, 15
oral 3:15; 5:18; 6:5, 7;
12:4
orange 12:8; 112:4
order 5:16, 21; 74:10;
159:14
orders 27:2, 3
ordinary 66:10
organizations 121:2
organized 23:16; 46:15

original 49:11
originally 58:10; 134:14
others 63:10; 87:14;
107:8; 113:7
otherwise 11:16; 93:6
ought 27:1; 28:15
out 12:8; 16:21; 18:16;
23:5; 26:15; 27:9; 31:15,
15, 16, 17; 38:8; 45:14;
75:1; 80:1; 91:10; 93:17;
95:17; 103:13; 105:8, 11;
107:7; 111:15; 118:17, 22;
121:18; 122:4; 124:9;
126:17; 128:6; 134:12;
136:1; 137:10; 138:22;
141:11, 12, 20, 21; 145:22;
146:3; 149:7, 16; 150:11;
158:11, 19; 159:1, 17, 19,
20; 160:6; 161:14
outcome 8:16; 18:1;
121:3
outdated 42:16; 149:15
outfit 53:14
outside 76:9
outweigh 92:11
over 3:10; 14:22; 26:21;
69:1; 79:3; 88:16; 89:7;
91:8; 97:7, 9; 99:3, 5;
102:13; 105:15; 113:5;
116:12, 15; 128:3; 134:8,
18; 137:13; 139:12; 140:3;
150:18
overburdened 136:13
overhead 47:18
overheads 47:15
overlooked 105:18
overpasses 111:3
overstated 134:15
overview 101:11
Owatonna 102:20
owls 52:16
own 29:4; 53:6; 65:19;
76:12; 77:6, 7; 93:17;
127:12
owned 71:15
owners 36:11; 65:7;
76:10

P

P&SA 74:10
p.m 2:2; 101:2
Pacific 86:13; 128:12;
136:15; 149:4
page 7:3; 13:19; 14:1, 13;
20:20; 21:17; 22:4, 20;
26:4, 6; 29:18; 31:8, 21;
48:8; 49:10; 50:1; 62:18;
84:4, 15; 85:5; 145:3, 4;
146:6, 15; 156:8
pages 7:8; 33:13; 64:1;
66:6; 69:2; 72:14, 17; 75:2;
83:15; 86:1, 6, 7; 144:1
paid 36:10; 37:3; 65:20;
122:1; 134:2; 153:20

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

**DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2000**

pain 125:14	per 14:11; 21:3; 59:10	Please 6:1; 12:2; 45:17; 101:21; 119:6; 143:12	preparation 87:11	131:20; 156:13, 16; 160:12
paleontological 25:20; 26:2; 153:9	percent 21:3, 4, 10; 50:11; 63:11; 86:15; 87:16	pleased 101:19; 150:22	prepared 4:10; 58:4	producing 89:2; 112:3
panel 6:10; 95:11	percentage 21:10	Plum 55:7	preparing 20:2	product 149:10
paper 95:13; 127:4	perennial 145:7	plus 140:15; 152:17	prescribed 92:12	production 7:11; 70:20
paragraph 7:16; 26:5; 31:8, 22; 154:10, 11	perhaps 98:5, 6; 133:12	pockets 149:9	prescriptions 157:8	productive 4:6
parcel 54:9	period 13:2, 11, 12; 19:8; 24:7; 25:6; 30:11; 68:18; 69:12, 13, 15; 88:1; 92:18; 107:10	point 52:12; 58:2; 105:19; 124:9; 133:11; 134:3, 12; 144:10	presence 127:20	professional 54:19; 63:15, 18
Pardon 29:1	permanent 36:5; 127:8	points 55:12; 135:11	present 15:11, 22; 16:2; 48:22; 91:12; 125:8, 12; 146:9	profiles 50:13, 15
Park 84:10; 89:11	permission 31:18; 43:20; 55:6	police 119:15; 133:17	presentation 26:17	profit 75:20; 77:6; 148:2
parks 74:12	permit 4:15, 19; 19:10, 21; 21:19; 71:1; 90:11; 91:15; 92:14; 103:6; 120:4	policy 10:8; 85:14, 18	presentations 101:4	profitable 78:3; 109:7
part 2:11; 14:7; 21:17; 28:12; 30:20; 40:7; 50:19; 62:18; 65:3; 70:14; 79:10; 91:18; 92:17; 106:22; 113:20; 122:18; 136:9	permits 14:10; 69:11	polite 54:18	presenting 75:8	program 52:2
participate 93:5	permitting 93:1	polluted 108:5	presently 53:22; 54:13; 71:16; 74:5; 87:2	programmatic 4:14
participating 99:18	person 66:11; 78:15, 19; 156:15	pollution 57:7; 62:2; 84:10; 89:9; 90:18; 98:21; 108:1; 125:21	preserved 146:4	prohibitions 146:11
participation 69:5, 7	personality 82:22	poor 30:14; 53:9	President 75:6; 82:20; 136:3	project 2:17; 3:5, 8; 15:16; 17:19; 18:1; 19:6; 21:17; 23:11; 32:6, 11; 36:3, 8, 17; 37:1, 8, 14, 18; 45:8; 48:1; 50:18; 56:12; 58:11; 65:11; 68:20; 74:4; 75:10, 13; 82:17; 86:4, 18; 93:1, 10; 101:10, 11; 103:3; 113:21; 122:14; 124:11; 132:12; 135:1; 147:14, 17; 148:2
particles 16:17, 21	personally 57:21; 82:12	popularity 128:6	press 18:12	projected 73:13, 16
particular 94:6	persons 9:10	populated 113:8; 123:21	pressure 74:6	promises 91:21
particularly 10:18; 21:7; 102:9; 117:7; 123:20; 133:17	perspective 148:14	population 36:18; 55:17; 56:3; 113:9; 147:20	pretty 131:5; 141:3; 146:3	promote 45:7
parties 3:4, 4; 9:15; 19:20; 20:7	phase 91:8	portion 15:19; 106:1	prevent 9:18; 90:2	promotional 121:8; 134:15
partner 65:17	Phelps 45:18, 20	portions 15:21	prevention 117:20, 21	proof 8:12, 17; 44:10
parts 154:9	phone 21:15; 44:18	positive 92:14	prevents 66:1	proper 51:13
party 96:2	phonetic 5:3	possibility 67:15; 146:3	previously 10:2; 84:5	properly 154:18
Pass 51:19; 52:1; 60:21; 145:6	phrases 115:5	possible 57:3; 74:9	price 109:11	property 8:21; 32:21; 36:11; 42:22; 43:18; 60:6; 12:62:1, 4; 70:7; 71:8; 73:20; 75:22; 76:2, 5, 10, 12, 21, 22; 77:7, 13, 20; 78:13, 16, 19; 79:4; 116:17; 134:8, 10, 13; 138:6; 146:19; 152:14, 16
passenger 57:3	pickups 127:10	possibly 32:15	priceless 98:19, 21	proponents 17:18
passive 87:9	picture 17:1	post-merger 136:15	prices 56:21	proposal 47:13; 48:5, 20; 90:14; 103:5; 125:13; 142:10; 157:11
past 3:1; 7:17; 53:10; 67:6; 137:18	pie-in-the-sky 147:5	potential 2:6; 3:7; 14:3, 14; 32:4; 37:18; 58:15; 102:11; 115:19; 123:10	primarily 53:8; 125:1	propose 139:2
pasture 46:11; 97:5, 5; 108:14, 17; 149:20, 20	pieces 148:19	potentially 9:10	primary 26:6; 76:21; 79:19; 85:5	proposed 4:21; 15:1; 30:22; 37:16; 39:18; 42:4; 46:19; 47:7; 49:9; 50:7; 52:13; 54:11; 60:2, 10; 87:6; 101:9; 102:18; 107:16, 17; 108:14; 109:2, 6, 10; 114:19; 115:20; 116:21; 120:4; 127:3; 132:2; 156:6
pastures 108:16	Pierre 126:18	pounds 19:13, 14; 63:22; 68:15	prime 56:18; 153:2	proposing 39:4; 64:16; 127:14; 140:19; 141:1; 142:7
patience 67:3	pipeline 64:19, 21; 155:16; 156:1	powder 14:16; 46:5; 71:16; 109:9; 121:18; 122:4; 135:21; 137:1, 8	primitive 44:1	proprietary 91:4
patient 101:21	pipelines 155:9	power 79:3; 112:9; 129:9; 136:12	prior 31:13; 53:8	protect 26:1; 77:12; 106:13
Paul-somebody 105:5	pits 52:8, 9	practical 120:9; 151:11	priority 27:20; 60:15	protected 25:21; 60:20
pay 25:3; 38:18, 20; 39:20; 40:5, 7; 59:12, 18; 98:6, 7; 126:13, 20; 134:11; 139:2, 7; 150:10, 12	place 20:12; 38:13; 39:22; 41:12; 47:2; 51:13; 54:2; 64:17; 85:2; 88:20, 22; 105:14; 106:13; 112:21; 115:6; 121:14; 127:21; 128:8; 134:17	prairie 10:7, 9, 16; 34:22; 52:14; 65:3; 144:21	private 25:21; 62:1; 65:9; 66:2; 72:1; 75:20; 76:2, 5, 22; 77:13; 91:19; 92:5; 94:3, 5; 109:4, 6; 126:12, 12; 127:12; 144:14, 16, 17, 19; 148:2; 152:10, 14, 20; 153:13; 154:14	protection 70:10; 75:22; 76:1, 20; 79:20; 155:1
paying 90:19	places 16:14; 23:15; 40:8; 86:5; 113:7; 146:12	PRB 14:21; 15:2	privately 71:15	prove 115:1; 125:17
peace 111:15	plain 51:6; 60:7	pre-existed 76:18	privileged 129:14	proved 95:20
pending 8:12, 14, 17	plan 38:6, 13, 14; 42:22; 54:14; 63:1; 93:5; 106:9; 117:19, 20; 156:19; 157:2, 6, 7; 158:4, 8, 13, 16, 19, 21, 22; 159:2, 2, 10, 11, 12, 16, 17; 160:1, 5, 10, 13, 20, 21	preaching 118:11	pro 96:18	
people 13:4; 29:11; 31:14, 17; 33:15, 18; 34:8, 11, 12; 38:1, 18; 39:13; 41:9; 43:8; 50:17; 52:4; 55:14; 56:15; 58:5, 10; 63:12; 64:11; 65:20; 66:9; 67:1; 69:3, 14; 78:8; 82:10; 84:3; 88:13; 94:7, 11, 22; 95:6; 96:3, 8; 97:7; 98:2, 6, 7, 8; 99:9; 106:12; 107:7; 111:14; 113:10; 129:16; 136:18; 141:10, 10, 21; 148:19; 150:10; 151:12, 17; 153:20; 156:12; 158:12	planned 106:3; 112:15; 156:21; 157:5	precious 26:2	probably 30:7; 33:19; 80:18; 97:22; 104:8; 123:12; 142:1; 150:18; 159:4	
people's 13:7	planning 53:20; 55:4	preclude 41:14	problem 42:21; 43:5, 13; 49:4; 61:1, 16, 18, 19; 112:22; 115:16; 122:11; 137:6; 138:20; 140:6, 17	
	plans 15:10; 48:20; 71:5; 143:19; 157:3, 8, 15, 15, 20; 158:3, 14, 18	precluded 10:10	problems 7:6, 13; 8:13; 41:5; 61:12; 76:8; 83:18; 112:2; 129:13; 136:6; 144:16, 17	
	plant 63:5; 112:9	predetermined 48:6; 114:22; 118:20	proceed 107:6	
	plants 21:2; 105:17	predicting 121:12	PROCEEDINGS 2:1	
	plastic 151:6	prediction 124:7	process 2:12; 4:6; 12:12; 27:13; 37:2; 53:20; 60:13; 69:8; 78:17, 20; 81:20; 89:19; 107:1; 129:17;	
		predictions 137:5		
		prefer 95:3; 141:6		
		preference 92:15		
		preferred 10:11; 11:10; 89:5; 145:9		
		prejudiced 118:18		
		prejudicing 114:14		
		preliminary 12:22; 101:12		

provide 16:8; 56:10;
 101:10; 120:15, 15;
 147:22
 provided 133:1
 providing 131:7
 Provisions 64:18
 proximal 90:4
 proximity 116:21
 public 14:11; 19:17; 37:4;
 14; 48:4, 13; 64:9; 69:6, 7;
 76:4, 9; 80:2, 3; 89:4;
 91:19; 101:15; 120:5;
 126:18; 144:14; 161:19
 publicized 156:17
 publicly 153:14
 published 158:6, 8
 pull 112:17
 purchased 135:2
 pure 146:10; 147:5
 purpose 29:20, 22;
 79:19; 101:7; 131:7
 purposes 76:22; 130:17
 pursued 146:13
 pursuing 93:9
 pursuit 77:17
 put 23:1; 31:7; 39:4, 5, 8;
 40:1; 41:8; 46:10; 73:14;
 111:19, 21; 136:1; 137:7;
 138:10; 140:8; 142:15;
 148:20; 149:21; 151:9, 13
 puts 30:7
 putting 69:2; 137:9

Q

qualified 107:7; 117:13
 qualify 63:18
 qualities 145:22
 quality 13:14; 15:5;
 70:13; 74:11; 87:15;
 89:16, 18; 90:8; 98:20;
 106:8, 11; 110:18; 112:2;
 122:8, 19; 123:9; 124:17;
 17; 131:11, 11
 quantified 62:19
 quantities 124:8
 questionable 137:15
 quick 16:10; 34:5; 68:12;
 143:12
 quickly 124:1
 quiet 111:16; 141:6, 15
 quietness 141:12
 quite 31:2; 33:14, 21;
 39:12; 82:20; 88:11;
 116:7; 117:13
 quoted 127:3
 quoting 118:11

R

Rabern 51:17, 18, 18
 rail 15:9; 16:9, 18, 21;
 30:22; 48:17; 54:16;

71:15; 73:16; 84:18, 21;
 85:1; 101:9; 109:9;
 116:21; 117:4; 121:17;
 146:16, 16; 149:1; 150:20;
 151:4, 4; 155:14
 railroad 15:11; 22:17, 18;
 24:5, 14, 19; 26:1, 9;
 30:14; 33:6; 34:1, 10, 16;
 35:3; 38:7; 39:3; 41:11;
 42:4; 43:4; 46:3, 3, 7, 9,
 10, 14, 15, 18, 20, 22;
 47:1, 3; 54:11; 55:21; 58:8,
 12; 59:2, 6, 11, 16, 16;
 60:17; 61:18; 62:1; 64:20;
 65:1; 70:10, 21; 72:21;
 73:13; 78:2; 81:9, 11; 85:7;
 86:16; 89:1; 91:17; 93:1;
 95:1, 3; 97:18; 98:3;
 107:18; 108:13, 18; 109:2,
 6, 10, 13; 110:16; 111:8,
 18; 112:10; 113:4, 12;
 115:2; 116:10, 12, 16;
 125:8, 12, 17; 126:20, 21;
 127:2, 14; 128:10; 135:7;
 138:2; 139:8, 8; 140:10,
 15, 21; 141:13, 15; 142:8,
 9, 14, 20; 143:2; 144:10;
 146:22; 148:14; 155:11,
 18; 157:19
 railroads 24:16; 35:9;
 38:17, 17; 61:11; 64:18;
 71:17; 86:14; 108:3;
 115:10; 124:4; 137:19;
 138:3; 142:4; 149:2;
 154:14
 rails 47:2
 railway 14:18; 107:17
 railways 141:4
 rain 18:10
 raise 127:21; 130:10
 raised 23:13; 98:15
 raises 67:15
 ranch 23:12; 29:4, 5;
 41:20, 21; 50:19; 53:16;
 54:3; 70:11; 97:6; 104:20;
 113:17, 20; 114:6; 119:21;
 137:21, 22; 138:1
 rancher 65:16; 107:15;
 140:1
 ranchers 29:22; 30:8;
 42:1; 53:9; 95:6; 102:6;
 109:4; 115:13; 147:21;
 149:6; 151:17
 ranches 24:1, 2; 31:12;
 72:10; 116:22
 ranching 24:1; 75:11;
 84:14; 107:20
 range 24:3; 60:10; 97:2;
 125:18, 22; 127:18
 Rapid 45:5, 6; 69:20;
 120:8, 10; 135:4; 161:9
 raptors 143:22
 rare 145:18
 rate 21:9; 103:3; 139:3
 rated 96:18
 rates 21:1; 86:15, 17
 rather 25:12; 82:11;

114:19
 ratified 76:15
 Ray 68:4
 Raymond 62:13
 reach 158:11
 reaches 90:3
 reaching 17:20
 read 19:19, 22; 23:7;
 27:14, 16; 28:15; 29:12;
 33:14; 42:1, 3; 51:20;
 62:11; 66:3, 19; 68:2, 5,
 15; 72:3; 82:9; 83:13;
 109:20, 20; 110:14; 112:5;
 155:20
 readable 20:16
 reader 72:5
 readily 19:16; 67:2;
 120:5, 13
 reading 20:3; 25:1;
 39:17; 72:17; 114:21;
 115:3; 120:17; 152:6, 11
 reads 79:10; 114:11
 Reagan 62:10, 10; 94:9
 real 30:13; 33:13; 36:16;
 93:5; 134:11; 140:20
 reality 135:1
 realize 33:19; 69:14;
 70:1; 84:9; 123:11
 really 5:19; 11:11; 15:20;
 27:15; 28:8; 67:17; 73:13;
 80:3; 98:22; 99:19; 105:7;
 113:3; 121:12; 140:2;
 144:12; 149:3, 22
 reason 15:16; 20:3;
 27:22; 28:1; 30:14; 158:17
 reasonable 64:5; 90:11;
 132:11
 reasonably 9:9; 15:18;
 17:10
 reasons 11:15, 17;
 24:14; 75:16; 143:20
 rebuild 30:14
 receive 4:20; 101:14
 received 19:20; 43:19;
 44:17; 52:3; 128:2; 157:11
 receiving 66:13; 103:11
 recent 36:6; 67:6
 Recess 81:6
 recognize 84:7; 132:11
 recognized 76:13;
 157:13
 recognizes 35:17
 recommend 99:7
 Recommending 161:2
 recommends 10:8
 reconstruct 102:13
 reconstructed 102:17
 record 3:19; 14:12;
 30:11, 13, 15; 35:14; 115:9
 records 124:4
 recovered 136:15
 recreational 89:3
 recyclable 49:8, 13
 recycle 49:14

redone 23:5
 reduce 37:10
 reduced 86:8; 115:12
 reducing 2:17
 reductions 9:18
 refer 20:11
 reference 7:9, 10, 12, 14;
 8:6; 9:5, 8, 13; 22:6; 82:18;
 83:12
 references 72:11;
 147:15
 referring 152:13
 reflectors 39:8
 reformation 146:8
 regard 90:7; 123:8;
 124:2; 131:12; 134:20
 regarding 53:4; 129:13,
 13
 regardless 91:21
 regards 4:18; 21:6; 43:18
 regional 90:15
 Register 158:7, 9
 regular 142:11
 regulars 136:18
 regulations 63:14
 regulatory 77:5
 reigned 77:2
 reiterate 5:14; 74:16
 rejected 50:14
 relate 123:13
 related 147:9
 relates 48:18
 relation 111:11; 112:9;
 124:16
 relationship 123:17
 relatively 94:11
 relevant 22:19
 relied 120:21
 relocate 46:18
 rely 56:7
 remain 77:20; 129:19
 remarks 3:11
 remember 34:21; 99:2, 4;
 124:5; 127:17; 129:1
 remind 119:4; 156:12
 remnant 144:21
 removed 43:9
 renewable 95:22; 99:1
 renting 53:14
 repairs 151:4
 repeat 37:12; 91:1; 128:4;
 143:9, 12; 148:5, 9
 repeatedly 85:11
 repetition 72:4
 replace 36:6; 98:18
 report 91:9, 13
 represent 85:17; 130:6
 representations 120:22;
 121:20
 Representative 5:7;
 68:10; 102:22; 120:3;
 123:2, 3

representatives 43:16;
 54:17; 153:22
 republic 77:11; 79:4
 request 13:11; 19:7, 15;
 25:15; 52:4; 63:19; 67:12;
 74:17, 20; 80:1; 87:22;
 107:10; 120:12
 requested 43:20;
 105:13; 106:21
 requesting 68:16; 69:9
 require 2:4; 54:6; 68:22;
 69:6; 155:13
 required 63:13; 67:1;
 71:12; 143:1; 147:15
 requirement 132:22
 requirements 55:3; 69:5;
 74:2
 requires 11:9
 requiring 21:3
 research 87:15
 researched 87:14
 reseeding 52:4
 resent 26:3, 22
 reserve 13:1; 23:5; 24:8;
 25:7; 80:13; 107:8
 residents 90:16
 resolved 8:15
 resource 42:22; 43:8;
 99:1
 resources 25:20; 26:2;
 56:13; 74:5; 85:6; 114:14
 respect 16:6; 76:5, 6
 respecting 161:7
 respond 13:7; 64:3;
 103:18; 156:14
 responding 3:22
 response 81:3; 131:18;
 132:4, 6
 responses 103:20
 responsibility 80:9;
 95:11; 160:19
 responsible 92:22
 responsibly 55:22
 rest 29:15; 93:8; 108:17;
 126:17; 156:18; 158:3
 result 51:3, 5; 86:16;
 102:12
 resulting 16:1
 results 101:12
 revegetating 52:5
 revenues 134:16, 22
 reverts 59:13
 review 16:10; 68:12;
 81:19; 101:13; 103:3;
 110:13; 120:11; 132:19
 reviewing 101:8; 103:6
 revised 89:19; 157:17, 21
 revising 51:14
 revision 156:22; 157:5;
 158:17; 160:2
 revisions 88:3
 revitalization 56:21
 Rhonda 94:14

rhyme 20:3
rhythms 97:21
Richard 51:17, 18; 62:9
Rick 114:4, 5; 119:3;
148:8; 152:4
ride 60:9; 111:2; 127:10
ridiculous 68:22
ridiculously 105:21
right 4:3; 7:14; 13:1; 23:6;
24:8; 25:7, 15; 26:9; 33:11;
34:8; 48:3, 3; 53:1; 59:16;
60:14; 70:8; 73:15, 19;
76:11; 77:6, 8, 9, 19;
78:11, 12, 12; 80:13, 15;
82:5; 84:12; 88:7; 107:9;
111:15; 112:2; 113:1, 15;
117:10; 119:16; 129:22;
130:3; 138:15; 149:19;
159:7
right-of-way 44:6; 54:10;
98:5, 6; 156:3
rights 42:10; 44:5; 60:14;
70:7; 75:18, 22; 76:2, 6, 9,
14, 15, 16, 17, 21; 77:1, 1,
13, 21; 96:6
rights-of-way 155:8
Ripley 119:10, 11, 13, 17
River 14:16; 17:5, 9, 29:5;
41:20; 42:9, 19, 22; 43:6,
12; 46:5; 53:7; 59:18; 60:6;
61:3, 8, 14; 71:16; 88:21;
90:3; 102:14; 109:9;
121:18; 122:4; 124:19;
135:21; 137:1, 8; 145:7
road 37:6; 41:20; 68:9;
88:17; 123:21; 131:6;
133:5; 142:11, 19
roadmaster 137:22
roads 10:14; 39:6; 52:8;
72:22; 73:4, 11; 86:20;
142:16; 150:3
Robert 5:6; 75:3, 6
Rochester 39:19; 89:20
rocks 125:14
rogues 145:19
role 103:2
roll 57:15
Ron 135:13, 13, 17;
148:4, 6, 8, 9, 10
Ronald 94:9
room 44:22; 153:17
rose 136:21, 22
route 18:12; 42:7; 44:13;
45:15; 46:19; 50:12; 56:5,
10; 70:8; 106:2; 108:14;
111:18, 20; 112:17;
117:15; 129:5; 132:7, 9;
133:3, 7; 148:18
routes 44:1; 46:7
routine 97:10
rules 5:15
rumbling 141:18
run 35:3; 132:12; 150:18
run-around 117:13
running 43:12; 52:13

runoff 42:14; 60:9
runs 33:4; 59:2; 73:7
rural 75:18; 126:15

S

S-l-a-g-l-e 139:19
sack 125:14
sacrifice 71:14; 148:1
sacrificed 149:5
safe 142:15; 143:2, 3;
161:17
safety 30:11, 13, 15;
39:1, 11; 67:17; 87:8;
115:9; 121:10; 142:9
sale 57:21; 91:20
sales 134:4, 6, 20, 22
Salt 99:3
same 6:5; 8:11; 12:3;
16:3; 29:18; 34:11; 44:12;
49:19; 50:15; 60:18;
64:12; 74:19; 83:10;
87:10; 101:22; 106:20;
111:5, 21; 129:5; 141:6;
153:2
Santa 16:18; 61:2;
128:10; 135:19, 22
save 93:2
saw 99:3, 4; 111:6
saying 27:8; 39:2; 94:21;
130:18
scaling 70:20
scare 30:3, 7; 118:4
scattered 144:20
scenario 159:22
scenes 65:3
scenic 10:14; 39:6; 52:8;
schedule 74:19
schedules 146:13
school 41:12; 111:3
schools 37:5; 55:18
scientific 9:5; 91:5;
144:22
scope 17:7; 53:11; 60:20
scoping 11:8; 27:13;
111:7; 122:12; 131:20;
132:19; 160:14
searches 71:3
season 61:9
seasonal 116:8
seasons 13:5
second 8:1; 74:20; 86:14;
92:19; 107:13; 129:8
Secondly 101:10
Section 4:15; 60:3, 4, 5;
63:13; 67:1; 79:2; 91:6;
114:13; 122:1; 138:13;
152:11
sections 84:22; 113:18
sector 144:16, 17
secure 77:20
sediments 62:3
seed 53:13

seeds 52:5
seem 31:5; 85:2; 145:11
seems 27:19; 28:4; 48:6;
49:2; 121:7; 131:4; 133:10
sees 17:22
selected 160:3
selection 114:14; 118:18
sell 71:8; 149:10
selling 138:5
semi-retired 64:2
Senator 5:5
send 91:16; 103:15
sense 20:2; 49:18; 56:5,
9; 153:7; 159:4
sensitive 5:22
sensitivity 74:3
sent 3:21; 44:12, 15; 45:9
separate 48:21
separated 39:4, 6, 11
separating 87:2
separation 142:12
September 60:15; 136:2
serious 107:20; 118:7
seriously 51:11
servants 80:4
serve 15:17, 20; 114:17;
122:14; 151:10
served 71:17; 151:11
service 8:12; 36:13;
53:14; 57:4; 65:10; 71:22;
91:10; 92:16; 93:16, 21;
106:10; 128:3; 136:16;
140:5, 7, 19; 146:17;
153:10; 155:7; 156:19, 21;
160:11, 20
serviced 48:19; 137:13
services 36:12; 37:3, 7;
48:17; 65:21; 128:15;
133:16
SESSION 101:1
set 6:15; 88:8; 104:20;
105:10; 106:17; 107:6;
136:19; 140:15
setting 17:7
settling 125:22
several 21:15; 47:13;
50:6; 52:1; 53:12; 86:5;
95:15; 113:18; 115:3
severe 42:20
shade 49:20
shall 63:14; 78:15, 18;
109:20; 114:13, 17;
117:19
shape 127:15
share 32:5, 10, 13;
106:20; 127:7
sheet 99:15; 103:12, 13
Shieffer 48:2; 78:2;
82:21; 87:4; 106:18;
153:19, 20
shift 144:15
shipped 7:5
shipping 13:5

shop 151:4
short 68:20; 80:12;
154:10, 11
short-sighted 92:5
shorter 18:12
shortfall 7:13
shove 126:22
show 8:17, 19; 43:20;
44:10; 50:13; 62:22;
66:22; 67:4; 72:21; 73:14;
92:20; 99:22; 146:21;
147:2, 10; 149:15
showed 44:5; 105:3
showing 84:19
shown 61:13; 73:10;
85:18; 87:3; 146:1
side 14:15; 34:1, 10; 39:3,
9; 111:8, 9; 125:14; 138:3,
12
sides 95:15; 116:10;
138:2
sightings 73:22
sign 80:17, 20
signed 5:21; 119:5
significant 125:3, 4;
133:14; 136:22; 144:13;
152:18, 20; 156:7
significantly 156:5
silence 141:12
silent 141:20
silly 39:20
silt 43:11
similar 155:10; 156:2
similarly 14:2; 86:17
Simmons 107:13, 14, 15;
125:6, 7, 11; 128:12
simple 115:17
simply 70:2; 73:9; 98:18;
120:9; 132:10; 135:5
sincere 82:10
single 107:1, 3; 123:1
site 99:16
sites 16:11; 105:16
sitting 79:21; 95:11;
112:12
situation 35:7; 133:7
situations 132:20
six 107:11
size 69:22; 135:1
sizes 55:18
skip 45:11
Slagle 139:14, 15, 20, 22
slight 115:6
slim 117:14
small 36:22; 56:1, 19, 22;
124:8; 136:2
smelly 126:1
smog 99:3, 4
smoke 43:11
sneaky 83:2
so-called 57:7
social 147:19
society 77:8

soil 61:4, 9
solar 128:7
sold 94:1
sole 132:20
solely 160:19
solemnly 79:11
solution 80:1
solutions 76:8
solve 43:3; 61:16
solved 49:4
somebody 150:18
somebody's 40:12
somehow 134:2
someone 57:14; 116:5;
138:21, 22; 149:10
sometimes 117:9;
132:15
somewhat 136:7
son 23:9
son's 57:11
soon 54:10; 128:5;
152:19; 153:9
soot 108:4; 126:5
sorry 28:20; 45:21; 68:2,
7; 80:11; 119:10
sort 52:4
sought 66:9, 11, 12
sound 3:19; 28:14; 39:10;
98:20; 111:20; 117:16
Sounds 47:10; 117:14
source 8:2; 9:21; 21:6;
54:15; 117:11; 156:8
sources 9:6; 83:6, 8, 11
South 4:18; 10:13; 21:13,
21, 22; 24:12; 30:8; 41:19;
43:22; 45:15; 46:1, 19;
53:7; 56:17; 57:5; 58:21;
59:1, 3, 4, 11; 60:11;
61:15; 63:4, 9, 11; 67:19;
87:1; 88:18, 21; 89:21;
94:8; 97:9; 111:9; 119:21;
124:18; 126:19; 127:4;
143:17; 150:22; 153:2;
161:10
southeast 15:2
southern 73:6; 128:14
sovereign 77:15; 79:6
space 56:2; 89:3
spaces 91:19; 127:11;
141:3
speak 5:21; 12:14; 35:16;
45:21; 59:21; 80:17; 82:8;
106:19; 119:5, 6; 129:9;
130:1, 5; 139:16; 143:8;
153:21; 155:6
speaker 6:20; 24:11;
35:12; 37:22; 52:20; 82:6;
88:7; 94:14; 101:17;
102:2, 21; 104:8, 10, 11,
12, 14, 15, 16; 107:12, 13;
109:16, 17, 19, 21, 22;
114:3, 4; 118:1; 119:3, 9,
12, 15, 18, 19; 125:6, 9;
128:11; 129:6, 12; 138:18;
139:14, 21; 143:10;

147:11; 148:5; 152:3;
 155:3; 156:11; 159:9, 13;
 160:8, 15; 161:1
speakers 5:10, 17; 12:1;
 80:22; 143:10; 148:5, 9;
 156:12
speaking 36:1; 38:11
speaks 156:9
special 50:8; 54:20; 55:2
species 10:9, 11, 19, 19;
 157:22
specific 20:12; 33:8;
 120:6; 123:12
specifically 4:7; 12:12;
 20:19; 131:19
specifies 9:4, 15; 11:12
speculation 147:5
speculative 121:9, 13
spell 130:6; 139:17;
 148:10
spelling 130:18
spend 25:17; 97:14
spent 35:19, 20; 122:6;
 137:14
spill 124:15
spilled 131:14
split 113:18; 142:16
spoken 130:9, 13; 148:7
spots 112:16
spread 43:3; 108:3
Spring 51:7
stabilize 36:17; 37:3
stable 36:14
stacked 49:1
stage 129:19; 157:13
stand 21:11; 35:22;
 145:13
standard 11:14; 17:10
standing 115:17
start 25:12; 106:21;
 107:5; 119:1; 120:1;
 135:20
started 6:14; 101:3;
 104:21; 151:3
starting 19:22
starts 60:7
state 5:1; 13:17; 14:14;
 42:13; 43:2; 59:11; 60:8;
 68:9; 70:18; 77:16; 78:18;
 79:6, 8, 14; 86:7; 95:19;
 115:10, 21; 124:18; 134:7;
 142:7; 152:7, 16, 19
state's 69:22
state-owned 152:18
state-specific 70:5
stated 17:8, 18; 45:6;
 48:8; 86:12; 92:15; 149:22
Statement 4:10; 7:6; 9:7;
 12:20, 21; 23:3; 26:3;
 45:13; 49:22; 51:15;
 63:17; 68:13; 85:4; 88:15;
 94:18; 95:8; 103:4, 19;
 114:11, 17; 117:7, 13;
 118:22; 120:18; 122:17;

147:18
statements 94:22; 115:3
states 7:4, 16; 11:14;
 14:1; 20:21; 21:20, 20;
 22:21; 23:21; 77:12, 14;
 79:13; 80:7; 90:7; 116:3;
 145:16; 146:15
stating 20:22
stay 41:6; 57:12
STB 3:1, 6; 30:21; 32:1;
 53:2; 67:15; 71:1; 81:9;
 86:2; 87:4; 90:6, 12; 92:19;
 93:3
Stearns 94:14, 15; 98:14
step 150:15
sterilize 10:13
STEVE 2:3; 4:8; 104:9;
 137:17
stewards 92:16
stick 83:5
still 11:8; 27:18; 28:8;
 93:8; 158:17
stipulations 94:4
Stodart 19:3, 4, 5; 23:9,
 10
stop 89:19
stopped 132:15, 16
storm 88:11; 129:10
storms 13:6; 125:16
straight 40:14; 123:17;
 155:21
stream 43:7; 73:17;
 146:7, 10
streams 16:2; 73:3
street 59:7; 97:12
strengthen 36:16
strengthened 36:14
stretch 125:2
strewn 16:21
strictly 94:20
struck 107:5; 114:9;
 120:17
structure 133:2, 6
structures 115:22
struggling 56:20
studied 63:12; 67:11
studies 16:8; 62:21;
 66:21; 67:4, 14, 14; 112:6,
 7, 19; 123:13; 147:7, 10
study 17:5; 18:2; 55:9;
 63:19, 21; 64:3, 8; 85:3;
 113:22; 126:4; 147:1
studying 106:2
stuff 153:11
stupid 22:13
styles 136:10
subject 29:18; 72:6
submission 49:11
submit 6:11; 12:2; 23:6;
 45:17; 69:1; 99:13, 15;
 103:21; 161:15
submitted 3:6, 18, 20;
 86:10; 131:21

submitting 6:7; 103:10
substantial 21:5; 140:14
substantiated 118:10
success 77:18, 19; 86:4,
 18; 96:20
successful 78:3
suddenly 27:5
suffer 62:22; 129:5
sufficiently 90:5
suggest 123:15
suggested 122:10
suggestion 90:10;
 131:21; 132:18
suggestions 54:21
suggests 89:18; 90:9
suitable 116:18; 146:20
sulphur 56:6
summarily 123:7
summarize 6:17
summary 21:18; 29:9,
 10, 10, 19; 31:21; 83:15;
 85:15
summer 136:8; 142:3
sun 128:7
superseded 157:4;
 158:16
suppliers 135:4
supply 113:19
support 38:6, 6; 47:6;
 56:11; 79:12; 80:6; 95:1, 4,
 5
supports 20:21; 36:19;
 37:14; 38:4; 75:15
suppose 31:18
supposed 26:19; 31:1;
 48:11; 65:16; 105:8;
 116:13; 143:1; 145:1;
 147:16; 154:17
supposedly 31:13;
 108:21
supreme 77:2
sure 22:11; 33:7, 9, 13;
 34:19; 38:5; 81:12, 15, 18;
 82:2, 11; 83:10; 94:6;
 111:10; 113:16; 129:22;
 130:8; 143:13; 149:17;
 154:17
Surface 22:12; 28:7;
 30:17; 47:18; 65:22;
 124:16, 17; 126:3; 131:11;
 142:22; 154:16; 160:18
surfacing 137:12
surrounding 155:22
survey 36:20; 43:14, 21;
 55:10
surveyed 45:11
surveyors 43:17; 44:9
survived 56:16
suspect 40:8
sustaining 36:22
swear 79:11
swift 10:20
switch 104:13
switches 151:9

system 15:22; 30:5, 5, 7;
 66:4, 16; 72:13; 122:18;
 133:18; 149:1; 151:20

T

T&E 157:22
table 20:4; 21:8, 12, 18;
 32:17, 20; 33:8; 106:5;
 115:4; 134:13, 18
tables 8:20; 32:16; 116:3
tactics 30:3; 118:5
takeover 149:1
talk 3:13; 18:11; 113:13;
 114:9; 115:15; 118:5, 14;
 121:9; 131:14; 147:7;
 154:9
talked 27:7; 31:19; 153:8
talking 7:20, 22; 22:8;
 45:19; 117:8; 122:6;
 133:12
talks 121:5; 131:18
task 97:17
tax 8:20; 24:3; 32:21;
 41:9; 59:13; 66:19; 134:6,
 8, 13, 16, 22
taxable 36:9
taxes 8:21; 24:3; 36:10,
 11; 37:3; 59:10, 12; 134:1,
 2, 4, 4, 10, 21; 147:13;
 150:10
taxpayer's 32:12
taxpayers 151:17
team 89:16
tear 149:18; 151:19, 20
tearing 109:11
tech 91:13
technical 91:9
temporary 60:16
ten 43:7; 59:9
tendencies 97:20
terms 72:6, 9; 122:4;
 134:7
terrain 97:19
terrible 30:13
testing 154:17
Texas 16:18
Thanks 24:10; 33:7;
 94:16; 135:12; 159:8
Thanksgiving 13:9
that'd 130:19
Therefore 13:11; 15:17;
 74:9; 109:3; 118:16; 156:4
thing's 149:16
thinking 35:5
third 8:5; 48:16; 71:21;
 86:16; 92:10; 101:4, 11
Thornhill 45:4, 5
though 42:13; 64:1; 98:4;
 108:21; 113:8; 130:14
thought 99:5
thousand 59:10
thousands 16:22; 94:7

threat 45:13
threaten 154:2
threatened 10:19; 52:14;
 105:16
threatening 45:10;
 126:13
three 8:16; 11:9; 12:21;
 13:6; 35:21; 47:16, 17;
 104:3; 110:15; 119:4;
 124:12; 148:21
throughout 13:1; 30:3, 9;
 72:6; 132:9
throw 118:22
thrown 23:4; 118:17
Thunder 50:20; 108:15,
 15; 110:21; 114:1; 157:9
thus 17:20
tied 148:20
tight 56:2
till 159:17
times 7:19; 8:4; 13:3;
 18:14; 34:3; 38:22; 52:1;
 97:16; 139:3
today 4:22; 5:4, 17; 7:1;
 16:13; 31:19; 68:8, 11;
 88:14; 94:17, 19; 95:13;
 99:15, 21; 129:9; 161:13
together 2:21; 37:17
told 43:16; 44:2, 13, 21;
 45:3, 5; 48:2; 50:20; 105:7;
 111:19; 119:16; 138:10;
 145:3
tomorrow 161:8
tongue 82:22
tonight 82:8; 103:1, 11,
 14; 110:1; 161:6
tonight's 101:7
tons 7:4
topic 4:7
total 21:14; 22:1; 120:19;
 145:8
totally 101:5
tourism 57:3, 4
tourists 70:15
touted 27:19; 85:14
toward 120:2
town 33:20; 34:7, 9;
 79:16; 111:14, 17; 136:2,
 19
towns 41:8; 55:19; 56:19,
 22; 126:17
townspeople 147:21
toxic 43:11
track 18:8, 10; 34:1, 10;
 46:11; 49:9; 52:13;
 116:10; 122:21; 131:6, 8;
 132:13; 133:5; 137:16, 22;
 138:9
tracks 47:2; 52:6; 113:19;
 116:12; 125:19; 137:15;
 140:16
tract 50:5
tracts 50:2, 6
Tracy 113:14

traffic 15:18; 106:8
train 37:10; 57:3, 8; 59:5;
61:2; 84:11; 90:18; 122:9;
123:1, 5, 6; 128:20, 22;
132:5, 14, 21; 133:7;
141:17; 142:12
train's 112:11
trains 15:8, 12, 14; 39:21;
49:1; 88:21; 89:12; 90:17;
92:5; 108:1, 6, 8; 112:17;
122:22; 125:19, 22; 126:2;
128:18; 132:3; 137:16;
141:16
transcribed 3:18
transcript 130:17;
143:14
transload 17:12
transport 155:15
transportation 7:6, 13;
16:10; 22:12; 28:7; 30:6,
18; 47:18, 19; 66:1; 78:9;
86:7; 91:8; 92:4; 101:18;
126:3; 142:22; 154:16;
160:18
transporter 49:6
travel 146:2
traveling 15:8
travels 128:22
treasure 91:20; 98:19
treated 6:4; 12:3
trends 53:10
trespassers 139:11
tribal 102:5
tributaries 16:3; 90:4
tributary 42:8
tried 45:4; 46:17; 158:11;
159:6
trouble 23:14, 19
trucking 24:4
trucks 127:10
true 41:2; 143:21
try 20:6, 10, 12; 40:2;
63:6; 104:16; 115:1; 118:5
trying 23:17; 25:22; 28:3;
66:8; 111:18; 125:18;
137:7
Tubbs 58:19, 20, 20;
60:12; 98:1
tube 145:18
turn 3:10; 36:10
turned 16:11
twice 140:11
two 3:15; 8:15; 11:7; 13:8;
22:2; 42:17; 43:5, 22; 48:4;
53:18; 62:6; 71:17; 84:22;
87:13; 112:8; 116:10;
134:8; 140:13; 148:18, 19;
151:3; 157:2
type 50:15; 54:8; 132:2
typed 127:22
types 14:5; 56:8; 135:1
typo 155:20

U

U.P 74:10
U.S 5:5, 7; 71:18; 78:15;
79:2; 87:20; 91:10; 92:16;
103:2
U.S.C 8:10
ultimately 124:21
unable 109:22; 113:17
unacceptable 64:11
unaccessible 66:15
unavailable 67:9; 87:21
unbiased 28:14; 114:12;
116:14; 119:1; 121:22
uncertainty 17:11
under 35:22; 70:9;
108:22; 111:7; 117:10;
123:2, 4; 124:14, 20;
132:22; 134:16; 149:21
undercutting 137:12
underestimated 11:6
underground 64:22
underpass 55:1; 149:21
understands 81:12
understated 147:20
understood 64:9
undisturbed 108:9;
109:12
unemployed 93:13
unexpectedly 105:9
unfair 71:4; 105:20
unfamiliar 84:6
unhealthy 126:10
uninterrupted 141:7
Union 86:13; 128:12;
136:14; 149:4
unique 54:3; 102:2
United 21:19; 77:11, 14;
79:13; 80:7
units 124:12
University 43:22
unless 9:8; 11:15; 149:3;
150:5, 14
unlikely 9:22; 115:8;
124:2
unnecessarily 71:22
unnecessary 46:21;
69:2; 70:22; 71:21;
107:18; 109:11
unreal 25:16
unsatisfactory 44:3
unsubstantiated 91:3
unsupported 10:4
untrue 26:11
untrustworthy 93:9
unwilling 65:17
up 2:5; 3:11; 5:21; 6:17;
16:11; 17:20; 25:15;
30:10; 31:2; 33:18; 42:8;
49:1; 58:22; 80:18, 21;
88:8; 99:18, 22; 104:20;
105:3, 10; 106:17; 108:20;

109:11; 111:19, 22;
117:22; 119:5, 6; 125:9;
129:16; 130:5, 11, 16;
135:12; 137:21; 138:9;
140:8; 141:15; 142:18;
145:13; 148:4, 15; 151:7
up-to-date 66:16
updated 13:18
updating 13:18
upgrade 30:5
upgraded 15:22
upgrades 71:18
upon 77:9; 88:15
ups 148:22
upstart 91:16
Upton 63:3
urge 161:15
use 29:15; 66:1; 85:14,
17; 89:1, 5; 93:4; 104:11;
106:4; 118:21; 125:18;
128:8; 134:21; 152:16;
154:12; 155:15, 19, 20, 21;
156:1
used 9:17; 11:13, 15;
13:17, 20, 22; 15:15; 20:2;
22:6; 30:3; 42:11; 50:22;
104:9; 115:5; 124:11;
137:9
useless 87:20
uses 155:12
using 116:14; 118:4, 5
usually 69:3
utilities 17:21
utility 17:1; 59:12
utilization 21:4; 58:9, 14
utilize 95:21

V

V.L 57:17
vacate 18:15
vacation 89:6; 105:10
vainly 71:3
Valley 61:8; 88:21
valuable 40:1; 62:4;
96:10, 11; 113:9
valuation 36:9; 59:10
value 96:17; 97:13;
106:12; 144:22; 148:22;
154:7
valued 152:8
values 116:17; 136:7;
146:19
varies 155:19
various 43:2; 72:12;
83:18; 102:5, 8; 136:10
vary 155:15
vehicle 132:17; 133:4
vehicles 131:19; 132:4,
7; 139:5; 142:13
venture 109:7
verifiable 91:5
Vern 28:18, 21; 29:3;

127:9, 17
version 87:19
versions 70:1, 2
versus 84:21
vested 121:2
VI 20:20; 49:9; 86:1
viable 22:22; 30:6
videotaping 3:17
view 10:3; 84:7; 86:2;
107:11; 144:11
viewpoint 56:4
views 84:9
VII 79:2
VIII-B 144:1
visit 10:2; 104:19
visited 84:5
visitor 10:1; 84:4
visitors 90:16
visual 123:8; 144:7
voices 98:14
Volume 7:7; 8:19; 9:16;
16:7; 20:20; 21:8, 12, 16;
22:4, 20; 25:19; 31:8;
32:17, 20; 48:7; 49:9; 50:1,
13; 57:11; 62:17; 84:4;
85:15; 86:1, 6, 6; 91:11;
144:1
volumes 29:15; 83:17, 18
voted 58:5

W

wage 139:4
waiting 49:6
wall 65:1; 87:1; 88:18
walls 116:3
wants 46:10; 117:22;
126:16
warning 112:13
Washington 132:8;
133:13
waste 43:12; 49:14;
57:15
watch 84:20
watching 49:1
water 33:4; 35:22; 42:9,
11; 44:4; 51:8; 54:15; 55:2;
60:14, 14, 21; 62:3; 90:1,
8; 96:6; 106:3, 5; 108:13,
16; 113:19, 22; 124:17;
125:16; 127:16, 19;
131:11; 146:9
watershed 42:11; 44:4,
8; 96:6, 16; 125:4
watersheds 108:4
way 16:22; 19:9; 21:16;
23:14; 26:9; 27:3; 34:11;
40:18; 73:15; 89:8; 99:17;
105:21; 121:12; 129:19;
138:16; 141:9; 143:4;
147:17; 148:1; 150:1;
158:1
Wayguns 62:9
ways 2:5; 3:15; 13:14;

32:5; 84:2
weather 99:21; 110:1;
146:12, 14; 161:13
Web 99:16
weed 42:20; 61:19; 62:3
weeds 35:8; 43:4; 61:13
week 105:2; 161:9, 9
weeks 12:22; 41:22
Wehri 82:6, 7; 94:20;
114:4, 5, 5; 118:2; 152:5
weighs 63:22; 68:14
weight 137:16; 147:17
welcome 3:15; 5:4
wells 9:17; 14:11; 106:3
Wendy 156:14, 15;
159:11, 14; 160:11, 17
weren't 62:7
west 14:15; 18:10; 46:1;
60:8; 112:18
western 21:22; 51:19;
56:17; 73:11; 128:13
Weston 36:9; 42:20;
73:6, 8, 11; 75:7, 14;
87:12; 97:7; 127:5, 13, 19;
128:14; 150:7, 9; 151:18
wet 146:12, 12
wetlands 11:7; 16:1;
21:13, 14, 18, 21; 73:2
WG 11:5
what's 8:1; 9:20; 121:14;
131:22
Wheaton 52:1, 2
Whenever 115:14; 128:9
Where's 84:19
whereby 3:6
Whereupon 161:19
wherever 74:9; 152:10
who'd 143:8
whole 5:22; 35:3, 7; 38:6;
42:2; 51:1; 75:21; 107:2, 4
whomever's 59:4
whose 75:11
wide 141:3
width 44:6
wife 29:4; 34:3; 105:9
wilderness 140:20;
141:5, 7; 145:20, 22
wildlife 47:4; 65:2; 67:7;
107:21; 126:6; 127:13, 20;
140:9, 12, 17
willing 76:5, 7; 149:21
Wilson 41:17, 18, 19;
44:21
winter 136:8
wipe 145:22
wipes 146:3
wish 55:11
within 4:13; 9:10; 23:12;
32:12; 77:20; 102:9;
145:6; 152:22; 156:1
without 31:18; 65:9; 67:5;
78:17, 19; 90:19; 136:11;
141:4, 8; 144:19; 146:9;

11; 147:14; 159:7
woman 115:14
wonder 20:1
wonderfully 129:14
word 85:22
words 20:5; 80:12; 84:8;
133:3
work 22:16; 37:17; 51:2;
79:22; 80:8; 97:6; 106:7;
149:6
worked 127:9
workers 133:10, 12, 15,
19
working 43:1; 50:17;
70:13; 89:2; 92:1, 7; 129:3;
135:18; 148:14; 157:1
world 24:15; 59:2, 6;
95:20, 22
worried 35:7; 57:10
worry 40:6; 83:6, 7;
104:12; 142:17
worst 115:9
wrecks 90:18
Wright 110:3, 5
write 145:13
writing 3:20; 6:11; 12:2;
33:9; 45:17; 103:16, 21
written 3:19; 6:4; 18:5;
27:11; 28:6; 74:21; 85:11;
99:13, 15; 103:12, 22;
114:22; 120:19, 21;
122:17; 157:15, 20;
161:15
wrong 95:13; 109:4
wrote 28:8, 11; 110:6
Wyoming 4:18; 10:12;
12:16; 14:9, 14; 24:12;
35:15; 39:16; 41:2, 4; 46:1;
60:8; 62:14; 63:3, 4; 70:9,
15; 71:12; 77:16; 79:6;
86:12; 88:22; 89:22;
90:13, 17; 91:18; 92:8;
93:3, 17; 95:20; 96:1;
110:4; 112:22; 113:1;
119:22; 155:12
Wyoming's 78:20

X

XLIX 7:7

Y

yard 112:14, 15; 113:1, 3
year 13:4; 21:3, 5; 42:15;
68:21; 96:14; 125:13;
134:18; 136:6; 137:13
years 7:17, 20, 22; 32:19;
35:4, 6, 21; 42:6, 18; 43:5;
46:2; 53:11; 58:3; 59:9;
60:19; 71:2; 85:1; 93:7, 7;
96:16; 127:15; 134:8;
147:4; 157:16
yield 9:19

woman - yield (16)

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