



STATE OF SOUTH DAKOTA
WILLIAM J. JANKLOW, GOVERNOR

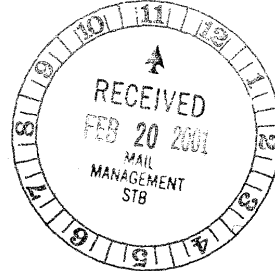
February 15, 2001

Office of the Secretary
Case Control Unit
Finance Document No. 33407
Surface Transportation Board
1925 K Street NW
Washington, DC 20423-0001

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Office of the Secretary

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Attention: Victoria J. Rutson
Environmental Project Director
Environmental Filing

Dear Secretary Vernon Williams:

The purpose of this document is to provide one set of coordinated comments from the various state government agencies of the State of South Dakota on the Draft Environmental Impact Study (DEIS) prepared by the Surface Transportation Board's (STB) Section of Environmental Analysis. The state strongly urges the authors to afford these comments full weight in the preparation of the final EIS.

The State of South Dakota commends the Surface Transportation Board's Section of Environmental Analysis (SEA) for providing the 2000 page DEIS. The state appreciates the fact this was an enormous undertaking of a project that is massive in scope and affects so many natural resources and people of different interests. The state further commends the STB for allowing a ninety (90) day public comment period, and the additional sixty (60) day extension, because of the size and complexity of the document, rather than the normal forty-five (45) day period. Additionally, twelve public hearings at seven geographical locations provided considerable opportunity for agencies, organizations, and citizens to make many of their views known.

BYPASS ISSUES

- The issue of a bypass around Pierre is of interest to South Dakota state government. State government has offices and facilities on both sides of the tracks, as well as some facilities and offices in close proximity to the tracks. In addition to the expected issues of noise, safety, and vibration at the facilities close to the tracks, the restriction of movement across the tracks from office to office will hinder the efficiency of state government. The final EIS should specifically evaluate these impacts.

EXECUTIVE OFFICE

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- The proposed bypass around Pierre, South Dakota, was dismissed by the STB with what appears to be a very superficial review. The environmental impacts and issues surrounding a new bridge over the Missouri River are not as significant as assumed by the STB and presented in the DEIS. Two new highway bridge structures over the Missouri River have been permitted in recent years, one near Springfield, South Dakota, and the other near Vermillion, South Dakota, with no major environmental obstacles. Additionally, it is at least curious why permits to build a bridge 37' north of the existing bridge would be any easier to obtain than permits for a bridge five miles down stream. STB must take a more detailed look at a bypass around Pierre, and then enter its findings, rather than dismissing the proposal with little or no review.
- With regard to a bypass around Brookings, South Dakota, recent developments in and around that community have resulted in the development of a further alternative bypass for the community, which has considerable public and political support. Since the bypass proposed in the summer of 1999 showed considerable environmental merit and resulted in the preferred alternative for Brookings, it is necessary that the shorter bypass also be considered in the preparation of the final EIS. As part of the record, the STB should know that the State of South Dakota has offered the DM&E the use of the state's highway right-of-way for Highway 14 and 14 Bypass as an alternative route for the railroad.

The City of Brookings, the DM&E and a local organization known as RAILCO are continuing discussions regarding this shorter and more politically acceptable bypass. Although no agreement has been reached, it is hoped that a negotiated agreement can be reached. The terms of that agreement can then be incorporated into the STB's final order on this project, should it be approved. In the meantime, this alternate bypass must be examined by the STB and the results of that examination must be incorporated in the final EIS. A copy of the alternative bypass is attached to this filing as Attachment A.

- Also, as part of the record, the STB should be aware that should a bypass for Brookings, South Dakota, be incorporated into the STB final order, the State of South Dakota will fund the construction of a grade separation structure where the rail bypass route would cross Interstate 29.

SOCIO-ECONOMIC

- New and reconstructed railroad tracks and increased train traffic will clearly have an impact on property values for homes and businesses in close proximity to the railroad. However, the DEIS performs a very superficial review of this issue and does not do an adequate job of analyzing the impact on property values. The document purports to dismiss the issue of declining property values by suggesting those values will be offset by other increased property values and that the demand for housing will negate the negative impact on residential property values. The State of South Dakota disagrees with this analysis.

- While the DEIS conclusion may have some merit with regard to property tax revenues for cities and counties, it has no merit with regard to actual property values. The negative impact on residential property values is real, particularly to homes and property immediately adjacent to the railroad tracks. The negative impact on property values is certainly less as the distance to the tracks becomes greater. The DEIS should take a considerably more in-depth look at property values, not only in Brookings, but throughout the entire route of the DM&E line, in order to make this section of the DEIS more credible. An analysis should be set out in a table comparing the distance from the railroad tracks with the projected reduction in property values. In that manner, citizens can make a more informed analysis of the impacts on property values.
- The DEIS also does not adequately address the probable loss of business and property values in the commercial and hospitality industry in Pierre. Similar to the preceding comment, the state urges the STB to make a more detailed examination of this area before issuing the final EIS. In fact, the impact on property values adjacent to and in the immediate vicinity of the railroad should be examined and reported in the final EIS.

TRANSPORTATION/SAFETY

- The State of South Dakota insists the STB require DM&E to provide for grade separation structures where the newly constructed rail will cross US 18 East of Edgemont, South Dakota, and where it will cross US 18/385 approximately 4 1/2 miles north of Oelrichs, South Dakota. Congress has designated both highways as part of the National Highway System, and the Federal Highway Administration (FHWA) guidelines call for grade separations on all federal aid highways. These grade separations must be the financial responsibility of DM&E.
- The average daily traffic count north of Oelrichs on US 18/385 is just over 2600 vehicles, slightly more than reported in the DEIS.
- US 18/385 is in the process of being upgraded to a four-lane highway commonly referred to as the Heartland Express. The STB must require DM&E, as part of its mitigation, in the final EIS to design and build the overpass near Oelrichs in such a manner as to be compatible with a new four-lane highway. The DM&E should be ordered to coordinate its design and construction activity in a complimentary manner with the South Dakota Department of Transportation (DOT) to accommodate the construction of a four-lane highway overpass. This is clearly in the interest of the public in order to prevent the construction of a grade separation that would have to be replaced when a four-lane highway is constructed.
- The DEIS does not adequately address the issue of blocked crossings in Pierre. The amount of time a crossing is blocked is directly related to the length and speed of a train. It appears a higher estimate for train speed was used to calculate blocked crossing time in Pierre than may be expected. Train speeds through Pierre will be severely limited by the speed a train can negotiate the curve on the west side of the bridge over the Missouri River. Even if the existing bridge is rebuilt or another bridge constructed, train speeds will be much lower than estimated in the DEIS. It appears the STB used a train speed value provided by DM&E that represents a

new bridge alignment and a new bridge, and a speed much higher than DM&E officials have represented to public officials in public meetings.

- In Pierre, South Dakota, the Harrison Avenue Average Daily Traffic Count, also represented as crossing 189843E, as presented in Appendix G and H in the Draft EIS is incorrect. The value presented in the Draft EIS is 100; the actual value is 3,798.
- The crossing at Sioux Avenue in Pierre, South Dakota, (Highway 14/34 through town) has the highest ADT of any railroad crossing on the proposed project. The state expects DM&E to provide the highest level of crossing protection possible at this crossing - at no expense to the state. The state must be part of all agreements with the DM&E to determine adequate crossing protection at every state highway/railroad crossing in the state. Therefore, the STB must insist the State of South Dakota approve DM&E's crossing protection plan for state highways in the final EIS. We believe this is necessary to protect the health and safety of South Dakota's citizens.
- The entrance road to Farm Island State Recreation Area off Highway 34 near Pierre, South Dakota, has a much higher seasonal ADT than is represented in the Draft EIS. This is a very popular recreation area with 190,000 visitors per year and traffic is very heavy during the summer. A blocked crossing on this road means vehicle and boat trailer traffic will be backed up Highway 34 creating a traffic and safety hazard. A turn lane will need to be added on Highway 34 to keep Farm Island traffic from blocking the highway and presenting a safety hazard. STB must address this issue in the final EIS and require the DM&E to finance the construction of a new turn lane in this area.
- If the project is approved, there will be increased truck and construction equipment traffic during the construction phase. The final EIS should reflect the state's position to impose strict enforcement of motor vehicle weight limitations imposed by South Dakota state law.
- Throughout Appendix G it appears the pre-construction and post-construction train counts are similar. This is important because these train counts are used to calculate time delays and accident rates. It appears the present rail traffic ceases to exist after the coal trains start, a development the State of South Dakota would be highly disappointed to learn. By disregarding pre-construction train counts, the post-construction average delay for all vehicles cannot be properly calculated. In addition, when determining the "predicted accidents per year" and the "estimated annual accident frequency," it again appears pre-construction train counts were not properly considered and only coal train traffic was used to formulate conclusions.
- The alignment for the new railroad construction near Wall, South Dakota, will interfere with the currently planned extension of the runway at the Wall airport. Plans have been developed for an Airport Layout Plan (ALP) and submitted to the Federal Aviation Agency (FAA) which will be in conflict with the planned railroad construction. This represents recent developments by

both the City of Wall, as well as an alignment change by the DM&E, which will be in conflict. These conflicts must be resolved as part of the final EIS.

LAND USE

- Land use issues related to private landowners are largely addressed through the DM&E's Landowner Compensation and Mitigation Agreements which are unilaterally binding upon the DM&E, until or if the landowner terminates or violates the agreement. Properly used and abided by, the agreement addresses:
 - Payment of appraised value for land with additional compensation contingent upon the time a landowner enters into an agreement;
 - Allowances for a landowner for input into the design of the railroad through his land;
 - Opportunity for landowners to mitigate livestock crossings, underpasses, water facilities, etc.;
 - The supply and maintenance of fencing along the new line;
 - A mechanism to resolve livestock, fire, and other casualty losses;
 - Control of Wyoming and South Dakota noxious weeds;
 - Provision of a landowner liaison.
- The final EIS should document the total expected loss of agriculture production, both in terms of acres of land and in terms of lost crops or hay.

WATER RESOURCES

- The final EIS should discuss the South Dakota Surface Water Quality Standards and note the requirement for DM&E to comply fully with those standards, both during and after construction. The repercussions for noncompliance should also be documented in the final EIS.
- The final EIS should require DM&E to obtain approval from the South Dakota Department of Environment and Natural Resources (DENR) prior to the application of any herbicides that may impact water bodies or wetlands.
- The final EIS should require DM&E to obtain permits from DENR for any storm water runoff control, both during and after construction.
- The final EIS should require DM&E to secure any mining permits or licenses from DENR for any mining for construction materials such as crushed rock or gravel which may be necessary during the construction phase.

- Page ES 91 of the Executive Summary states in part "...all federal, state and local permits required by the Corps of Engineers." DENR also needs to be contacted concerning the need for permits that may not be required by the Corps.
- In addition to the agencies mentioned on Page ES 91 of the Executive Summary, DENR should be consulted concerning best management practices.

BIOLOGICAL RESOURCES

- The DEIS addresses a myriad of fish, wildlife, and associated habitat issues. In most instances, the DEIS attempts to identify and approximate the acres of such items as woodland, wetlands, grasslands, streams, shrub land, nesting habitat, and so forth, and present a side-by-side comparison of the impacts for each alternative route. The preliminary Environmental Mitigation Measures section commits the applicant to many measures to avoid, minimize, or compensate for project construction, reconstruction, and operation impacts. The state supports these measures and is gratified to see that monitoring and enforcement measures are included.
- Following a review of the four alternatives by the state's fish and wildlife agency, it was determined that all have significant impacts on fish and wildlife resources. All four will require significant habitat replacement and other mitigative efforts. The South Dakota Department of Game, Fish and Parks therefore prefers Alternative C which includes Phiney Flat and the WG divide alternative. Alternative C, with the inclusion of the WG Divide Alternative, will avoid the wetlands, riparian areas, and wildlife diversity of picturesque Hay Canyon. Without the WG Divide alternative, the natural resources impacted in Hay Canyon will be extremely hard to mitigate, as that alternative has the most significant impacts to water resources, wetlands, and vegetation.

The WG Divide alternative ranks better than the others. The only resource category where the WG Divide alternative has greater impacts is in the loss of irrigated acres in the Angostura Irrigation District. In the WG Divide, 233 acres would be removed from irrigation, compared to the Hay Canyon alternative which removes 135 acres, and the Oral alternative which removes 30 acres.

Each of the build alternatives have some impact on the Angostura Irrigation District, and consequently, regardless of the final STB recommendation, it is the responsibility of the DM&E Railroad to honor the irrigation district's repayment contract and make the Bureau of Reclamation and the impacted landowners in the irrigation district financially whole, just as the railroad must be required to make landowners outside the district in the new construction portion of the project whole.

ENERGY AND AIR

- The draft EIS identified localized fugitive dust emissions from construction activity during rail-line upgrade and construction of new track as an environmental concern. However, no mitigative actions were identified in the draft EIS. Because some of the construction will take place in populated areas, the state recommends that mitigative actions be included in the final EIS. These can include fugitive dust suppression controls such as spraying water or applying a Magnesium Chloride (MgCl or Mag Water) treatment or a combination of both to control fugitive dust generated during construction activity. These controls should be required when construction activity takes place in populated areas or when complaints about construction dust are received.
- During the EIS scoping process, public concerns were raised about localized air quality impacts, especially in towns and cities, from idling locomotives. The DEIS identified the worst case scenario (Route D) in its analysis of near source impacts. The analysis indicated the increase in sulfur Dioxide, Particulate Matter, Nitrogen Oxide, and Carbon Monoxide concentrations in the ambient air would be insignificant with the exception of Rapid City. The state agrees with these findings.
- The Badlands National Park and Wind Cave National Park are both federally designated Class I High Visibility Areas. EPA recently passed Regional Haze rules to maintain and improve existing visibility in the federally designated Class I High Visibility Areas. Under these federal rules, states have three years to develop Regional Haze rules to protect visibility in the Class I areas. Therefore, the EIS should make DM&E aware that future regional haze rules may have an impact on allowable emissions from its locomotives.

GEOLOGY AND SOILS

- The final EIS must require DM&E to dispose of all solid waste generated by the project in properly permitted sites. This includes waste railroad ties, construction debris, and putrescible waste. Waste ties may not be stockpiled (temporary stockpiles tend to become permanent) and they cannot be burned. Plans to recycle or salvage such materials must be accomplished to ensure stockpiles of waste ties do not accumulate on DM&E or private property. Additionally, waste fluids (oil, hydraulic fluid, antifreeze, etc.) must be properly disposed or recycled and may not be disposed on-site or dumped on the ground.
- The EIS needs to evaluate and take into consideration the presence of oil production and storage facilities when considering routes through Fall River County, South Dakota.
- The EIS needs to evaluate the presence of old uranium mines that were abandoned during the 1950s and 1960s and never reclaimed when considering routes through Fall River County, South Dakota.

RECREATION

- The DEIS does not adequately address the impacts to Farm Island State Recreation Area. This recreation area is the third most popular recreation area in South Dakota with 190,000 annual visits. The track is within 300 yards of an overnight campground and approximately 660 yards from a larger overnight campground, both located within the park. Noise and rail traffic will be a major disturbance during the recreation season.

INFORMATION SOURCES

Department of Environment and Natural Resources

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Department of Game, Fish and Parks

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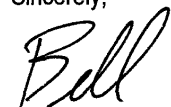
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Department of Education and Cultural Affairs

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Thank you for the opportunity to offer these comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill", written in dark ink.

William J. Janklow

WJJ:hdn

Enclosure