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Thomas M. Rieff
June M. Rieff
1717 3rd Avenue
Mankato, MN 56001



February 24, 2001

Victoria J. Rutson, Project Leader
Section Of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

STB Finance Docket No. 33407
Dakota, Minnesota & Eastern Railroad Corporation Construction Into The Powder River Basin

Dear Victoria,

The following statements are Thomas M. Rieff's and June M. Rieff's "Comments To The Draft Environmental Impact Statement", as it affects us as citizens of the Mankato/North Mankato area and as the sole principals in TJR, LLC and Crystal Lawn, Inc. dba GreenCare.

TJR, LLC owns property at 1717 3rd Avenue, 1721 3rd Avenue, and 1810 3rd Avenue. These properties adjoin the intersection of 3rd Avenue and the DME/UP rail corridor. These properties are located on the southeast corner of this intersection and the northwest corner of this intersection. TJR, LLC leases this property to Crystal Lawn, Inc. dba GreenCare and TruGreen ChemLawn, who both operate lawn maintenance operations at these sites. The 2 operations of Crystal Lawn, Inc. dba GreenCare and TruGreen ChemLawn employ in excess of 40 people and operate over 25 vehicles out of these sites. Both Crystal Lawn, Inc. dba GreenCare and TruGreen ChemLawn, maintain offices for accounting and customer service functions.

Thomas M. Rieff and June M. Rieff can only speak for Crystal Lawn, Inc. dba GreenCare and not TruGreen ChemLawn on the particulars of each operation and their respective impacts in the Mankato/North Mankato, MN area. The information on Crystal Lawn, Inc. dba GreenCare is as follows: Crystal Lawn, Inc. dba GreenCare operates a full service lawn maintenance, landscape installation/maintenance and irrigation installation/service business. GreenCare serves the Mankato/North Mankato area. At this site GreenCare has over 20 employees, approximately 12 vehicles, 6 equipment trailers, related lawn maintenance equipment and irrigation/landscape construction equipment to serve our customers.

Thomas M. Rieff and June M. Rieff agree with the conclusions of the Draft Environmental Impact Statement, herein referred to as the DEIS, that Action Alternative

M-3, or in-city route, is not the environmentally preferred action alternative for the DM&E project. We further state that the "Comments on the Draft Environmental Impact Statement and Recommended Mitigation", filed by the City of Mankato, Minnesota and dated February 2, 2001 and the "DM&E Railway Corridor Mitigation Plan for Mankato, MN" (which is an attachment to the comments filing by the City of Mankato, MN) are consistent with our thoughts on the overall impact of the DM&E project on the City of Mankato. We feel that the mitigation plan developed by the City of Mankato, is a "bare minimum" of the amount of mitigation required to satisfy the effects of the proposed DM&E project. The true effects of this project will require a mitigation plan far greater in scope and cost than what the City of Mankato has proposed. The time constraints on the comment period, the lack of information in the DEIS and the inadequate mitigation plans in the DEIS require that the Action Alternative M-3 be reexamined (if so ordered by the STB).

Given the following conclusions contained in the DEIS:

- "...there is a lack of information regarding impacts..."
- "...the impacts associated with the other action alternatives or the no-build option are less and more easily mitigated..."
- "...the lack of specific mitigation plans in the DEIS..."
- "...the lack of community detail..."
- "...there is no recommendation for grade separation or grade crossing closures (within the City of Mankato..."
- "...there are no recommendations regarding noise or vibration attenuation for population centers that are adversely impacted by the project..."
- "...it does not address who is responsible for specific funding of mitigation efforts once they are identified..."
- "...there is an absence of negotiations or effective agreements between the City of Mankato and the DM&E..."

Thomas M. Rieff and June M. Rieff formally request that the Action Alternative M-3 route be removed from consideration until all impacts are identified and mitigation developed.

As the City of Mankato has identified major impacts in their filing and established a minimum mitigation plan, our concerns are directed to the effect of the project on the 3rd Avenue and DM&E/UP intersection.

The City of Mankato, in their filing dated February 2, 2001, is requesting 17 General Requirements for Mitigation within the city. (See Attachment) These include, but are not limited to, the following items within the 3rd Avenue and DM&E/UP intersection area:

- "....construction costs, maintenance costs of all improvements and mitigation measures shall be the responsibility of the DM&E, assigns, licensees, and successors..."
- "...DM&E shall be required to purchase, at fair market value, all damaged and reduced properties adjacent to the proposed rail corridor and/or any properties that are damaged or reduced due to the construction of the mitigation measures. Fair market value shall be established by independent appraisals. The DM&E shall also be required for any required relocation costs

as required by law. The determination of damaged or reduced shall be based on the following:

- a. Damaging effects of noise and vibration.
- b. Partial or total acquisition for rail or mitigation improvements.
- c. Degraded by the construction or improvement of the rail corridor.
- d. Degraded by the construction of mitigation measures.
- e. Degraded by the construction of transportation improvements, including, but not limited to, grade separations, street rerouting, street closure, access modifications, and access closure.
- f. Other negative impacts as determined by the City of Mankato and/or the STB, or as may become apparent during the construction or design of the project and mitigation measures...

“...DM&E shall be responsible for retrofitting homes and businesses that are exposed to unacceptable noise and/or vibration levels...”

“...DM&E shall be responsible for installing vibration breaks and other vibration attenuation devices in order to reduce the level of vibration to acceptable levels...”

“...that a grade separation be constructed at the 3rd Avenue and DM&E/UP intersection, which would take vehicle traffic over the existing rail line at a proposed cost of \$3,400,000.00...”

“...1st Avenue railroad crossing, 2 blocks east of 3rd Avenue be closed...”

“...5th Avenue railroad crossing, 2 blocks west of 3rd Avenue be closed...”

“...acquire 8 commercial properties with relocation within the city at a cost of \$2,500,000.00...”

“...construct sound walls at a cost of \$2,000,000.00...”

“...retrofit businesses within 100 feet at a cost of \$1,000,000.00...”

“...retrofit homes and businesses within 101-200 feet at a cost of \$2,000,000.00...”

“...provide fencing and landscaping at a cost of \$2,500,000.00...”

“...additional right of way may be needed to accommodate another rail line within the rail corridor within the 3rd Avenue and DM&E/UP intersection area ...”

“...that all reconstruction activities and mitigation efforts be towards establishing a whistle free corridor status...”

“...vibration and noise attenuation with sound walls at the 3rd Avenue and DM&E/UP intersection area...”

“...landscaping enhancements at the 3rd Avenue and DM&E/UP intersection area...”

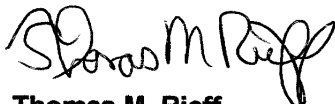
In the unlikely event the DM&E project is given approval and the Action Alternative M-3 is ordered by the STB, the City of Mankato has requested that this include a comprehensive mitigation package as preliminarily detailed in the “DM&E Railway Corridor Mitigation Plan for Mankato, MN (which is an attachment to the comments filing by the City of Mankato, MN).

Thomas M. Rieff and June M. Rieff would further add that the following mitigation details on the properties at 1717 3rd Avenue, 1721 3rd Avenue and 1810 3rd Avenue be included:

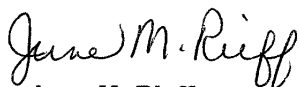
- a. The traffic studies performed by the City of Mankato on the 3rd Avenue area indicate the construction of an overpass on 3rd Avenue is not needed. We feel that a four quadrant crossing on 3rd Avenue would be more than adequate. The time delays for traffic to stop at this crossing would be negligible.
- b. If an overpass is constructed, it would most likely be 2 blocks in length, stretching from Pine Street to Brooks Street. The width would be at a minimum from property/row line on the east to the property/row line on the west. The height of this structure would be in excess of 25 feet, in the front of our office building. The overpass structure would only be 16 feet away from our building. The primary access to 3rd Avenue would be totally eliminated at both 1717 and 1721 3rd Avenue. The impact of no primary access to our properties would be devastating to the operations of Crystal Lawn, Inc. dba GreenCare and TruGreen ChemLawn.
- c. The property at 1717 and 1721 3rd Avenue directly adjoins the railroad right of way on the north side. If the ROW is widen to accommodate a 3rd line and a sound wall with landscape enhancements is constructed, the encroachment of these activities onto the northern edge of this property would be crippling. A secondary access on the north side would totally eliminate all access to the property and subsequent use of this property. The use of the property as it is currently used would be eliminated.
- d. The property at 1810 3rd Avenue directly adjoins the railroad right of way on the south side of this property. The construction of a grade separation (overpass) would eliminate all access and use of this property for which it is intended.
- e. The map of Study Area: Section 8, of the DM&E Railway Corridor Mitigation Plan shows the property at 1717 and 1721 3rd Avenue as one of the reduced properties at this intersection. The City of Mankato has not included the property at 1810 3rd Avenue. This property should be included as a reduced property per reasons in item c. above.
- f. The closing of the crossings at 1st Avenue and 5th Avenue will significantly reduce our mobility and access to alternative streets.
- g. Thomas M. Rieff and June M. Rieff formally request that as property owners, at the 3rd Avenue and DM&E/UP intersection, that we be included in, but not limited to: mitigation plan development, design, all discussions between the affected parties (STB, DM&E, City of Mankato, UP and any other parties as it relates to the 3rd Avenue intersection) and any other activities that would affect us as property owners at the 3rd Avenue intersection.
- h. The DM&E expansion project will significantly reduce our property values.

- i. Acquisition of affected properties at fair market value only will be inadequate and grossly understate expenses involved in new property acquisition and relocation expenses.
- j. Estimates by the City of Mankato for mitigation costs do not accurately reflect the actual costs to be incurred by property owners and the citizens of Mankato.
- k. The resulting noise and vibration impacts will impact our people in the offices (making it difficult to continue customer service operations as we know it), computer systems, and structural integrity of our facilities.
- l. If a change in our properties at the 3rd Avenue intersection such as, but not limited to, our property use is damaged, diminished, or eliminated and the resulting property values reduced, as a result of the DM&E expansion project, we would request that the final mitigation plan include the acquisition of these 2 properties at a value that would accommodate the following, but not limited to, new site land acquisition costs, new building construction, relocation of operations to a new site and all resulting expenses that would be incurred because of this expansion project's impact on the properties at 1717, 1721 and 1810 3rd Avenue. As we are satisfied with our current site layout, amenities, and buildings, any costs incurred with relocation shall be at the expense of the DM&E, City of Mankato and/or any other individual, corporation or public entity responsible for the expansion impacts and mitigation at these properties.

Sincerely,



Thomas M. Rieff



June M. Rieff

507-344-8314 Office

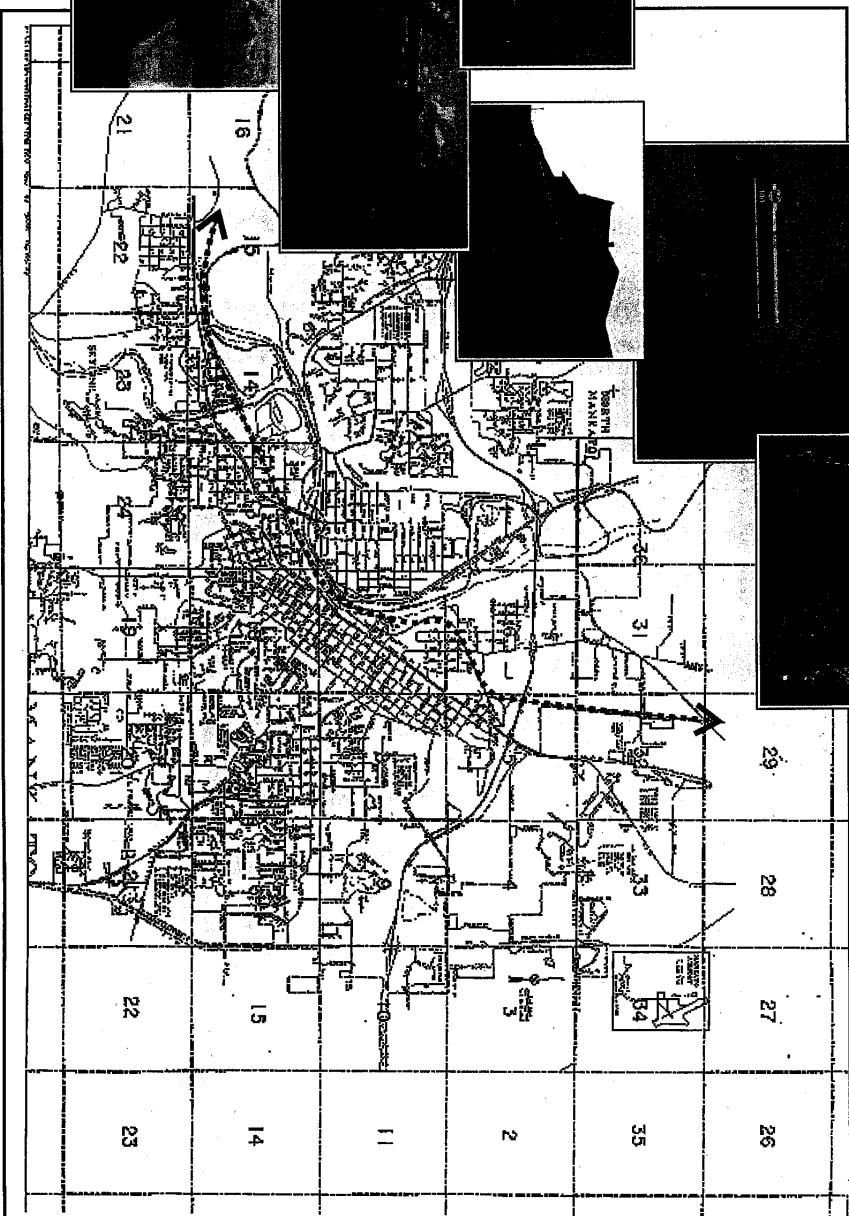
507-344-8316 Fax

trieff@greencaremankato.com

DM&E Railway Corridor Mitigation Plan *Mankato, Minnesota*

Attachment to filing
of the City of
Mankato, Minnesota

Prepared by:
Dahlgren, Shardlow, & Urban, Inc.
February 2, 2001



General Requirements for Mitigation M-3 Action Alternative

The substantial of this mitigation plan is not intended to advocate the M-3 action alternative. The purpose of the mitigation plan is to depict the level and types of mitigative measures the City of Mankato believes should be required of the DM&E if the M-3 route is ordered.

The mitigation plan was prepared using information contained in the City of Mankato's previous filing to the Surface Transportation Board (STB), documents submitted by the DM&E to the STB or cooperating agencies, and the Draft Environmental Impact Statement. A multi agency task force also reviewed the plan and suggested refinements that are reflected in the filing. The task force included representatives from the Minnesota Department of Natural Resources, Minnesota Department of Transportation, University of Minnesota Extension Service, Blue Earth County Public Works Department, Blue Earth County Environmental Services, and City of Mankato's Community Development & Engineering Departments.

The City determined that construction of a new main line through the City could not occur within the existing Union Pacific right-of-way without the acquisition of additional right-of-way. The Union Pacific right-of-way is only 100 feet in width for the majority of the in-city route, and narrows to 35 feet in width through the Downtown Area. Within the right-of-way, the DM&E proposes two main lines (one for the UP and one for the DM&E) and at least one to as many as three existing siding tracks that service local industries and shippers. The necessity to acquire right-of-way for the in-city route is based on typical sections and project details contained in the DM&E's application. Additional right-of-way is also required for certain elements of the mitigation plan, such as sound walls.

Right-of-way acquisition will reduce or remove approximately 20 residential and 8 commercial properties along the proposed corridor. Within 100 feet of the new mainline, 44 residential and 12 commercial properties may have to be acquired because of damaging vibration levels.

The mitigative measures outlined in the plan shall be taken as a whole, with all improvements necessary in order to provide adequate and acceptable levels of protection for the community. The levels of protection are based on acceptable levels of impact, which are defined by the Federal Railroad Administration, Federal Housing Administration/U.S. Department of Housing and Urban

Development, and Federal Transit Administration. Such levels are contained in the City of Mankato's previous filings and in the Draft Environmental Impact Statement.

The City of Mankato will require comprehensive testing and a clear recommendation from the Corps of Engineers regarding any impact on the flood control system within the City. The mitigation plan is predicated on the satisfactory resolution of the City's concerns regarding impacts to the flood control system. The City's formal position regarding the flood control system is contained in the comment section of the City's response to the Draft Environmental Impact Statement.

The City requests that the STB review the mitigation plan and increase the level of mitigation if deficiencies are found in the proposed measures.

General Requirements

1. The DM&E shall use the mitigation plan to design engineered plans for the improvements and mitigative measures. The engineered plans shall be submitted to the City for review and approval.
2. The DM&E shall construct the improvements depicted in the mitigation plan concurrently with the extension into the Powder River Basin or construction of any new main line or related improvements within the City of Mankato.
3. Construction costs and maintenance costs of all improvements and mitigative measures shall be the responsibility of the DM&E, assigns, licensees, and successors.
4. The DM&E shall be required to purchase, at fair market value, all damaged and reduced properties adjacent to the proposed rail corridor and/or any properties that are damaged or reduced due to the construction of the mitigation measures. Fair market value shall be established by independent appraisals. The DM&E shall also be responsible for any required relocation costs as required by law.
9. The determination of "damaged" or "reduced" shall be based on the following:
 - a. Damaging effects of noise and vibration.
 - b. Partial or total acquisition for rail or mitigation improvements.
 - c. Degraded by the construction or improvement of the rail corridor.
 - d. Degraded by the construction of mitigative measures.
 - e. Degraded by the construction of transportation improvements, including, but not limited to, grade separations, street rerouting, street closure, access modifications, and access closure.
 - f. Other negative impacts as determined by the City of Mankato and/or the STB, or as may become apparent during the construction or design of the project and mitigative measures.
5. DM&E shall be responsible for retrofitting homes and businesses that are exposed to unacceptable noise and/or vibration levels.
6. The DM&E shall be responsible for installing vibration breaks and other vibration attenuation devices in order to reduce the level of vibration to acceptable levels.
7. Prior to the final design of the mitigation plan, the City and DM&E shall meet with major shippers along the rail corridor to determine future shipping needs and adjustments to the locations of mitigative measures that are necessary to maintain current and future service levels.
8. DM&E shall be required to improve or mitigate traffic impacts relative to the project. DM&E shall be required to work with the City in an effort to improve traffic flows through operational planning, track design, and/or use of available technology or other available means. The City has identified traffic improvements for several important arterial street routes in the City. These include possible grade separations should the City determine that they are warranted due to traffic and safety considerations.

- households that will be impacted by the sounding of train horns along the rail corridor.
- DM&E shall construct and properly maintain tracks and rail beds to reduce noise and vibration.
- DM&E shall properly maintain locomotives and train cars to reduce levels of noise and vibration.
- DM&E shall clear the right-of-way of debris at the conclusion of the construction of the project and maintain the right-of-way per City Codes. The City may abate any public nuisance associated with debris, weeds, or substandard maintenance per the procedures outlined in the Mankato City Code.

- DM&E shall be responsible for all work and costs involved in protecting existing City utility crossings. DM&E shall also be responsible for providing easings or other provisions for future City utility crossings that are proposed under the City's master utility plans or capital improvements plan.

- DM&E shall be responsible for ensuring adequate drainage of the rail bed and shall correct any identified deficiencies as may currently exist or that are identified during design and construction.

- DM&E shall appoint a community liaison that will promptly respond to the concerns of the City and effected property owners during the term of construction for the project and mitigation plan.

- The DM&E shall be required to promptly meet with the City of Mankato, at a location at the City's discretion, to resolve any outstanding issues associated with the construction or operation of the project and/or mitigation plan. Any disputes between the City and DM&E regarding the resolution of an outstanding issue that is associated with the project, mitigation plan, or railroad operation shall be submitted to the Surface Transportation Board for resolution and enforcement.

- Any proposed mitigation of impacts to the flood control project must be reviewed and approved by both the City of Mankato and United States Corps of Engineers. The City will require the following for any proposed mitigation:

- a. The Corps of Engineers warrants the long-term integrity of the flood control system and any modification or engineering solution.
- b. The Corps of Engineers will continually monitor the system for possible problems.
- c. If any problems arise, the cost of repair or modification will not be the responsibility of the City of Mankato.
- d. The Corps of Engineers indemnifies the City from any responsibility for future failure of the flood control system that is associated with an impact from the DM&E project or modification, and the Corps of Engineers guarantees Federal disaster relief should the flood control system fail.
- e. The DM&E shall be responsible for all construction and maintenance costs.

Cost Estimate

In-City Route Construction

- Construct 5.5 miles of new main line and relocate approximately 1 mile of siding tracks. \$6,000,000
- Construct new bridge at Blue Earth River \$1,900,000
- with pedestrian crossing. Sheet 2.

Mitigation Plan

- Pedestrian bridge at Blue Earth River. Sheet 2. \$600,000
- Construct 5 whistle free gated crossings. \$1,500,000
- Construct alternative access roads at Industrial Boulevard. Sheet 10. \$2,500,000
- Construct overpass at 3rd Avenue. Sheet 8. \$3,400,000
- Construct alternative access to Gamma Park Neighborhood and Regional Waste Water Treatment Plant. Sheets 7 and 8. \$1,500,000
- Construct new access to Lower West Mankato Neighborhood. Sheet 3. \$500,000
- Construct pedestrian underpasses. Sheets 3 and 6. \$300,000
- Construct new trails at Woodland Avenue and Mound Avenue. Sheets 3 and 4. \$2,500,000
- Acquire 20 residential properties with relocation. \$2,400,000

Acquire 8 commercial properties with relocation.

Construct sound wall.

Retrofit homes within 100 feet.

Retrofit businesses within 100 feet.

Retrofit homes and businesses within 101-200 feet.

Fencing.

Landscaping.

Downtown pedestrian/bicycle bridge and helix access. Sheet 5.

Elevated Minnesota River Regional Trail. Sheets 5 and 6.

Floodwall mitigation. Undetermined.

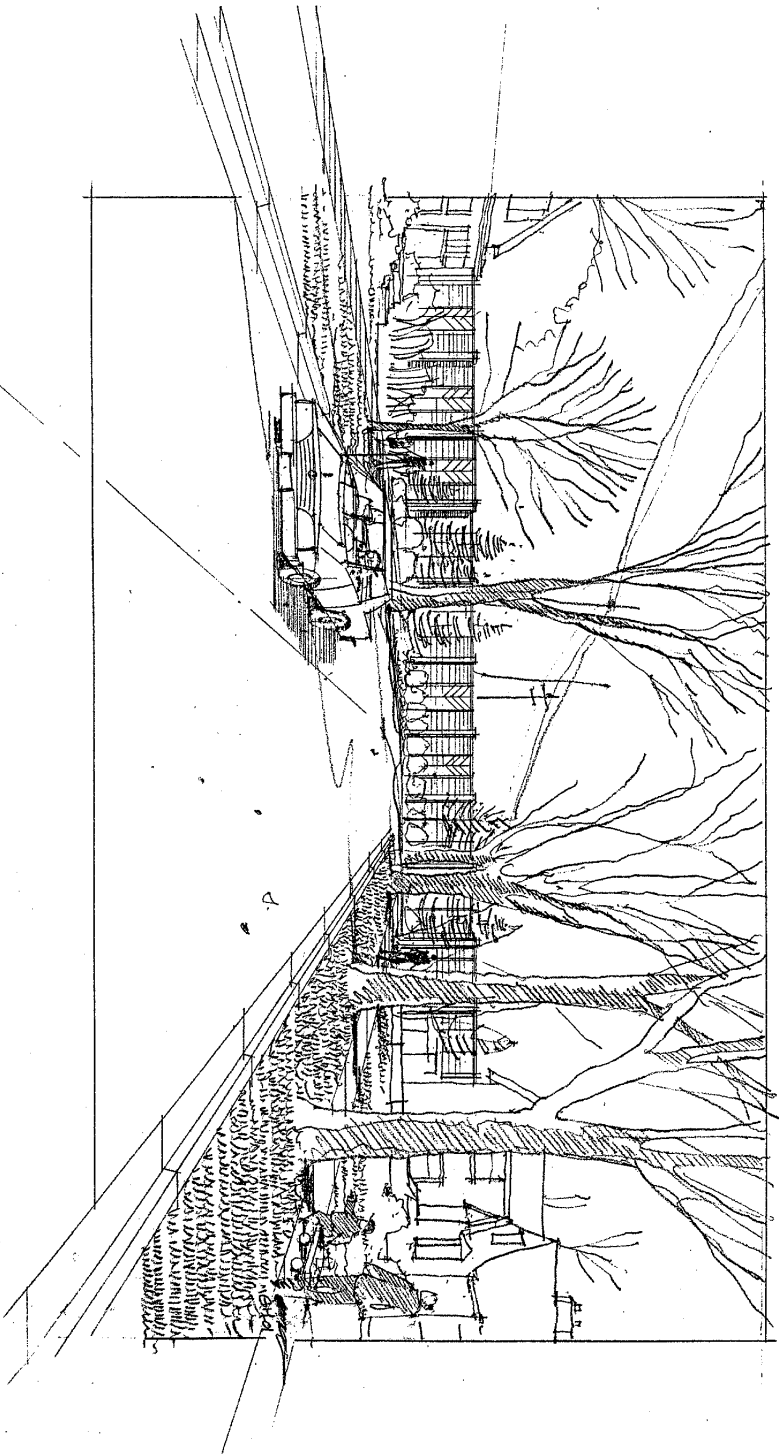
Totals

Base Cost. \$39,600,000

Contingency: 10 percent of total. \$3,960,000

Total Cost \$43,560,000

(Cost for mitigation. \$34,870,000)

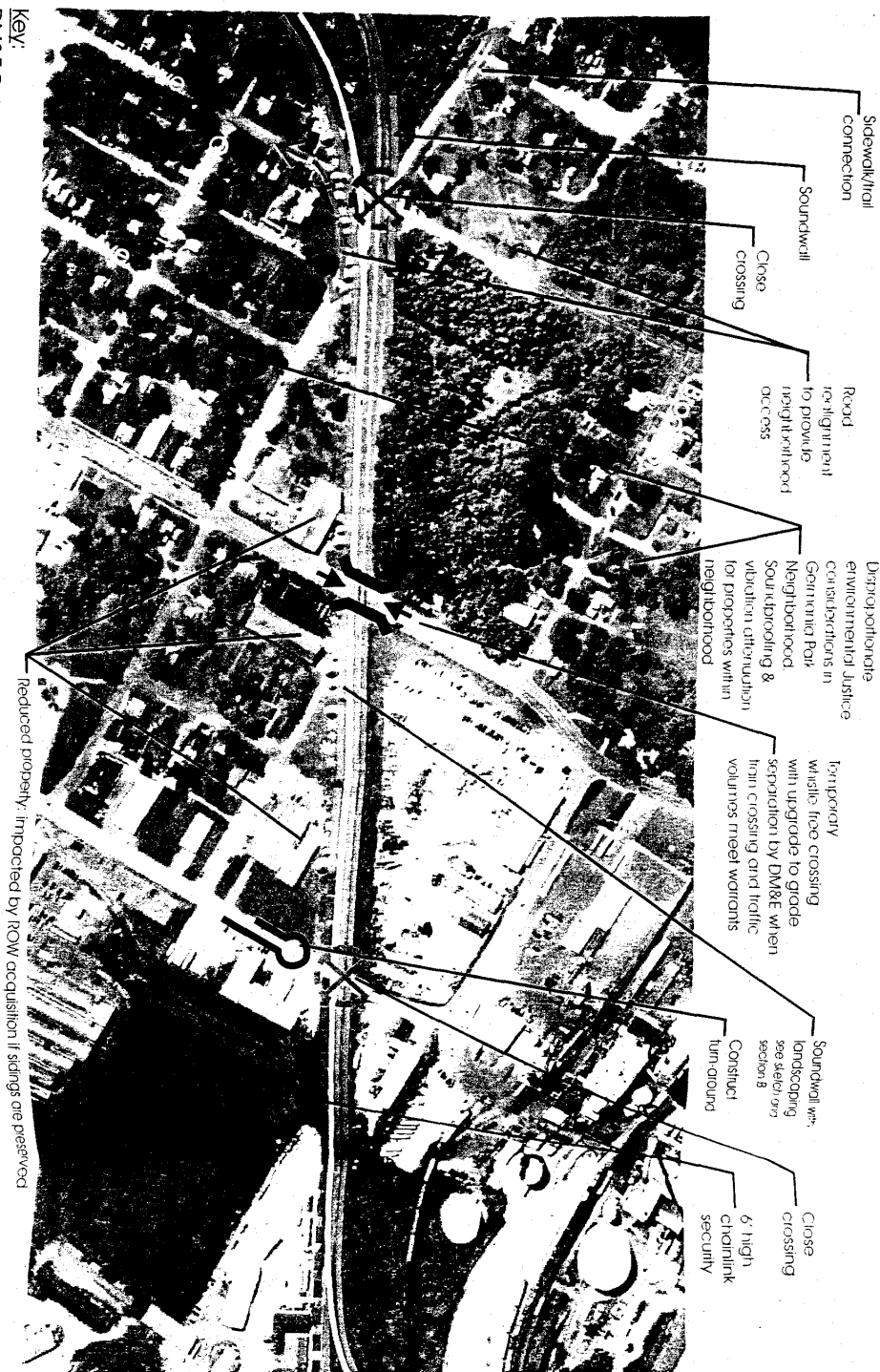
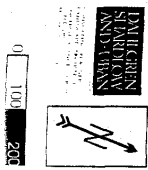


Sketch 2: Typical Soundwall
DM&E Railway Corridor Mitigation Plan
Mankato, Minnesota

Key:
 DM&E Railroad
 UP Railroad
 Sliding (other sidings as shown on photo)
 Sound Wall
 Moderate Landscaping
 Proposed Trail

Security Fence
 Proposed Road

Study Area: Section 8 DM&E Railway Corridor Mitigation Plan Mankato, Minnesota



2 residential and 4 commercial properties affected by ROW expansion, 11 residential and 4 commercial properties within 100' of proposed DM&E mainline.

IMPACT OF GRADE SEPARATION AT 3rd AVE PG 1 of 3



North Side Of Tracks Looking South, East Side Of 3rd



North Side Of Tracks Looking South, West Side Of 3rd
Prepared By Tom Rieff, 1717 3rd Ave, Mankato, MN 56001, 507-344-8314

IMPACT OF GRADE SEPARATION AT 3rd AVE PG 2 of 3



South Side Of Tracks Looking North, Side Of 3rd

Prepared By Tom Rieff, 1717 3rd Ave, Mankato, MN 56001, 507-344-8314

PG 3 of 3

25 FT Height On West Side 3rd Ave

25 FT Height On East Side 3rd Ave

Prepared By Tom Rieff, 1717 3rd Ave, Mankato, MN 56001, 507-344-8314