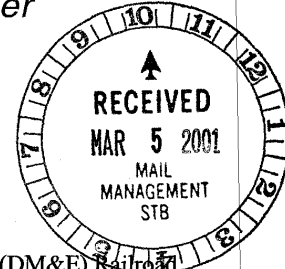




Minnesota Pollution Control Agency

Office of the Commissioner

Office of the Secretary
Case Control Unit
STB Finance Docket No. 33407
Surface Transportation Board
1925 K. Street, Northwest
Washington, D.C. 20423-0001



RE: Draft Environmental Impact Statement for the Dakota, Minnesota and Eastern (DM&E) Railroad Corporation's Powder River Basin Expansion Project

To Whom it May Concern:

The Minnesota Pollution Control Agency (MPCA) has reviewed the Draft Environmental Impact Statement (DEIS) for the proposed project referenced above. This correspondence details staff comments related to the proposal that should be addressed and incorporated into the final EIS decision making process. We thank you for the opportunity to comment on the proposal.

MPCA staff examined this document applying two criteria: a) whether the DEIS adequately identifies the environmental impacts the proposed project is anticipated to have in Minnesota; and b) whether, based upon those impacts, the DEIS sufficiently addresses the mitigative measures that are necessary to protect human health and the environment. In addition, we examined the document for overall completeness and accuracy. The enclosures detail our comments. The first part, Attachment I, identifies our general concerns related to the DEIS; the second section, Attachment II, provides an in-depth description of deficiencies and/or inaccuracies we found in the DEIS.

In general, we found that the DEIS could have provided more information related to the potential environmental impacts and necessary mitigative measures. For example, the way in which coal will be transferred at the eastern terminus at, or near, Winona was not detailed. We also noted how the possible impacts upon certain parts of southeastern Minnesota, areas known to have karst topography, were not identified as thoroughly as they could have been (e.g., the proposed location of the East Staging and Marshaling Yard). In addition, we generally thought the DEIS could have provided a more thorough analysis of impacts and mitigative measures related to Minnesota's Garvin Brook (a high quality trout stream) and other surface waters, ground water, air quality, noise, solid waste disposal, and hazardous waste-related matters.

Again, thank you for the opportunity to provide our comments on this DEIS. Should you have any questions and/or concerns related to this correspondence, please contact Kevin Molloy of my staff at (651) 296-7376.

Sincerely,

Lisa J. Thorvig
Deputy Commissioner

LJT:gs

Enclosures

ENTERED
Office of the Secretary

MAR -5 2001

Part of
Public Record

cc: Deborah Pile, Minnesota Planning, DM&E Working Group
Beth Lockwood, MPCA, North, South, and Metro District, Operations and Planning Section
Kevin Molloy, MPCA, North District, Operations and Planning Section

520 Lafayette Rd. N.; St. Paul, MN 55155-4194; (651) 296-6300 (Voice); (651) 292-5332 (TTY)
St. Paul • Brainerd • Detroit Lakes • Duluth • Mankato • Marshall • Rochester • Willmar; www.pca.state.mn.us
Equal Opportunity Employer • Printed on recycled paper containing at least 20% fibers from paper recycled by consumers.

I. GENERAL COMMENTS

- A. Transfer of Coal – Winona and Elsewhere.** The way in which coal and the other materials will be handled after being transported to the eastern terminus of the DM&E line in Winona, a vital, related aspect to this overall project, has not been identified in the DEIS. Thus, the DEIS is incomplete in this regard, and, in our opinion, failing to address this aspect of the proposal is inconsistent with applicable provisions of the Council of Environmental Quality Regulations for implementing the National Environmental Policy Act. We believe the proposed and alternative methods being considered for transferring the trains' contents at the eastern terminus, since they need to be considered a part of this project, should have been adequately identified in the DEIS, along with an ample assessment of their environmental impacts and proposed mitigative measures. In our estimation, then, detailed plans for the east terminus need to be prepared and incorporated into the final EIS.

Our review of the February 20, 1998, DM&E 83-page application to the Surface Transportation Board (STB) (STB Finance Docket No. 33407 located at <http://www.dmerail.com/app1.htm>), a document that was not included in the DEIS, provided some insight into the alternatives being considered for this geographical part of the project. It states: "From the time a train leaves the customer (whether it is a Wyoming coal mine or an existing shipper) until it is interchanged by DM&E *to another rail carrier* [emphasis added], it should not be subject to significant operational interference from foreign carriers." The same application also states: "The efficiencies of DM&E's planned operations would also be supported and enhanced by the availability of at least four east-end major foreign railroad interchanges and/or access to *Mississippi River barges* [emphasis added], as well as intermediate interchange points with other carriers along the way. The four primary east-end interchange points for the vast majority of the traffic are expected to be those in the vicinity of the following locations: (1) Mankato, MN, (2) Owatonna, MN, (3) Hartland, MN (or Albert Lea, MN and/or Mason City, IA), (DM&E's ownership extending south from Waseca extends as far as Hartland, MN. From there to Mason City, IA, it has trackage rights on UP [Union Pacific], but interchanges most of its south-bound traffic today at Albert Lea, MN, which lies between those two points. Accordingly, references to southern interchange points will alternate between these three points depending on the connecting carrier.), and (4) Winona and/or Minnesota City, MN."

The DEIS did not mention the methods of transfer that are readily acknowledged in the project proposer's application to the STB. This leads us to conclude that the proposed project will not rule out unloading coal cars and reloading coal onto barges in Winona – in short, that it is an alternative being considered for which the environmental impact is not addressed in the DEIS.

We have several concerns about the location and construction of any facilities that are planned for the eastern terminus. Such facilities would likely be quite large and in the sensitive Mississippi River flood plain. Runoff of sediment and other pollutants from the sites could potentially be released to the Mississippi River. If the sites are located in present or historical industrial areas, construction and operation of the facility may expose or exacerbate problems with contamination sites. Stockpiling of materials, and subsequent transfer of these materials to barges, trucks, or other trains, presents

additional environmental concerns, such as the potentially uncontrollable generation of coal dust. Without knowing precisely what the proposed plans are for the eastern terminus, we are unable to elaborate further on the specific impacts and feasible mitigative measures until such time that these plans are made available.

- B. Karst Topography.** The DEIS states, on page 3.1-12, that "Areas associated with karst topography are not well suited for railroad construction activities." On page 3.3-47, the DEIS contains strong language about the potential for geologic instability and ground-water contamination in the karst area associated with Alternative R-3 (The Rochester bypass). We agree with these sections; therefore, we feel this reasoning should be applied to other significant elements of the project. In particular, the East Staging and Marshaling Yard between Lewiston and Utica is located in an area known to have extreme karst geology. The DEIS makes no mention of how construction activities, fuel and materials storage, and handling spills, locomotive maintenance, etc., would be addressed. More broadly, the DEIS fails to point out that most of the rail corridor east of Rochester is located in karst terrain. There is a brief discussion of karst as a geologic hazard (page 3.1-12); however, a broader discussion of karst as unique geology (page 3.1-5), and of the potential for ground-water contamination in karst areas, is warranted. We suggest the DEIS be revised so that the final EIS contains such an analysis.
- C. Staging and Marshaling Yards.** In addition to the concerns about the sensitive location of the East Staging and Marshaling Yard (General Comment B), the MPCA has other concerns related to all the yards associated with the proposed project. Rail staging and marshaling yards have historically had problems related to soil contamination stemming from the handling of fuels, hazardous materials, hazardous waste, and storm-water runoff. Since the DEIS did not describe the types of wastes that will be generated at these yards, or the type of pollution prevention plans and measures that will be implemented, we request that such an analysis be conducted and made part of the final EIS. In addition, the MPCA would like to see some discussion of how the washing of locomotives, rail cars, and associated equipment is handled, and how the associated wastewater will be treated. Further, we recommend that the final EIS sufficiently explain how the construction and operation practices at these rail yards will differ from those of the past, presuming they will.
- D. Garvin Brook.** Garvin Brook, a high quality trout stream in Winona County, is crossed eight times by the proposed rail line. In short, this means that both during construction and operation, this proposal could have a significant impact on this brook – a stream that is designated as impaired by both the MPCA and U.S. Environmental Protection Agency (EPA) due to its high turbidity levels. While the DEIS acknowledges some of the potential impacts, we feel that far more discussion is necessary. An analysis that details the anticipated impact on each Garvin Brook crossing, and the site-specific mitigative measures for each of these, needs to be identified. In addition, since the DEIS did not discuss potential impacts to Garvin Brook as a result of the karst geology, it is our opinion that this needs to be elaborated upon. Sources of sediment and other pollutants may not be limited to areas disturbed around crossings or directly adjacent to the stream. Underground karst conduits may also convey pollutants to Garvin Brook.

- E. Hazardous Materials, Hazardous Waste Site Records Review.** The DEIS contains conflicting information regarding the transport of hazardous materials. Certain sections (e.g., page 3.2-104) indicate that the project will result in no increase in hazardous material transport; however, elsewhere in the document (page 5-12), it is suggested that more ethanol may be transported. The report also suggests the potential for a general increase in the transport of materials other than coal, some of which may be hazardous.

Further, and as detailed below (under our Specific Comments, Item IIC), the records review conducted for this section of the DEIS was inadequate and lacking several public databases that are available. Please carefully review these comments and revise the DEIS so it contains more complete, accurate information on this topic.

- F. Ground Water.** Ground water is an important resource for Minnesota. Approximately two-thirds of Minnesota's residents use ground water as their primary source of drinking water. Ground water is not uniformly distributed throughout the state due to the variety of geologic conditions that are present, the history of which has resulted in aquifers that vary in composition, thickness, and distribution. There are varying degrees of inherent vulnerability to ground water throughout the state, to which is added the risk from land use and other human activities on the surface. Given the magnitude of this project, then, it seems the DEIS should have provided a complete, comprehensive, and technically accurate analysis of risk to ground-water supplies as well as identify adequate mitigative measures.

The rail line upgrade and building proposal by DM&E would pass through Winona, Olmsted, Dodge, Steele, Waseca, Nicollet, Blue Earth, Brown, Redwood, Lyon, and Lincoln Counties in southern Minnesota. In the southcentral and southwestern counties, the primary sources of ground water are deposits of sand and gravel that occur at or near the land surface. Other than these scattered glacial aquifers, the only other source is deep bedrock aquifers. These are hard, dense igneous, and metamorphic rock formations that often yield less than a gallon per minute, and often have poor water quality as well. Hence, protection and conservation of the shallow scattered glacial aquifers is of paramount importance to the communities, farms, and residences situated along the rail line, as well as in the vicinity of associated facilities and installations. However, we could not conclude that the DEIS adequately acknowledged the risk to nearby ground-water supplies and considered any protective or mitigative measures for these areas. It appears that no attempt was made in the DEIS to identify water supplies along the proposed project, evaluate the inherent vulnerability of these supplies, and assess any added risk that may arise with the completion of the DM&E expansion project. The risk to drinking water supplies should have been a major factor in development and selection of design and location alternatives.

Southeastern Minnesota contains the state's largest reserves of high-quality ground water. Sandstone, limestone, and dolomite formations yield large amounts of ground water. Shallow glacial deposits of sand and gravel are also used locally for domestic supplies and for a limited amount of high-capacity pumpage. The geologic conditions in southeastern Minnesota that enable bedrock to store and transmit large volumes of ground water also permit rapid contamination by unwise land-use and waste-disposal practices, as well as from accidental and undetected spills and other releases. This is due to the solution-enlarged nature of the carbonate bedrock units, giving rise to the

assemblage of topographical, geological, and hydrological features termed as karst. Surface releases (e.g., contaminants) have short travel times downward and into the regional karst aquifers. Once in these aquifers, both water and contaminant flow is rapid and follows unpredictable passages, and subsequent contaminant investigation and corrective actions are expensive. In addition, in the karst areas of Minnesota, ground water and surface water are intimately interconnected and any contamination of one media may be rapidly transmitted to the other. The surface waters of southeastern Minnesota are some of the state's premier aquatic habitats and recreational areas, and are classified accordingly to afford them the highest degree of protection and conservation.

Although the DEIS contains references to karst areas, and mentions the geologic hazards of constructing and operating a rail line in such areas, it understates the extent of the karst regions and does not assess the threat to water resources in these areas. The increased traffic over the rail line, as well as the increase in volume and kinds of materials being transported, along with the construction and operation of the various supporting infrastructural facilities, poses serious questions about the risk to the underlying highly vulnerable ground water. We found that these concerns and potential impacts were not specifically addressed in the DEIS. Rather, the DEIS suggests that there is a low risk of impact and no probable impacts; however, no technical basis is provided for this conclusion.

It may be possible to reduce the risk to acceptable levels by a rigorous risk analysis and subsequent design modifications, and by preparing a comprehensive contingency plan that can be implemented at short notice. A proposal for a facility, such as the marshaling yard at Lewiston, needs to be accompanied by a detailed receptor survey and risk assessment, as well as detailed mitigation (e.g., structural and non-structural contaminant controls) and release contingency plans.

The same is true for the proposed east terminus at Winona, which is mentioned briefly, but no details are provided. Ground water in the Winona area occurs in a high-permeability, surficial alluvial aquifer. This upper aquifer extends from the ground surface down and is the major water source in the area, for both public and private supplies. This fact, coupled with the shallow water table in the area, makes this a highly vulnerable resource that is heavily regulated and protected by various agencies. The construction and operation of a facility, such as the one that DM&E would need, has serious implications on ground-water quality in the surrounding area. Again, a thorough analysis as well as design and risk evaluation is a necessity for such a facility at this location, however, the DEIS does not contain this.

To summarize, we found the DEIS ground-water assessment sections to be incomplete, with portions of it inaccurate and misleading. For the most part, many of the statements appeared to be repetitive, being of the nature of "cut-and-paste" sections, even for widely varied areas of the state. Very little site-specific or area-specific analysis was conducted; instead the same general statements were used to describe ground-water conditions and risk for most proposed locations and facilities. All public water supplies in Minnesota are required to determine and designate wellhead protection areas, and develop wellhead protection plans. It does not appear that any effort has been made to analyze the DM&E expansion proposal for potential conflicts with the wellhead protection plans of the communities encompassed by the project.

- G. Solid Waste Storage and Disposal.** We are concerned about the ability of the company to responsibly manage the considerable amount of solid waste (e.g., unusable railroad ties) that would be generated by the proposed project. Historically, as detailed below under our specific comments (Item IID), it appears this aspect of the railroad's operations has been inadequate in handling significantly lesser amounts of solid waste generated from relatively small railroad repairs. In light of the past, and given the potential persistence of toxic wood treatment contaminant impacts, we found the DEIS's discussion of this topic to be lacking sufficient enough detail to be considered "adequate," and we believe the final EIS needs to contain further information as detailed in Attachment II.
- H. Air Quality.** The DEIS is lacking in its evaluation of air quality issues, each of which is detailed in our specific comments (Attachment II, Item IIB). A highlighting of these includes, but is not limited to: 1) the DEIS, presumably because the proposed and alternative methods for removing coal and other materials from trains were not mentioned, did not discuss possible fugitive dust impacts associated with each method; 2) it did not mention the Minnesota Ambient Air Quality Standards; 3) the document did not discuss the Minnesota-specific potential health impacts from diesel exhaust emissions including fine particulate matter and air toxics; and 4) there are unanswered questions related to the methodology used in the DEIS to determine air quality impacts. Each of these issues are detailed in Attachment II, as are the remainder of our concerns regarding the DEIS's evaluation of air quality impacts and mitigative measures. Please review and revise these deficiencies prior to publishing the final EIS.
- I. Project Benefits.** The DEIS cites two significant environmental benefits of the DM&E project. First, the low sulfur nature of the coal coming from the Powder River Basin will result in cleaner power plant emissions. Secondly, the DEIS suggests higher overall energy efficiency and lower emissions from rail, as opposed to truck, transport. While the MPCA agrees with the general reasoning used to describe these benefits, however, it oversimplifies very complex issues of alternative energy and transportation commerce issues.
- J. Mitigation.** Chapter 7 of the DEIS "Section of Environmental Analysis's Proposed Environmental Mitigation" is lacking the kind of detail that would provide some assurance that adequate mitigation will occur. As an example, only one bridge crossing (Missouri River at Pierre, South Dakota) is specifically mentioned as needing best management practices to control turbidity and disturbance to bottom sediments. Mitigation for impacts to other resources, such as Garvin Brook, with eight crossings in a few miles of track, should also be specifically discussed. Further, specific mitigation practices, such as those found in the Federal Energy Regulatory Commission guidelines for pipeline projects, and the use of sedimentation basins, should be cited. The mitigation chapter makes no mention of Minnesota waters or karst geology. Page 7-28 contains just two statements related to monitoring and enforcement. The second statement indicates that the applicant shall retain a third-party contractor to assist in monitoring and enforcement on an as-needed basis. We support this, but feel that more definitive monitoring and enforcement plans should be detailed in the final EIS, including such

things as inspection frequency and violation reporting procedures. Also, mitigative steps for addressing air quality concerns were not described. Depending on the results of a Minnesota-specific air quality impact assessment, it may be appropriate to address these in this section.

- K. Cumulative Impacts.** Chapter 5 of the DEIS "Cumulative Impacts" is too narrow in scope to meet the intent of the Council on Environmental Quality and the National Environmental Policy Act. The report discusses only a handful of public works and industrial projects as "reasonably foreseeable actions," and, as mentioned above, the DEIS fails to discuss anything related to the coal transfer in Winona (an obvious foreseeable action related to the project). Also missing is a discussion of how the project could, potentially, lead to an escalation in the transport of hazardous materials. The chapter mentions the economic benefits of additional ethanol transport as a cumulative impact, without mentioning potential, additional environmental costs.

II. SPECIFIC COMMENTS

Below are specific deficiencies and/or inaccuracies found in the DEIS. Like the general comments in Attachment I, we submit these with the belief that the final EIS needs to adequately address each comment.

The document was rather unwieldy in size and organized in a manner that made it somewhat difficult to access the Minnesota-specific information (which is interspersed throughout the entire DEIS and appendices). Despite this, we believe we have reviewed those parts of the DEIS that are relevant to our agency. We grouped our specific comments under the following general headings in an attempt to resemble the way in which the DEIS is organized: A) Geology and Soils, Land Use and Water Resources; B) Air Quality; C) Hazardous Materials and Hazardous Waste Sites; D) Solid Waste; E) Noise; and F) Other.

A. **Geology and Soils, Land Use and Water Resources**

ES-56. The third paragraph on page ES-56 suggests that reconstruction of the existing rail line has little impact on natural resources since the physical area has already been disturbed. The MPCA disagrees with this contention as other portions of the report describe significant land disturbance associated with reconstruction. Additionally, there is a higher likelihood of encountering contamination sites in urban areas.

ES-57. It is stated that "...2.1 miles of the right-of-way under the bypass alternatives would also cross areas of karst topography, 3.7 additional miles have a moderate to high potential for containing karst areas...". Since the extent of karst in and along the proposed project is widespread, and by no means confined to just these stretches, these statements are not accurate. It is unclear, and the DEIS does not appear to explain, how these conclusions were arrived at.

ES-83. Item No. 14 refers to Department of Transportation Hazardous Materials regulations (49 CFR Parts 171 and 179). 40 CFR may actually be the appropriate section in this regard.

ES-Glossary. Several geological terms were found to be confusing or simply incorrect. Two such examples: a) bentonite is defined as being volcanic ash; b) outwash plains are defined as having formed from erosion of soil and characterized by exposed bedrock. Given this, we recommend that the entire glossary be reviewed and corrections made accordingly, so this section is no longer incorrect or confusing.

ES-References. The references for Minnesota geology and ground water aspects are not very comprehensive. A more exhaustive literature review on Minnesota geology and hydrogeology, together with consultations with relevant Minnesota agencies and experts, would have resulted in a more accurate DEIS.

3.1.5.3- Wetlands. On page 3.1-28, it is incorrectly stated that a site must have: hydric soils, a dominance of hydrophytic vegetation, *and* wetland hydrology to be classified as a wetland. Rather, wetlands must have the following attributes: (1) a *predominance* of hydric soils; (2) inundated or saturated by surface water or ground water at a frequency and duration sufficient to *support a prevalence* of hydrophytic vegetation typically adapted for life in a saturated soil condition; and (3) *under normal circumstances support a prevalence* of such vegetation. The same paragraph contains a statement regarding what the U.S. Army Corps of Engineers considers

to be a jurisdictional wetland. It appears that the DEIS should really be using the term "incidental" wetlands – those formed in uplands by an activity or project (e.g. runoff held back by a road) – rather than "jurisdictional."

3.1.7- Noise. There is an apparent error on page 3.1-37 regarding the statement that the DM&E doesn't extend into Winona, Minnesota. DM&E rail cars are moved along the track section that extends to the highway bridge and crosses the Mississippi River in downtown Winona.

3.1.3.3. Geological Hazards. It is stated that some areas adjacent to Rochester are dominated by karst topography. In reality, significant karst features can be found all across southeastern Minnesota; and not just limited to the area around Rochester.

3.1.5.4. Ground Water and Wells. Statements about the locations and usage of various aquifers are incorrect and appear to be based on outdated data. Also, there is no identification of the actual usage of the ground water in these areas, or the receptors along the existing or proposed rail lines.

3.2.5.1 Unique Geological Formations. We believe it is incorrect to state that there is a lack of unique geological formations in the area. The MPCA staff considers the karst geology in the region to be a unique geological formation and remain concerned over the related geologic hazards the proposal may pose. We suggest that the final EIS not overlook the uniqueness of the karst geology.

3.2.5.3 Soil Impacts. This section suggests that construction processes, which would occur in sloped areas in Winona and Olmsted Counties, would result in a reduction in precipitation infiltration, and that surficial erosion would be prevalent instead. This is not an entirely correct presumption. The construction process could prove problematic considering the prevalence of sloped areas with karst topography and underlain fractured bedrock. Furthermore, with the additional consideration of potential contaminants in the selected right-of-way, for example the Rochester Gas Manufacturing site with contaminants that may be exposed or disrupted and allowed to mobilize off-site, new or additional contaminant migration may occur.

3.2.7.1. Surface Waters. The DEIS states that the rail line crosses 15 irrigation ditches. The MPCA believes it is quite unlikely that the project crosses any irrigation ditches in Minnesota. These are more likely drainage ditches that feed directly to streams, rivers, and lakes. This mischaracterization suggests a lack of understanding on the part of the DEIS contractor of the basic hydrology of southern Minnesota and raises concerns about other analyses in the DEIS. In addition, 15 ditch crossings seem to be an underestimate. The source of this information should be cited.

It is also stated that spills and releases of hazardous materials and chemicals may happen during both reconstruction and regular operations. It is stated that surface waters would only be impacted by such incidents taking place near surface waters (e.g., at water crossings). The document does not recognize that, due to rapid and intimate interconnections between surface and ground water in the extensive karst area traversed by the project, impacts to surface waters are possible from spills and releases at many locations, and not just those immediately adjacent to a waterway.

On page 3.2-17 (second paragraph) reference is made to Section 3.1.11.1 and discussion on "limited amounts of potential contaminants as transported by DM&E." We were unable to locate this particular section in the DEIS. In addition, this section suggests that a newer rail line would have anticipated impacts of surface waters viewed as "insignificant," yet, this conclusion does not appear to account for the increased rail volume suggested in the greater DEIS.

3.2.7.3. Ground Water and Wells. Although this section states that the reconstruction and operations of the existing rail line should not result in significant impacts to ground water or wells, it goes on to describe the vulnerability of the aquifer and the drastic impacts that any spill or other release could cause. We find this to be contradictory.

3.3.1.4.3. Land Uses - Business and Industry. The discussion, on page 3.3-7, has not included discussions of proposed or possible reconstruction activities in potentially contaminated historic sites. Consequently, the DEIS lacks any text detailing the significant controls that are needed for accessing these areas during reconstruction. Please see our related comments below, under Specific Comments, Item C. The proposed project will, if implemented, disturb some contaminated areas, some of which are not identified in the DEIS, so revisions need to be made to address these controls.

3.3.1.5.1. Surface Water Impacts, Alternative M-2. The text discusses how accidental spills would introduce contaminants into the water, which is a statement we concur with. However, the text goes on to suggest that the potential for such a spill to have a significant affect on water quality is reduced, due to the limited amount of the (nameless) contaminant that might be discharged. Please have the final EIS explain what is perceived to be a "limited quantity," what "contaminant(s)" is(are) being considered, and further rationale supporting the presumption that a reduced potential for significant affect on water quality really exists. Please also realize that any spill of contaminants, regardless of quantity, would be considered a violation of state water quality standards.

3.3.1.5.3 (Mankato Bypass) Ground Water. The following have not been identified: ground-water vulnerability; existing ground-water usage pattern; likely ground-water impacts from the development; and existing or projected receptors along any of the alternatives. All of these should have been objectively evaluated in the DEIS to ascertain which alternative(s), if any, would be preferable from a ground-water vulnerability standpoint. In our opinion, the final EIS needs to include such an evaluation for the Mankato Bypass and, as noted below, we feel that the same is needed for the Owatonna and Rochester Bypass areas.

Section 3.3.2. The various railyard and the Rochester bypass options that are depicted here in the DEIS are not shown in the U.S. Army Corps of Engineers 404 application materials that were submitted to the MPCA on October 13, 2000.

3.3.2 Rochester Rail (and subsequent 3.3.2.3.2 Soil Impacts). This section does not identify the potential hazards associated with construction and soil being disturbed at the former Rochester Gas Manufacturing site, and how this could potentially, adversely affect the ground water and possibly pose soil contact risk issues.

3.3.2.3.1. Geologic Hazards. This section has not included ample discussion of karst issues that are known to exist in the region. Consequently, section 3.3.2.3.1, Alternative R-1 (p. 3.3-46), which states that "No geological hazards are known to be present on the existing line," and "No impact from geological hazards would be expected," needs to be revised to more adequately reflect the known geologic hazards in this area.

3.3.2.5.3. (Rochester Bypass) Ground Water. The same deficiencies that we noted with the ground-water analysis for the Mankato Bypass area were also found with the Rochester Bypass (and Owatonna's too – see below). Rather than inserting those statements directly into this paragraph, please refer to that section of our letter, above (3.3.1.5.3 (Mankato Bypass) Ground Water), and consider those statements directly applicable to this section of the DEIS as well. In addition, we noted further deficiencies in this section. The analysis of the Rochester bypass alternative states, in effect, that ground-water contamination is only a serious risk in the proposed bypass stretches, and not in the city itself, because only those areas outside of the city are considered karst areas. We could not find this conclusion to be substantiated anywhere in the DEIS, and it is not one with which we concur. In reality, most of Rochester is also underlain by the same karst aquifer. Any contaminants that could potentially discharge (e.g., diesel fuel) via an unanticipated mishap along the existing rail, then, would likely have the same impact that such a discharge along one of the proposed bypasses would.

3.4. Owatonna Alternatives. The description of the alternatives for Owatonna does not match what is depicted in the maps in Volume V of the DEIS (Book of Maps). While Alternatives O2, O4, and O5 are included in the DEIS materials, they are not shown in the United State Army Corps of Engineers 404 application and accompanying materials, nor is there a discussion of why they were dropped from consideration.

3.4.5.3. (Owatonna Bypass) Ground Water. The same deficiencies we identified above, related to ground water in the Mankato bypass areas, also apply to the Owatonna bypass. Please refer to that section of our letter, above, (3.3.1.5.3 (Mankato Bypass) Ground Water) and consider those statements directly applicable to this section of the DEIS as well. In addition, this section of the DEIS is also lacking information that should not be overlooked in a study of this magnitude. It did not identify or discuss ground-water vulnerability along the various options, nor are any receptor wells along the various alternatives identified. Although drinking water aquifers here are deeper and less sensitive, relative to those in the other bypass areas, the location of, and risk to, water supplies should be evaluated for each option and made part of the final EIS.

Section 3.5 Staging and Marshaling Yards. Each yard requires a separate (NPDES) general storm-water permit for construction activity, as each will disturb greater than five acres during construction. Improvements on the track itself will also disturb greater than five acres and require permitting. In addition to the requirements that both temporary and permanent erosion control plans be implemented, the NPDES general storm-water permit for construction activity also requires the installation of storm-water wet-detention ponds to treat the storm-water runoff. This is required whenever a project replaces surface vegetation with one or more cumulative acres of impervious surface. The wet detention ponds must be sited to meet the volume and settling velocity requirements set forth in the NPDES permit for the storm water generated from a one-half inch rainfall on the new impervious surfaces.

In addition to the NPDES general storm water permit for construction activity, the proposed staging and marshaling yards will need coverage under the NPDES general storm-water permit for industrial activity.

3.5.1.1.4. Water Resources. The area around Lewiston is highly susceptible to sinkhole formation and other ground subsidence and has a history of ground-water contamination due to collapse of sewage lagoons. The discussion on the potential for ground-water contamination at the marshaling yard is insufficient and, due to the unique karstic geology here, more detail is warranted. In addition, there is no mention of nearby water wells or the risk of contamination of these wells from releases at the proposed yard.

Chapter 7. The MPCA looks forward to reviewing the specific mitigation plans for the sites in Minnesota that will be adversely impacted. As the applicant realizes, based upon their USACE 404 permit application and accompanying MPCA 401 Water Quality Certification application, staff will be evaluating the proposed mitigation measures for completeness. Please understand that a separate, detailed MPCA comment letter will be submitted on that specific application.

One apparent disparity that has been noted between the material received for the MPCA 401 Water Quality Certification and that contained in the DEIS is the way in which wetlands were delineated. It appears as though separate delineation procedures have been utilized. The National Wetlands Inventory map has evidently been used to delineate wetlands in the DEIS, while the USACE application apparently used photographic interpretation, along with some field checking. To be complete, both documents should contain accurately delineated wetlands, using the necessary means to achieve that, rather than using different sets of data for this purpose.

Volume V (Book of Maps). Due to the small size of the maps it was difficult to get an overall sense of various project features relative to one another. Additionally, the locations of specific/existing water crossings were not indicated on these maps.

B. Air Quality

Fugitive Dust Emissions. The DEIS did not address the handling/transferring coal and other materials transported into Minnesota via the railroad. Since, as mentioned above (see General Comment A), the proposer's application to the STB does not rule out the possibility of removing coal and transferring it within Minnesota (by reloading coal onto barges in Winona and/or via interchanges to another local rail carrier), we cannot dismiss the possibility that such a transfer will take place and potentially cause air quality impacts from fugitive dust emissions (coal or other material). The final EIS, should analyze all of the related environmental impacts associated with whichever method(s) it will propose for transferring the trains' cargo, one of which is fugitive dust emissions.

Particulate Matter – Federal Ambient Air Quality Standards (NAAQS). The proposed project will release fugitive particulate matter and also diesel exhaust particulate matter emissions – the latter of which are primarily fine particulate matter (PM_{2.5}). Particulate air pollution has been associated with premature death, increased hospital and emergency room admissions, aggravation of respiratory and cardiovascular disease, decreased lung function, increased respiratory symptoms (cough, shortness of breath, wheezing, asthma attacks), chronic obstructive pulmonary disease, restricted activity due to illness, and altered respiratory defense mechanisms.

The DEIS discusses possible air quality impacts from particulate matter, most of which will be generated by the increased diesel exhaust, by comparing estimated air concentrations with the NAAQS. Recent literature indicates the use of NAAQS does not adequately assess human health impacts of particulate matter. Adverse health effects associated with particulate air pollution have been found at ambient concentrations below the federal NAAQS, as a large and growing body of literature documents (some of which are mentioned below). Recently, attention has focused on smaller invisible particles, primarily from combustion sources, which are inhaled deeply into the lungs. The final EIS needs to be revised to incorporate currently available information relating to the human health impacts of particulate matter.

While there are numerous studies documenting particulate matter impacts, the following represent some of the larger studies of long term (chronic) and short-term impacts:

Krewski, D., Burnett, R.T., Goldbert, M.S., Hoover, K., Siemiatycki, J., Jerrett, M., Abrahamowicz, M., White, W.H. (Health Institutes Reanalysis Team), 2000. Special Report: Reanalysis of the Harvard Six Cities Study and the American Cancer society Study of Particulate Air Pollution and Mortality. Health Effects Institute. Cambridge, MA. 246 pgs.

Samet, J.M., S.L. Zeger, F. Dominici, F. Curriero, I. Coursac, D.W. Dockery, J. Schwartz, and A. Zanobetti. 2000. Research Report: The National Morbidity, Mortality, and Air Pollution Study. Part II: Morbidity, Mortality and Air Pollution in the United States. Health Effects Institute. Cambridge, MA. No. 94, Part II, 84 pgs.

Section 3.2.8 (Air Quality). The DEIS makes no mention of the State of Minnesota Ambient Air Standards. Minnesota has a PM_{2.5} standard that is identical to the standard proposed by EPA, and CO and SO₂ standards that differ from federal NAAQS. We request that this section be revised to discuss whether these Minnesota Ambient Air Quality Standards will be met.

Also, it is mentioned (on page 3.2-28) that Potentially Significant Deterioration (PSD) increments are not violated and the proposal does not "cause or contribute" to violations of state and federal ambient standards. We note that the air modeling analysis in Appendix E pertains to areas of Wyoming and South Dakota where there are Federal Class I areas. The so-called near field modeling analysis was assumed to be representative of all locations in Minnesota that would be located near the tracks, including construction impacts, the Mankato bypass, the Rochester bypass, the Owatonna alternatives, and the staging and marshalling yards. If these modeling results are indeed intended to represent the concentrations occurring in Minnesota as a result of the proposed project, then the information and results from Appendix E should be presented in Section 3.2.8 in the form of a table showing how much it will contribute toward air standards and PSD increments in Minnesota. Also, in order to support the position that the proposal will not "cause or contribute" to violations of state and federal ambient standards, this section needs to show background concentrations in Minnesota. In its present form, the DEIS does not adequately support that assertion, so we are unable to confirm or deny the validity of the statement.

Diesel Exhaust Emissions– Health Impacts. We noted that the DEIS does not mention or evaluate the nature of diesel particulate emissions and any potential human health impacts. Although significant scientific uncertainty exists, there is growing evidence that diesel particulate emissions may be carcinogenic at elevated exposure concentrations. These particles are coming under increased scrutiny for their health impacts. Information from past occupational exposures to diesel exhaust suggests that workers exposed to elevated diesel concentrations have been harmed by those exposures, suffering from bronchitis, lung function changes, and lung cancer (EPA, 2000). The Health Effects Institute recently identified the need for additional research on diesel exhaust to address potential effects on asthma, respiratory airway inflammation, and allergic responses. Rather than not discussing it at all, we believe the final EIS needs to address

this potential environmental impact using the best available information to characterize the impacts of diesel emissions. The following reference could prove useful in further addressing this concern:

U.S. Environmental Protection Agency (EPA), 2000. SAB Review DRAFT. Health Assessment Document for Diesel Exhaust, National Center for Environmental Assessment and Office of Research and Development, Washington, D.C. July 25, 2000. EPA/600/8-90/057E. This draft was approved with minor revisions by to EPA's Clean Air Scientific Advisory Committee (CASAC) in October, 2000.

There are two ways of accessing the amount of diesel particles or other air toxics to which neighbors would be exposed: a) conduct an air toxics review before the proposed project commences; or b) build and operate the proposed project and make subsequent measurement of the resulting concentrations.

Air Modeling Analysis. While probably appropriate (and perhaps even excellent) for looking at the big picture air quality impacts in Wyoming and western South Dakota, the air modeling analysis is likely to underestimate concentrations at locations near the tracks in Minnesota communities. More information about the modeling analysis, as detailed below, is needed to fully evaluate the results and the interpretations that have been made in the DEIS.

- The meteorological data, terrain elevations, and receptor locations for the near field analysis in Appendix E are specific to Wyoming. These may or may not be appropriate to Minnesota; however, no justification is given for using these values to represent Minnesota.
- The locomotive buoyant area source parameters are given in Table 3-3 of the attachment to Appendix E. Based upon our experience, we suggest that some of these values (e.g., exhaust height, exhaust temperature, exhaust gas velocity) may overstate the dispersive characteristics of the plumes. We were unable to find a justification for the use of these particular values.
- There is very little description given in the attachment to Appendix E regarding the modeling methodology for the near field analysis. It is difficult to judge the appropriateness of the analysis without having access to the electronic input and output files. For example, exhibit B of the attachment to Appendix E shows that the emissions were input to the CALPUFF model using a separate file (i.e., the so-called BAEMARB.DAT file). However, this file is not provided, and thus it is not possible to see how the sources were characterized nor to see the spatial relationships between the sources and the receptors. This type of information is required to determine the appropriateness of the air dispersion modeling. It would also be desirable to show the spatial relationships between the sources and receptors in the near field analysis in the form of a map.
- The regulatory default model options were not used in the example model input file provided in exhibit B of the attachment to Appendix E. This calls into question the appropriateness of judging the comparisons of the model results to the applicable NAAQS and PSD increments. For example, the model options appear to be set to account for plume depletion by way of chemical reactions, wet deposition and dry deposition, although EPA modeling guidance suggests that these options should not be used when making predictions for comparison with NAAQS or PSD increments.

- The quantity of emissions estimated for locations in Minnesota appears to be quite large, in many cases exceeding major source permitting thresholds. These emissions are different from point source emissions of a comparable magnitude in two respects. The emissions occur in the form of a line source covering the course of the railway line, and they are emitted from essentially a surface-based source (i.e., no tall stack). These two factors work in opposite directions in influencing the resultant pollutant concentrations. If we were considering a point source with this magnitude of emissions, the modeling analysis would go well beyond the screening analysis that was done for Minnesota in this EIS.

Impacts Associated with Increased Use of the Tracks by Other Parties. The draft EIS limited the assessment of air quality impacts to increased pollutant emissions from possible increases directly associated with the Powder River Basin expansion project (up to 37 trains per day). Additional diesel exhaust and other emissions associated with increased use of the railroad by others transporting materials, such as agricultural commodities, were not addressed.

Regional Haze. The DEIS did not mention EPA's regional haze rule (7/1/99) and the fact that all sources of fine particulates will be evaluated over the next few years for relative contribution to haze experienced in the Boundary Waters Canoe Area and Voyageurs Park. Federal land managers require conducting a very involved visibility analysis if the project is within certain distances from Class I areas. The DEIS addressed this topic for the western parts of the proposed project, but not for Minnesota. It may prove that the proposed project is too distant from our Class I areas; however, we could not tell this from the DEIS in its present form. We request that Chapter 3 (Minnesota) be revised to include some general comments on the federal regional haze rule, including specific remarks related to the level of analysis, if any, that the proposal will need to undertake as a result of the rule.

C. Hazardous Materials, Hazardous Waste Sites

3.1.11 Hazardous Materials, Hazardous Waste Sites. It is stated that a record review was conducted for the purpose of identifying areas of potential contamination within the project area. Pages 3.1-96 and 3.1-97 identify the records that were reviewed for this stated purpose. We found the DEIS's coverage of this concern to be incomplete. To reach the stated objective, the analysis should have reviewed, and included, many more MPCA databases, other state agency databases, federal databases, and also databases that may exist within certain localities that may be affected by the project. This is explained more thoroughly in the next four paragraphs.

The MPCA databases that should have been examined and identified in the DEIS, include, but are not necessarily limited to, the following: a) Permanent List of Priorities (PLP); b) Hazardous Waste Generator/Investigation and Cleanup List; c) 1980 Statewide Open Dump Inventory (with map); d) Voluntary Investigation and Cleanup (VIC) and Site Response System (SRS) Unit List; e) Sites Delisted from the PLP; Closed Landfill Sites Undergoing Cleanup; f) Brownfields; g) Minnesota No Further Action List; h) Minnesota Tanks (aboveground and underground); i) Master Entity System; and j) the Minnesota Leaking Tanks and Spills database.

In addition to the MPCA databases, the Minnesota Department of Transportation Surface Water Quality Data Field Inspection information (boring logs on road construction and acquisition right-of-way) should have been reviewed. Likewise, the Minnesota Department of Agriculture (MDA) has a database for tracking chemical spills such as pesticides, herbicides and wood treatment chemicals dating back to approximately 1977. As mentioned below, the Claremont Pesticide Site

is now tracked in the MDA VIC (AGVIC) program. The MDA and various MPCA databases should be contrasted together to ascertain whether certain facility records have evolved to new site names and program files. For example, reference is made to the CERCLIS site earlier referred to as the E.F. Johnson site (299 Tenth Avenue SW, Waseca, MN), but more recently recognized as Transcript International (299 Johnson Avenue, Waseca, MN).

Evidently, the record review did not include an examination of federal databases, or county and city records. These include, but are not limited to: required Superfund Amendments and Reauthorization Act of 1986 Title III Reports (including earlier reports that may not be in the 1999 Emergency Response Notification System (ERNS)); and the Federal Railroad Administration (FRA) spill records database.

Often times, these localities are able to provide more accurate data related to previous land uses (e.g., unregistered/unpermitted dumps sites), relative to that provided by the federal and state records. In fact, many communities have enacted local land use regulations (e.g., comprehensive zoning ordinances) and local water quality protection measures that further restrict land use development in areas considered to be sensitive. Despite their direct relevance to this proposal, none of these are mentioned in the DEIS.

Insofar as one MPCA database is concerned, the VIC/SRS record, staff has determined that there are at least four significant contamination sites that the rail line appears to cross over or through. We mention these to illustrate how the DEIS inadequately addressed this section, and these examples should not be construed as a complete and exhaustive listing of those areas known to have potential contamination within the project area. The four contamination sites listed on the VIC/SRS record include the following: the active New Ulm Gas Manufacturing Site (VP#0260); the active Owatonna Gas Manufacturing Site (VP#0270); the active PLP Mankato Gas Manufacturing (SR#1138); and the inactive PLP Rochester Gas Manufacturing Site (SR#75). All four sites are believed to be directly related to or adjoining the rail line project and have polyaromatic hydrocarbon and petroleum-related contaminant affects in the soil and ground water. At a minimum, in our opinion, these four sites need to be identified in the final EIS, as do any other contamination sites encountered while conducting the thorough records review.

Also, page 3.1-97 of the DEIS references the New Ulm and Owatonna Gas Manufacturing sites as only potentially associated with the U.S. EPA's National Priorities List (NPL) and as "located within 1.0 mile of the existing railroad." This seems to imply that the release sites could be either a past concern or an orphan site, and that their location could be nearly a mile away from the rail project site. We find this to be misleading. Since these sites are actively involved in the MPCA's VIC Program, we know them to be existing, significant hazardous substance release sites, parts of which are directly within the railroad right-of-way.

The gas manufacturing sites are historic contamination sites which are at varying stages of completion within the VIC program, and often include cooperation by the railroads in order for Volunteer Parties to obtain property access Agreements. The sites pose unresolved contamination concerns along the existing rail and raise considerable concern regarding contaminant control issues, especially in view of DEIS Section 3.2.5.3 (Soil Impacts), which identifies significant soil disturbances. Consequently, the potential for serious mobilization of, and new exposure to, contaminants will require MPCA review and approval. Our review and approval process focuses upon the comprehensive plans that are required to be developed (Site, Safety and Health Plans) and implemented for both workers and the public, as well as release

reporting and contaminant control management operatives for any newly-discovered "releases" encountered during subsurface excavations. Furthermore, the investigation of these sites may suggest railroad-related contribution. The Rochester Gas Manufacturing Site is in the process of being delisted from the NPL based on a proposed, limited use (i.e. potential for disturbance); however, should the DM&E Railroad reconstruct the existing rail bed, MPCA staff in cooperation with the EPA, may again need to review the potential contaminant risks involved, pursuant to applicable rules. Finally, we believe the final EIS needs to include a complete review of all release site records to ensure adequate protection while working through contaminated sites on record.

DEIS Tables 3.1-18 (Leaking Underground Storage Tanks (LUST) Sites) and 3.1-19 (Railroad Related ERNS Sites) do not appear accurate or complete. For example, the MPCA registered tanks database includes above-ground storage tanks (ASTs) that should have been identified in the tables or a table of its own, especially since nearly 100 ASTs are recorded as positioned within a few feet of the railroad right-of-way in Waseca. Further, information contained in the MPCA's TALES-LEAKS database, which addresses both leaking underground storage tanks LUSTs and leaking ASTs, needs to be included in this DEIS section. Another concern we have is how Table 3.1-19 does not provide information about any releases, and appears to only summarize the number of railcars involved. Identifying the nature of a release is appropriate, yet the DEIS should have a similar table of non-petroleum as well as agricultural chemical related release sites.

Fuel Storage. The DM&E Railroad listing in the MPCA TALES (formerly TANKS) database reveals only three active ASTs at the DM&E Waseca Fueling Facility (TALES Database facility #54954). This record shows that two fuel oil tanks at 300 and 18,000 gallons, and one lube oil tank at 3,000 gallons, were registered nearly five years after the statutory requirement or by June 1, 1990. This five-year lapse may imply that the necessary operational oversight and planning is absent for this location, and it prompts us to question whether the newer AST regulatory compliance requirements have been met (yet) at this location. Further, it prompts us to question the level of compliance with applicable rules and regulations governing fuel storage at the other existing fueling facilities within Minnesota that are owned and/or operated by DM&E Railroad. At a minimum, all fuel storage tanks, above and below ground, should have been reported and registered by now. Since the DEIS did not directly elaborate on this topic, we believe it needs to be revised to discuss the status of DM&E's compliance with all of its fuel storage tanks, past and present, at each of its fueling facilities within Minnesota.

Other. On DEIS page 3.1-98, the CERCLIS-No Further Remedial Action Planned listed, Claremont Abandoned Pesticide Site is discussed (a site in Claremont, MN). Statements are made regarding how there are limited pesticide site investigation records for this location. Applying this logic to the remainder of the DEIS, then, we conclude that any of the agriculture-related, chemical release sites that are identified should also be considered incomplete, and as mentioned above, the AG VIC database has not been researched by SEA or the project proposer. The final EIS, then, should incorporate the findings that the proposers will learn when they access the public record for all the affected AG VIC sites – another database that was not researched.

On DEIS pages 3.1-98 and 3.2-104, the DEIS refers to the "Minnesota Department of Environment and Natural Resources Protection Agency." We are uncertain which state agency is being referred to. The DEIS needs to be corrected.

3.2.13. Hazardous Materials. It is stated (on page 3.2-104) that neither reconstruction nor operation of the proposed project would result in an increase in the types and amounts of hazardous materials transported by DM&E. It is not clear how this is possible since the expansion is projected to see an increase in freight in general. Comments in the DEIS itself (e.g., page 5-12) suggests that more ethanol may be transported as a result of the proposed project. The report also suggests the potential for a general increase in the transport of materials other than coal, some of which may be hazardous. Since there are contradictory statements within the DEIS, corrections need to be made.

Also, the last paragraph on page 3.2-104 does not contain the MPCA listed sites managed in the VIC/SRS programs, many of which are conditionally closed on the basis that disturbance of the area is unlikely or not anticipated. Given new project information, there may be a number of contaminated sites in which the railroad reconstruction may take place. The respective MPCA staff may be required to consider reopening sites for safety and cleanup control assurances. The DEIS should be revised to include all relevant contaminated sites identified in the database. It should also specify the way in which SEA or the project proposer will proactively investigate these contaminated areas, and support a coordinated response for control procedures and contingency plans as warranted. The DEIS needs to identify provisions for DM&E Railroad's legal responsibility to immediately report observations of contaminant discoveries and observed releases to the Minnesota State Duty Officer. The plans should also identify the need for all release investigation and cleanup to be conducted in accordance with established corrective action plans and VIC technical guidance, and the need to involve an MPCA Project Manager.

We also note that, on page 3.2-105, the following statement is made: "During project operation, no impacts should occur to existing hazardous material sites." This is inconsistent with the statements made in the DEIS in Section 3.1.11, which discuss how reconstruction is planned at the gas manufacturing sites that are still in varying stages of investigation. The DEIS needs to be revised to remove this inconsistency.

3.3.2.12. Rochester Hazardous Materials. Due to the inadequacies in the DEIS that are detailed in our review of the preceding Hazardous Materials comments above, this specific section will need to be revised accordingly.

Likewise, those hazardous materials sections that are specific to each of the other Minnesota bypasses will need to be revised, to incorporate those hazardous material-specific revisions mentioned above.

3.4.10. Owatonna Hazardous Material Sites. This section did not identify the VIC project site listed as Owatonna Gas Manufacturing (VP0270). The DEIS needs to revise this to identify this important site and to fully characterize the area, including an identification of the property access issues mentioned above. The revised document needs to address construction activities in and around this site, which if not adequately mitigated, could cause additional public risk and exposure to a variety of organic and inorganic contaminants.

D. Solid Waste

Another one of several active sites within the VIC Program that are closely related to this project is Consolidated Container Corporation (VP#12680) in New Ulm, where the Phase II Environmental Assessment, dated November 24, 1999, details an historic, unpermitted dump. The consultant firm, Brittney, Inc., made the following statement regarding the DM&E Railroad (on page 12 of the Phase II Report) "the railroad ties and similar solid waste piled up on the southern half of the subject property were placed there by crews from the DM&E Railroad several years ago when tracks in the vicinity were replaced." The report recommends (page 18) that "a survey be conducted," and, depending how property ownership responsibility is defined, "that the DM&E Railroad be contacted and asked to arrange, and pay for, the removal of railroad ties and solid waste, since its presence is the result of past repair actions on the tracks...by DM&E repair crews." To date, our records show this remains an unresolved matter.

Given DM&E Railroad's record of inadequate management of solid waste generated from their past, relatively small repair projects, the MPCA seeks clarification as to how the company intends to manage the significant volume of waste that will be generated from the proposed project. If "it is unlikely that much of this [rail line] material would be re-used," (as stated on page ES-47) then it is reasonable to anticipate a greater number of unusable railroad ties and other solid waste materials will be generated, which, in turn, creates a need for that waste to be managed responsibly and in full compliance with applicable rules and regulations. While the DEIS states (ES-47) that the waste resulting from this proposal would be "disposed of properly or stockpiled for future use," the MPCA, because of the company's past performance, seeks further assurance.

The final EIS, in our opinion, needs to identify the following details: a) realistic estimates of the number of ties that will be stockpiled and/or disposed of; b) the names of the MPCA-permitted mixed municipal solid waste (MMSW) disposal facilities where the railroad ties and other waste will likely be disposed of (if they will be disposed of in Minnesota, they must be brought to a permitted MMSW facility – they are not considered demolition waste); c) the specific location of any possible stockpile locations and how long each of these temporary stockpile(s) will exist; and d) the management practices that will be utilized to stockpile these railroad ties in a manner that does not result in any pollution releases (e.g., liners and/or covering them with impervious material).

E. Noise

The DEIS for the DM&E Railroad states that the applicant shall comply with Federal Railroad Administration regulations 49 CFR Part 210 establishing decibel limits for train operations. This has been determined to be the correct standard to apply in this environmental review.

Regarding the overall DEIS coverage of noise issues, the number of locomotive operations, their duration, and amplitude were not identified in the noise section of the DEIS. Warning devices, such as whistles, were not analyzed as to their amplitude and duration and could potentially be annoying to neighboring receivers. The DEIS states that the rail line will comply with Federal noise standards, but no analysis was performed to identify the increase of the noise level in the surrounding areas from the current ambient level.

F. Other

3.2.12 Safety. This section is missing commitments typically necessary when excavating at hazardous substance and industrial waste release sites, including but not limited to the investigation of contaminants, use of Hazardous Waste Operations and Emergency Response trained individuals, and comprehensive Site Safety and Health (S&H) Plans. The S&H Plans need to be developed and implemented for workers and the potentially affected public, as well as the reporting and contaminant control management operatives for new discovered "releases" encountered (i.e., subsurface excavations which uncover contaminants).