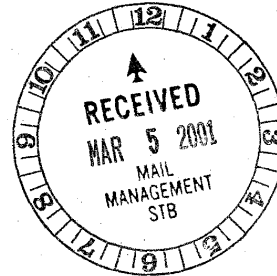


201623

HC56 Box 43
Oral, SD 57766
February 15, 2001

Office of the Secretary
Case Control Unit
Finance Docket #33407
Surface Transportation Board
1925 K. Street NW
Washington, DC 20423-0001

ENTERED
Office of the Secretary
MAR 05 2001
Part of
Public Record



Dear Ms. Rutson:

Enclosed are the original and 10 copies of comments on Volume I of the DEIS for DM&E's proposal to construct into the Powder River Basin.

This DEIS contains much inaccurate information, outdated information, and repetitious information designed to overwhelm the reader with voluminous material and no substance. There are serious violations of NEPA law in the preparation of this DEIS. Section 1502.1 of NEPA code states that "Agencies shall not commit resources prejudicing selection of alternatives before making a final decision." The entire DEIS is biased in favor of the PRB expansion with every consideration given to what DM&E wants. The SEA has already decided the Alternative C is the preferred alternative and refuting information pointing to other alternatives is downplayed as unimportant. The conclusions in many cases do not follow the information presented. NEPA (Section 1502.1) states that "Environmental Impact Statements shall serve as a means of assessing the environmental impact of the proposed agency actions, rather than justifying decisions already made." This DEIS is one long litany of justifying Alternative C.

I urge you to withdraw this incomplete DEIS, do the proper, unbiased studies, and reissue the DEIS. My preference is the No-Build and I am sure with pertinent and correct information, this will also be your preference.

Sincerely,

Paulene Staben

Paulene C. Staben
HC 56 Box 43
Oral, SD 57766

COMMENTS ON VOLUME I Draft Environmental Impact Statement-FD 33407

Pauline Stiles

Page 1-3

DM&E believes....DM&E determined....These benefits, DM&E determined, would potentially lead to increased agricultural revenues and a stronger agricultural economy in the region.

Once again, DM&E is an unreliable source for information that would further their financial interests. Where are your determinations? The use of the word "potentially" in the above statement is particularly disturbing. Where are the facts to support this? A study done by Upper Great Plains Transportation on the North Dakota State University in Fargo as detailed in Ag Week, Jan 15th 2001, concluded that "a trend toward elevators that handle larger, heavier trains may lead to more small-elevator failures and challenges for transportation planners." And "the implications of the shuttle train era are..elevator failures in towns within those draw areas as they compete with shuttle trains that have lower transportation costs and branch line abandonment within those draw areas." The entire article is enclosed at Attachment F.

Page 1-3 Footnote 4

The Board acknowledged these service limitations in its decision on December 9, 1998 recognizing the.....inability of a railroad with annual revenues of \$50 to \$60 million to rehabilitate over 1000 miles of rail line.

To serve existing shippers, DM&E would have to rebuild only 600 miles of rail line, from Rapid City to Winona, MN. (Actually less than this because some has already been rehabilitated with a loan guaranteed by the State of SD). Please assess the ability of DM&E to upgrade their line to serve existing shippers without the PRB extension, keeping in mind the actual mileage that would need to be upgraded for this purpose. Address the possibility of DM&E, only if they remain a Class II Railroad, receiving RRIF money from the FRA to rehabilitate their existing line. Please discuss the legal issues of applying for the RRIF money while this proposal is being decided that would disqualify DM&E from receiving this money as they attempt to become a Class I carrier.

Page 1-4

The revised notice of intent also extended the scoping period until September 8 1998 to allow additional time for comments on the draft scope.

The WG Flat was not identified as a possible route until November, 1999 and the people affected here did not have the opportunity to be part of the scoping process. Please explain the legalities of NEPA law regarding this oversight.

Page 1-4

Reclamation would be required to issue a special use permit to DM&E should an alternative be selected that would affect Reclamation lands. Therefore the Board, in a letter dated November 5, 1999, invited the Coast Guard and Reclamation to be cooperating agencies in this EIS.

Reclamation should have been a cooperating agency long before that. They were asked in after the WG Flat Alternative was selected as an alternative to Hay Canyon. Yet, all three Alternatives (Hay Canyon, Oral Segment, and WG Flat) cross irrigated lands within the District. Why was Reclamation left out? What are the legal issues in not including BOR at the beginning since Reclamation land was also involved in Alternative B.

Page 1-5

The first is "to create a third major rail carrier with independent access to the eleven PRB coal mines".....

Several of the 11 coal mines have closed since DM&E identified its intention to ship coal from them. Please update your "facts." In addition, a number of mines to be serviced by DM&E have cut production. From the Casper Star Tribune, 5-20-00 "Kennecott Energy will cut coal production by 8 million tons this year. Among its five western mines, the brunt of the production cut will fall on three mines in the Powder River Basin -Antelope Coal, Cordero-Rojo Complex, and Jacobs Ranch...." And "Coal has suffered in recent months despite a 4 percent increase in electrical energy consumption nationwide during the past year." The complete article is enclosed at Attachment A

From Railway Age Magazine, August 2000. 'While coal will continue to be the leading commodity hauled by BNSF and UP for many years, its rate of growth appears ready to slow.' and "BNSF and UP, which now have a duopoly on the business, are reluctant to discuss future coal market trends, but sources at both railroads say strategic planners and outside consultants have advised senior management of the slowing of growth." Excerpts from this article are enclosed at Attachment B.

Page 1-5

DM&E has indicated the PRB expansion project would enable them to satisfy the first project purpose by transporting coal in a more cost competitive and reliable manner to Midwestern utilities than exists today.

CNW analyzed this same project 20 years ago and concluded that the DM&E proposal is not well suited to extend into the PRB or to handle the movement of coal. See Chicago and Northwestern Trans. Co—Construction and Operation, 363 I.C.C. 906 (1981).

DM&E proposes a single track that is entirely dependent on everything going like clockwork. Any significant problem anywhere on the 1000 mile line (Hardware failure, a derailment, communications breakdown, natural disaster, interchange difficulties with other carriers) and the entire system is shut down. On the other hand, BNSF and UP have multiple routing and much double and triple tracking which can respond to disruptions by rerouting. Articles from AP, July 6, 1998 "UP improvement project includes new line into Powder River Basin."

CHEYENNE, Wyo. (AP) 6Jul98- Union Pacific's \$1.2 billion rail improvement project includes a new line that would increase coal shipments from the Powder River Basin and repairs to lines in the south part of the state, officials said.

UP plans to spend \$116 million of that on a new line that will handle more coal shipments between the Powder River Basin and just east of North Platte Neb. said UP spokesman Mark Davis

The company also plans to replace more than 100 miles of tracks across southern Wyoming, he said.

Nationally, the company will spend about \$200 million more on new track than last year, Davis said. About 900 miles of rail will be replaced along with 2.8 million cross ties. The company also is investing heavily in locomotives, with 270 on order.

Since it merged with Southern Pacific in August 1996 UP has suffered crippling congestion. Shippers have

complained of lost cargo and delays.

Federal safety investigators concluded a deadly collision of two UP freight trains near Devine, Texas, last June was due to a dispatcher's error caused by the surge in rail traffic.

In the Powder River Basin, recent demand for low-sulfur coal has pushed the number of trains running per day to 147 from an average of 124, Davis said.

UP predicts the market will continue to grow because utilities nationally are interested in low-sulfur coal, he said. "We feel (the coal) will continue to be in demand," Davis said.

UP's line across southern Wyoming is "one of our major gateways for traffic going from Salt Lake City to St. Louis and Chicago," he said.

Crews will replace about 86,000 railroad ties on the southern Wyoming line this summer, he said. Installation of tracks and ties will employ about 75 Wyoming rail employees.

and Railway age, August 2000 from a article entitled "Powder River Basin Coal: A Bottomless Pit?"

BNSF Has invested about \$500 million in track and terminal capacity for its coal business since 1995, \$1.2 billion in locomotives and another \$300 million for aluminum coal cars. With capital programs behind it, the company plans to spend minimal amounts for coal line capacity, with capital going only for locomotives and some cars. "Cash flows improve with that behind us," Kraemer says.

UP is also near the end of huge capital expenditures on its coal business. Peters says his railroad is about to finish double-tracking the line north for S, Morrill, Neb., to the PRB. "The bulk of the investment is done. We're comfortable." He says.

Page 1-6

DM&E states that the rebuild would enhance transportation...and provide significant improvement to grade crossing protection for train and vehicular traffic.

No matter how you look at it, increasing traffic from one train per week to 37 trains per day will not improve grade crossing protection for ANY at-grade crossings! In a filing to the STB dated 6-18-99, DM&E, in response to the STB's request for the grade crossing plan for new construction, stated that "there are no rail-highway grade separations proposed at this time." There is nothing in the DEIS to specify that grade-separated crossings will be built and paid for by DM&E. This is unacceptable! To provide safety, the STB must mandate grade-separated crossings for Interstate 90, SD Hwy 44, SD Hwy 40, US Hwy 18 (the Heartland Express), SD Hwy 71, US Hwy 18 (near Edgemont), US Hwy 85, Hwy 450. Many of these highways serve communities that should be included in the environmental justice section. There are many county roads that serve as the only means for farmers and ranchers to access emergency services, such as County Hwy 6. If the Oral Segment is approved, the Oral Hill to the east of the track is dangerously steep. A loaded grain truck or school bus full of children would be unable to stop if a train was blocking the track in Oral or even passing through. An over or under pass would be a necessity for safety reasons. Please do more complete studies concerning the demographics and terrain of the area in the re-release of this incomplete DEIS.

Page 1-10 Edison Electric Institute is listed as a source for much of the information presented in Pages 1-10 through 1-13.

In a letter to the STB dated 11-13-00, EEI identifies itself as "a strong supporter of the project." To use them as a source for National Energy Policies in this DEIS is a violation of the NEPA process. (Section 1502.1 of NEPA code—Agencies shall not commit resources prejudicing selection of alternatives before making a final decision). It is inconceivable to me that EEI would be so bold in their 11-13-00 letter that "EEI

intends to advocate in its comments...that the STB include in the FEIS a section setting forth the PRB expansion Project's benefits and intends to provide a proposed textual insert in that regard." In other words, EEI intends to help you write the FEIS. Since they helped you write the DEIS, I would be glad to help you write the FEIS in order to provide balanced and unbiased information. (even things out, as it were). You may contact me if you want my help! It would be beyond inappropriate and probably illegal if ANY further submissions by EEI are included in the FEIS. In the re-issue of this DEIS, EEI submissions must be removed!

Page 1-10

As deregulation progresses, those utilities most successful in lowering energy generation and delivery costs and then passing those savings on to the consumer will likely be the most successful. Converting to lower-cost PRB coal would enable utilities to reduce fuel costs and lower costs for electrical generation.

Most of the sources for this assumption come from 1996 and 1998 reports. (see footnotes on that page). Many things have changed since then. Coal bed methane production is booming in the PRB. Compare transportation costs of a 36 inch buried pipeline carrying natural gas to a train hauling coal. Also compare the environmental impacts of each. See article from the Casper Tribune, 10-2-2000 below.

COASTAL TO TRIPLE GAS PIPELINE CAPACITY

GILLETTE, Wyo. (AP) - A pipeline company has announced plans to triple the natural gas it can export from the Powder River Basin by building a second line from Douglas to the Cheyenne area.

Wyoming Interstate Co., a subsidiary of The Coastal Corp., has filed an application to get Federal Energy Regulatory Commission approval for the pipeline.

The 36-inch line would parallel the company's still-new, 26-inch Medicine Bow Lateral line from Douglas to a main line southwest of Cheyenne, boosting capacity from 380 million cubic feet per day to 1.05 billion cubic feet.

If approved, the line could begin moving gas within a year and a half

"Producers have come to us saying we need this much capacity," said Jaryl Strong, a Coastal Corp. spokesman.

Even more capacity can be added by building compression on the two lines. The system ultimately could move up to 2 billion cubic feet of natural gas per day, he said.

The Wyoming Geological Survey recently backed up once-ambitious estimates for the basin's coal-locked natural gas.

According to the survey, 25 trillion cubic feet of gas can be recovered from the basin's massive and shallow coal seams, eclipsing previous estimates of 9 trillion to 12 trillion cubic feet.

Federal and state regulators are meanwhile studying the possible environmental effect of extracting gas over 10 years from up to 33,000 coal-bed methane wells.

Each well is expected to produce for an average of 10 years, said Gary Strong, geological project analyst for Wyoming Oil and Gas Commission. But not all of the wells will be drilled at the same time. That means the life of the industry could last

anywhere from 20-50 years, although the number is hard to predict because more than 100 different producers are targeting different areas.

"A lot of the development is going to happen where the gas lines are," Strong said. The boom has already yielded more than 2,600 producing wells that collectively are expected to produce over 100 billion cubic feet of gas this year.

New technologies on the rise for generating low-cost, clean energy must be considered to evaluate the future need for PRB coal. See articles on wind energy and the fuel cell enclosed as Attachments C and D.

Please provide information on the number of new power plants that have been developed in the past two years. How many are coal-fired? How many are natural gas? This is important information to determine if the need for PRB coal will increase. According to the Casper Tribune, 6-26-00, the public Service Co. of Colorado is contracting to build nine power plants along the Front Range. One of the plants is fired by used tires, the eight others by natural gas. This is in a region where transportation costs for coal would be low due to distance and rail service from UP. Yet they have chosen to utilize natural gas.

Page 1-11

PRB coal costs less than from other sources. The mine price of coal in Wyoming's PRB averaged \$6 per ton in 1997.

This low price forced the mines to cut coal production because it was below the cost of production. The Rochester Post-Bulletin, June 2, 2000 reports that cuts were recently announced in coal production in Wyoming. Merrill Lynch coal industry analyst Dan Roling is quoted in the Rochester Post-Bulletin, June 2, 2000, as saying, "Investors are basically fleeing. Coal companies are not making any money because they are selling below cost. Coal executives are finally figuring out they have to make money, which is a whole new concept for them."

Page 1-12

The other national policy that, according to DM&E, creates a need for this project is the CAAA.

Again, the footnotes that reference many statements on this page are from reports from 1994, 1996, and 1998. This DEIS was not released until late 2000. Don't you have the current information from the EPA? You focus exclusively on lower sulfur dioxide in PRB coal. A number of other pollutants have been studied since DM&E submitted their application. From Railway Age, Aug 2000, " 'Environmental concerns are the single biggest impediment to coal growth,' says UP Senior Vice-President-Marketing and Sales Art Peters. 'The global climate change agreement will have negative impact on coal.' Utilities face new, more stringent rules dealing with discharges of nitrogen oxide (NOX), mercury, sulfur, and particulate matter. 'Everyone of them adds cost to burning coal.' he says" Since you elaborate on the low-sulfur advantage so much in the DEIS, you must consider the disadvantages of PRB coal as it relates to NOX, particulate matter, and mercury.

Page 1-13

Increased utilization of PBR coal is the most cost effective way for many utilities to come into compliance with these new requirements.

The reference to this information is US EPA for March 1998. Yet this DEIS was not released until October 2000, 2 ½ years later! Where is your current information?

Consider the following, released from the N.C. Dept of Environment and Natural Resources, Oct 12, 2000. "New rules adopted by the state Environmental Management commission require power plants and other industries to reduce their emissions of ozone-forming pollutants by more than two-thirds between 2000 and 2006....Under the new rules, allowable utility emissions would drop from 89,000 tons of nitrogen oxide per year in 2000 to 37,294 tons in 2004. Governor Jim Hunt said, "We know that if there are no controls on coal-burning power plants, these plants would produce 148,000 tons of nitrogen oxide by 2007."

An Associated Press Report July 11, 2000 states "Removing a key barrier to the EPA's plan to regulate mercury from power plants, a panel of scientists has concluded that the agency was justified in setting rigid levels of protection from the toxic substance." See complete report Attachment E.

A report from the Environmental News Service, Sept 19, 2000, "Rain and snow falling on New England States have been found to contain levels of mercury that far exceed what the EPA considers safe for people, aquatic life, and wildlife in surface waters, concludes a new report released today by the National Wildlife Federation."

From the Environmental News Service, July 19, 2000. "New clean air regulations were approved Tuesday by Pennsylvania Environmental Quality Board...Power plants will have to meet this cap by 2003. The regulation provides incentives for facilities that reduce emissions earlier than required ...not only of nitrogen oxide, but also mercury, heavy metals, and sulphur dioxide."

From the New York Times, 6-24-00 "A federal appeals court late last week gave the U.S. EPA permission to begin enforcing a regulation that will force 19 states in the Midwest and South to sharply cut their power plant emissions that contribute to smog in the East.. The feds say the new rule could remove 1.1 million tons of nitrogen oxide from the air each year...the states have until October to submit plans to the EPA outlining how they will comply with the regulation and until May 2003 to be in compliance."

From the EPA office of Water January, 2001, Water Quality Criterion for the Protection of Human Health: Methylmercury "The main source of mercury is air emission from power generation and other industrial and waste disposal activities. The United States needs to establish effective source control and management programs in the coming years to begin to recover from the widespread mercury contamination in our aquatic environments."

From the Environmental News Service, 12-15-01 EPA to Cut Mercury Emissions from Power Plants "Power plants are the largest source of mercury emissions in America. After extensive study, the EPA determined 'mercury emissions from power plants pose significant hazards to public health.' Under the Clean Air Act, EPA is required to study toxic air pollution from power plants...EPA reported the study to Congress in February, 1998. The study concluded that of all the toxic pollution examined, mercury posed the greatest concern to public health. EPA will begin developing regulations shortly and will

propose regulations by December 2003." The entire report is available on the EPA's mercury web site at www.epa.gov/mercury.

From the Environmental News Service, October 17, 2000. "Pollution generated by US power plants is responsible for cutting short the lives of over 30,000 Americans each year... The report is based on research conducted by Abt Associates, a consultant firm that the EPA frequently employs to assess the health benefits of its regulatory programs." Below are excerpts from that report relating to particulate matter (soot).

According to Abt, the power industry is responsible for a staggering share of the deaths and disease that can be attributed to the soot in the nation's air. Among the report's key findings:

- a. Fine particle soot from oil and coal fired power plants shortens the lives of more than 30,000 Americans each year.
- b. In more polluted areas, fine particle pollution can shave several years off its victims' lives.
- c. Nearly 19,000 of those deaths could be avoided if the dirty power plants were made to conform with modern clean air laws.
- d. Fine particle soot from power plants also causes an estimated 603,000 asthma attacks nationwide.
- e. More than half of those attacks would be avoided if the dirty power plants were made to conform with modern clean air laws.

"Pollution from dirty power plants poses a serious threat to public health," said Conrad Schneider, advocacy director of the Clean Air Task Force. "More people die as a result of the pollution from these plants every year than from drunk driving or homicides, societal woes that everyone agrees are top priorities."

About 16,000 Americans die every year as a result of drunk driving, and some 18,000 are murdered.

By modeling the impact of power plant pollution throughout the lower 48 states, Abt Associates was able to develop health impact estimates for every state and major metropolitan area.

From the Union Pacific Position Papers: Environmental Regulations and the Coal Industry 12/7/2000, even Union Pacific believes that the Kyoto Protocol will "cause domestic coal consumption in the US to drop 77% by the year 2010 and virtually disappear by 2020." The level of US participation in the Kyoto Protocol is revised significantly, DOE still predicts electricity generation from coal will drop to roughly half the current levels by 2010. Unlike clean air standards that led to substantial increases in the use of low-sulfur Powder River Basin coal, a dramatic cut in greenhouse gas emissions will not have a similar result. An executive with American Electric Power estimates that cutting carbon emissions to meet Kyoto standards will require a large-scale shift to substitute fuels, predominately natural gas. In fact, the EPA strongly favors a reduction in coal use, an increase in natural gas as a means to meet the regulations. Older coal-fired power plants are among the largest emitters of pollutants that contribute to regional haze."

The entire article is enclosed at Attachment G

From Nanatsiaq News, 12-27-00 - DIAND, Corporations Eye Nunavut's Gas Reserves, "gas is increasingly in demand because many coal-burning electric generators have converted to gas which, unlike coal, burns cleanly and creates little pollution. The only problem with High Arctic gas reserves is their remoteness. This may be overcome when a gas pipeline runs from the Beaufort Sea to Alberta. Such an existing condition would make another one much easier."

The point of these articles is that, under current concerns before the EPA, low sulfur is only a small part of the pollution from coal that is now being and will continue to be addressed in the next few years. Your concern seems to be entirely with sulfur. Please consider more current reports from the EPA in determining the advantage of PRB coal.

Page 1-14, Table 1-4-- Coal Mines to be accessed by Powder River Basin Expansion Project.

- 1. No date is given in the table for Recoverable Reserves. As coal is used year by year, the recoverable resources will decline. If the date is not given, it is difficult to determine the years of reserves left in the mines.*
- 2. Several of these coal mines have closed or cut production significantly. Please research and update the table to reflect this. (See comment above Page 1-5.)*
- 3. The annual production stops with the 1998 figure. Since the DEIS was not released until Fall, 2000, one would expect the figures for 1999. Please provide this information.*
- 4. The recoverable reserves, according to your figures, total 4,591 mt. The permitted annual production capacity for 1999 is 343 mt. This leaves a maximum of 13 years of reserves left in the PRB. If, as DM&E asserts, the production capacity will increase to 500 mt, there are 9.2 years of reserves left. If it should take DM&E 2 years to receive their permit from the STB, 4 years to construct their line to the PRB, this leaves 3 years to haul coal before all the coal will be depleted, according to your figures! Is this worth the adverse environmental impact that will result from this construction? The No-build is the only conceivable option!*

Page 1-15

The lower cost of PRB coal and its environmental benefits have increased the demand of this coal source.

The footnote reference contains coal statistics 1993-1998. More current data reflects that coal companies have been selling below cost and cannot continue to do this.

Production has been cut in 2000 and mines have closed. Please provide more current data. Also the "environmental benefits" do not reflect the current findings concerning mercury, particulate matter, and NOX from coal fired power plants and the EPA's recent decisions concerning these pollutants.

Page 1-15 Footnote 28.

US Coal supply and Demand: 1996 Review. B. D. Hong, Energy Information Administration, US Dept of Energy (Published in Mining Engineering, Vol. 46, No5, pp43-50. May 1994).

How is it possible to do a 1996 review and publish it in May 1994? Could it be the dates in the footnotes are wrong or are you really basing this decision on 1994 data? Given the rapidly changing energy situation and coal situation, this old data is unacceptable.

Page 1-16, Table 1-5 Projected Energy Generation, Sales, and Consumption.

It is difficult for me to believe that a DEIS released in October, 2000 would have to rely on projected data from 1996. Why not actual figures for 1996, 1997, 1998, and 1999. Also the projected energy generation does not take into account the boom in coal bed methane, wind energy, and natural gas. Please revise this table to reflect consideration of other energy sources replacing coal and thus the demand for PRB coal declining..

Page 1-18

Currently, the PRB is faced with the problem that transportation is not meeting existing production levels....The 1996 coal production at five of these mines was 131million tons, yet only 80.8 million tons were shipped because of transportation problems. 1996!! *Things have changed since then. BNSF has installed a "Transportation Support System" that, among other things, takes advantage of BNSF's multiplicity of routes by immediately developing alternative routings in the event of a service disruption. See article below dated August 19, 1998 which addresses UP's steps to improve coal hauling entitled "UP's Coal Hauling operations climb back from congestion problems." Why don't you contact the mines and UP and BNSF to get a true picture of what is happening today, instead of relying on a 1996 report and DM&E's faulty assertions.*

UP's Coal Hauling Operations Climb back from Congestion Problems

By JOE RUFF, Associated Press Writer

BILL, Wyo. (AP) 19 Aug 98 - The arid, high plains of eastern Wyoming produce some of the richest low-sulfur coal in the world.

Union Pacific has invested \$1.3 billion in a nine-year track improvement and maintenance plan to make sure its tracks continue to haul it. The railroad's 1990-99 investment includes work on a central corridor in Nebraska that handles 40percent of the railroad's traffic each year.

Union Pacific Corp. chairman Dick Davidson is confident the railroad is not overspending on track expansion.

"We're behind the curve, we're catching up." Davidson said, speaking from a Union Pacific train traveling from Wyoming to North Platte, Neb

Union Pacific's congestion problems last year put a kink in its ability to haul the coal. Mining companies in Wyoming lost a combined \$40 million in sales because Union Pacific trains could not get their product to power plants that use it. said Marion Loomis, executive director of the Wyoming Mining Association.

But the congestion has cleared, Loomis said.

"They've made major improvements in deliverability," Loomis said. "We feel they can haul out the coal we produce. Last year, that wasn't the case."

The Southern Powder River Basin of Wyoming, which produces more low-sulfur coal than any area in the West, includes the largest coal mine in the United States, Black Thunder owned by Arch Coal Inc. More than 39 million tons of coal came out of Black Thunder in 1996. Remaining reserves are estimated at 750 million tons.

Union Pacific's revenue from hauling coal from the Southern Powder River Basin was estimated at \$14 billion last year.

Union Pacific's congestion problems began last summer in Houston and quickly rippled across its 23-state network. The

railroad's absorption of Southern Pacific in 1996 was hampered by lack of equipment and crews, a rash of wrecks, and difficulties integrating Southern Pacific's aging equipment into UP's more modern infrastructure.

The worst service breakdown in railroad history cost the economy an estimated \$4 billion as shippers stalled production and paid higher costs to find other ways to get goods to their customers.

Union Pacific also lost money, reporting a \$419 million loss in this year's second quarter, largely attributed to its settlements with customers angry over money lost to delivery delays. It was UP's third-straight quarterly loss.

Conversion of the two systems is largely complete. Union Pacific is spending nearly \$1 billion this year in improving and maintaining its 36,000 miles of track and the railroad is certain it is seeing the light at the end of the tunnel.

Page 1-18

For the past five years, and despite continued capital spending, existing PRB coal carriers have consistently failed to meet guaranteed cycle times. Existing PRB utility customers are today involved in litigation, alleging that their rail carriers have failed to meet their obligations to deliver coal.

"For the past five years"—the past five years starting when? 1996 back to 1991? Please specify which five years. Is the litigation from Jan. 1999 settled yet? If so, what was the outcome? "Alleging" something does not make it true and should not have been mentioned here!

The Surface Transportation Board, in a news release dated 12/15/2000 (#00-53) states, "The Board agreed with DOT that BNSF has enough traffic to provide an important competitive constraint on UP, and noted DOT's observation that no shipper has complained about UP's rates or service. The Board stated that it already has verified, through a staff rail rate study, that the western railroads have achieved significant efficiency gains over the past several years and have passed the gains along to their customers in terms of reduced rates. And the Board noted that UP, which will have spent \$1.25 billion by the end of the year and plans on spending \$1.3 billion over the next four years to upgrade its facilities, assemble more direct routes, build new terminals and yards, and improve service, is on target in making promised investments." In Discussions and Conclusions of STB FD32760, Decision #16, the

Board states that "The pleadings submitted here reaffirm our conclusion in last years oversight decision that UP's service crisis is over."

Why would you use outdated information to support a faulty assumption when you have information available from your own studies and conclusions that indicate UP and BNSF have provided excellent service and that there is adequate competition in the industry? Please explain!

The following press release from Union Pacific in December, 2000, indicates the problems with cycle times are over and actually, the problems are not with transportation but with a slow-down of coal and problems loading the coal at the mines, problems that will be aggravated by a third carrier congesting the traffic at the mines. How will that problem be solved?

For the first time ever, Union Pacific has moved more than 10,000 load coal trains out of the Powder River Basin in one year, and the railroad did it in record time. Yesterday, Dec. 14, train CROSA14 left the Codero/Rojo Complex owned by Kennecott, headed to the City of San Antonio. For all of 1999, UP moved only 9,898 coal trains out of the PRB, a number that was surpassed on Dec. 10. In addition, larger trains are rolling out of the coal mines, resulting in the movement of 8 million tons more coal through October of this year than the same period in 1999 --that equates to roughly 72,720 carloads.

"Hitting the 10,000 mark is good news, but better news is the fact that we did it using fewer coal sets and power," said Pete Brandt, general director-Bulk Operations in Fort Worth, where he manages the joint coal operations with Burlington Northern Santa Fe managers.

Through October 1999, UP averaged 231 coal sets in PRB service. This year, the average is down to just 224. "Fewer sets are needed because coal trains are moving so much faster. Sets have been taken out of service, and that's good for our customers and us," Brandt said.

Cycle times -- the time it takes for a coal train to travel from the mine, to the utility, and back to the mine -- have decreased dramatically this year, Brandt said. Coal sets were hitting cycle time goals 98 percent of the time this year, vs. 86 percent in '99. "We've seen train velocity on the Coal Corridor increase from 15.1 mph in '99 to 20 mph year to date through November," Brandt said. Brandt points to line improvements throughout the system and fluidity beyond the Coal Corridor for the increases. "When manifest, auto or intermodal trains move faster, coal trains move faster as well," he said. "Our commodities are intertwined. We have to see improvements throughout the entire railroad to see benefits of velocity increases on the Coal Corridor, which runs from North Platte, Neb., to Shawnee Junction, Wyo."

Another key reason for the improved coal train numbers is the success of the joint UP/BNSF coal desk in Fort Worth. Brandt said cooperation between dispatchers from the two railroads is now commonplace. "We actually have UP and BNSF dispatchers talking to each other and planning the movement off the joint line," he said. "It's no longer a phone call or hope that they take the train."

A new mine-slotting process has been developed based on market demand that is updated monthly. "If you have 60 percent of the business out of a specific mine, you get 60 percent of the loading slots, so you know what slots you have day ahead of time and can manage train flow from as far away as Kansas City or Council Bluffs," Brandt said. Can the increases in coal train numbers continue? Brandt said it depends on the mines and the railroad's continued performance. "Over the past two years, the railroads have caught up with the mines and surpassed them as far as our ability to get trains to them, compared to their ability to load them," he said. "In years past, mines were ahead of the railroads. Our infrastructure and capacity improvements have made up the difference. The good news is that UP knows there's growth, and we're going to keep up with it. Thanks to the investments in our infrastructure, we're going to stay ahead of the game."

Page 1-18

Shortages in locomotive power to move grain and other goods can occur when railroad resources are diverted to transport coal and vice-versa.
Yet DM&E can say they will transport coal and also serve existing shippers. What happens if they make more money from transporting coal? Will they divert their resources to coal and forget about existing shippers?

Page 1-19

Presently only two railroads, UP and BNSF, serve the PRB.
*The use of the word **only** gives the impression that this is not enough. This shows your bias in favor of this proposal and is a violation of NEPA law. Since coal production is down and since BNSF and UP have improved their tracks and facilities, two railroads are enough.*

Page 1-19 Footnote 45

Again the confusing dates referencing B.D.Hong in the 1996 Review, yet published in Mining Engineering in May 1994. This is either a mistake or incredibly outdated data.

Page 1-19

DM&E's eastern connection with five other rail carriers could provide utilities access to a rail carrier with a shorter transportation route than their current carriers.
Please identify these five carriers and provide details of the agreements DM&E has with each carrier. Consider the effects if any or all of these five carriers had a lack of agreement with DM&E or if there was a disruption of service on their lines. Would DM&E's "target market" have reliable service then?

Page 1-21

These mines have an annual production capacity of 321 million tons.

Not true. Several of these mines have cut production or are now closed permanently.

Please update your figures and provide us with correct information.

Page 1-21

Existing shippers along the existing DM&E system would continue to receive rail service with this service likely being improved over that currently available.

If coal is the principal commodity, what assurance is there that shippers of other products would be included in a timely manner. Also, with the bypass of Rapid City, there will be no improvement of rail service to the northern Black Hills or to Rapid City. In fact, they are in danger of being left out on a deteriorated rail line. Alternative D would provide them with service. Where in this DEIS is your assurance that service would be improved? Mitigation must include a provision that ALL DM&E line will be upgraded as a condition for approval of any Alternative except A.

Page 1-22

New rail line would be designed for 315,000-pound rail cars, operating in 135 -car.....

Footnote 53 to this statement says "Because large portions of other rail carriers' existing systems could not currently accommodate such trains, initial trains operating on the system would use 115-cars." And "As other carriers systems are upgraded, DM&E would be able to utilize the heavier capacity rail cars." What guarantee do you have that the other carriers will have the resources or inclination to upgrade their systems? When DM&E calculated train numbers and coal hauled, were those projections based on 135 cars or 115 cars? What would be the correct figures in each scenario? Those projections should be placed side-by-side for comparison.

An Associated Press Article on 11-3-00 states, "Union Pacific Railroad is experimenting with longer trains in western Nebraska. Some trains serving the coal fields of Wyoming are doubling up in size. The railroad hopes 230-car trains instead of 115-car trains will free up track space and require fewer workers. Union Pacific officials say the wait at rail crossings would be longer, but with fewer trains, time overall would be saved for motorists." What are the ramifications of coal trains moving to 230 cars? If UP does this and DM&E is not capable of doing it, what effect would this have on competition? Would DM&E be able to compete? How much coal is capable of being loaded at the mines and how much coal is available, using 230 car trains? Would DM&E have any coal to haul? How does this fit with your faulty assertion that another carrier is needed to fulfill coal obligations to power companies? If DM&E must run 230-car trains to be competitive, what would be the increased impact to safety, increased blocked crossing time, increased noise, increased vibration? If this is a reasonable possibility, the re-issue of the DEIS must include studies to indicate the effects of 230-car trains.

Page 1-23

The right-of-way width for new rail line would be a minimum of 200 feet, centered on the rail line in most areas.

DM&E has told landowners that 200 feet would be what would be required. When I asked for a map indicating cut-and-fill required on my property, DM&E refused to provide this information. When I asked Steve Thornhill of Burns & McDonnell if land I own along the Oral segment would be surveyed for archeological evidence, he responded that, since construction activity etc would stay within the 200 foot right-of-way, this would not be necessary. Now I read in this paragraph that this may or may not be true. What are my rights in the NEPA process if my land in that area is encroached upon? Certainly, no consultation took place, nor any archeological assessment. Please research and explain my rights in the event of encroachment on my property as it relates to eminent domain laws, both Federal and State.

Page 1-23

Construction permits would be required for additional construction areas which would be located outside the easement or right-of-way boundaries.

Who has the power to grant such a permit? If it is this landowner, I guarantee that no permit will be granted! What happens then? Please explain the legal process, esp. from the private property owner's viewpoint, and assess the impacts that could result from a delay in construction resulting from this.

Page 1-23

Because of the variable nature of area topography, gently rolling to steeply sloped, and the need to maintain a grade slope of 1.0% or less, significant cut and fill would be necessary.....Blasting in some areas could be necessary...and (Continuing on Page 1-24) extra right-of-way may be required to dispose of cut material. Borrow areas on USFS lands would require establishment of need and acquisition of a mineral material sale permit.

How are the people living in close proximity and the landowners protected from this extensive cut and fill and blasting? Please identify our rights as landowners to protect this intrusion onto our property, how we will be compensated, the economic consequences to both DM&E and the landowner if we are unable to reach agreement. USFS lands will require a permit. What about the private landowner and if the mineral right on my property belong to someone else, how will that be handled? Please address.

Page 1-25

During earthmoving activities, water trucks would be used...to help control dust. Water is anticipated to be obtained primarily from private stock ponds and wells....Some water would be withdrawn from the Cheyenne River.

In the event of a dry year, such as 2000, there may not be water available. In western SD, we realize that water is our most important resource. The Cheyenne flows into Angostura Reservoir to provide water for irrigation. If levels are low, this water is reserved for the irrigators who are paying for it. Irrigators upstream from Angostura have just been notified that, in 2001, there may not be any water available to them. If there is no water available to DM&E for dust control, will construction be halted? Who

monitors the dust and determines hazardous levels? If dust blows onto the adjacent grass, it can result in dust pneumonia to livestock that eat it. This problem is not addressed in the DEIS. Please include and analyze the impacts.

Page 1-28

A system of positive train control would be employed...with the full implementation of CBTC. See Footnote 60.

CBTC is a system of train control currently under design and testing by the FRA which, when approved for use, would provide for positive train separation. What if it is not approved for use? What if testing takes many years? This proposal should not propose to use or even include a system that is unproven and still in the testing stages. Please include an analysis of what operating system would be used if this is not approved.

Page 1-29

Coal trains loaded at the mines would be delivered to connecting carriers for movement to their final destinations. Interchange points would be at...UP, ...I&M, and ...CP. Does DM&E have agreements with these necessary carriers? UP would be a competitor of DM&E for PRB coal. Are they likely to be cooperative as a connecting carrier? CP has expressed serious doubts as to the viability of the DM&E proposal. In the Winona Daily News, April 7, 2000, "A top official with Canadian Pacific Rail said Thursday the Dakota, Minnesota, and Eastern Railroad's coal plan won't fly due to market and financial constraints. 'We don't actually think this is ever going to happen,' Mark Nordling, director of commercial development for CP Rail, told a crowd of about 30 people...In addition, CP already agrees to haul Wyoming coal on its tracks from UP in the Upper Mississippi River Valley and Wisconsin. DM&E asked CP three years ago to be a partner, and CP declined, Nordling said." Absent agreements with these connectors, DM&E cannot get its coal to the target areas.

Page 1-31

Vegetation control measures would be designed to control noxious weeds and reduce the potential for rail-related fires.

DM&E has not proven to be diligent about controlling noxious weeds in the past along existing line and therefore there is no expectation that they would be in the future. They have not sprayed for Canadian Thistle and we called the Fall River County Weed Board as Canadian Thistle was spreading on to our property from DM&E right of way. We offered to pay for the herbicide if the County Weed Board would spray the thistle on DM&E Property. We were informed that the County Weed Board could not spray on Railroad property and they could do nothing to force DM&E to spray. Please contact the Fall River County Weed Board, Fall River County Courthouse, Hot Springs SD 57747 for verification.

A landowner in Haakon County, SD contacted DM&E about spraying the Canadian Thistle that was spreading onto his property. DM&E informed him they would not spray it. He then made a verbal agreement with DM&E officials that he would buy the herbicide and spray the Canadian Thistle in the RR right-of-way and they agreed to reimburse him for the cost of the herbicide. When he presented the bill to DM&E after

he had sprayed, he was then asked if he had a commercial license to spray herbicide. When he said "No", the DM&E official informed him that they would not pay the bill and, if he pursued it, they would sue him for spraying herbicide on the RR land without a proper license. This landowner did have a private applicators license. You may contact Scott Kennedy, Philip, SD for confirmation.

Page 1-35

It was determined that if an action alternative was selected, both of these forest plans will have to be amended because any action alternative will not be consistent with some management standards and guidelines in many cases.

Were not these forest plans evaluated carefully before they were approved? It seems inconceivable to me that, when any political pressure comes along to suggest changing the plan, an amendment can just be written to accommodate any environmental hazard. Why did you write forest plans in the first place if you can just change them on a whim? Continuing on Page 1-36, public scoping must take place if an amendment to the Northern Great Plains National Grassland Land and Resource Management Plan is required. What if the public comments do not favor the amendment. Can the project be denied because of this? Please explain. And if public comment will make no difference anyway, why have it?

Page 2-4

DM&E looked for conditions it believed would be necessary to construct safe and efficient rail line that would still enable it to provide competitive rail service for transport of unit coal trains while minimizing the environmental impacts associated with cut and fill activities.

Reading this, one would believe DM&E should receive a medal for civic-mindedness! Never forget that they have chosen the route most beneficial to them! Just drive with me to the Cheyenne, look at the extensive cut and fill that will be required to build a bridge 70 feet above the water, to move a large hill and use that dirt for cut and fill at the Custer County-Fall River County Line, drive with me on County Road 6 south of Angostura Lake and note the rugged terrain, take a trip with me (by horseback because it is too rugged to drive) up beautiful Hay Canyon. Then tell me with a straight face that DM&E is concerned about environmental impacts associated with cut and fill. It is obvious that you have not studied the cut and fill required on the new build portion. Please do so and include this in your DEIS.

Page 2-5

DM&E consulted withlandowners that could be affected...to identify a reasonable and feasible corridor for westward expansion of its existing system.

The only consultation I had with DM&E was when I said I wasn't really interested in selling my property and Mr. Schieffer replied that it really didn't matter what I wanted, he would get it anyway. The line was drawn prior to that across property I was responsible for and has remained there for 3 years and is now part of Alternative C. So much for consultation with landowners! If anyone showed the slightest bit of negativity to the project, they were dismissed from further "consultation."

Page 2-6

DM&E continued to meet with landowners and interested parties to identify potential construction alignments within the corridor. Engineers consulted with landowners to identify alignment locations that would avoid or minimize impacts, such as crossing or dividing cultivated lands, particularly irrigated land, or causing potential operational impacts to ranching.

This is so untrue that it hardly should be dignified by a response. Please contact landowners to verify this statement. Ask any landowner on the new build portion if anything was done that was not the best terrain for DM&E. Please have an engineer check the route and terrain maps. The only reason DM&E drew Alternative B down the Cheyenne River at all is so they could be viewed as "willing to compromise" when that alternative was deemed too environmentally hazardous.

Page 2-11

Coal mines would continue to open and increase production as discussed in Chapter 1, potentially increasing rail service problems both in the PRB at the mines and for coal customers. As coal production increased, rail traffic on the existing rail line routes between the mines and users would also increase. Communities through which existing is currently transported.....would experience increases in rail traffic and associated impacts....

Where is your current data to show coal mines will continue to open and increase production? Just the opposite is true (see above responses and articles in Chapter 1) Hence, if there is no increase in coal production, the rest of your above statements are also invalid. An additional observation; apparently it is detrimental to increase coal traffic on other lines but environmentally beneficial to increase traffic on DM&E's line. Please explain that contradiction!

Page 2-12 Table 2-1 Information partially obtained from DM&E June 9, 1999 Filing to the STB

Please identify where other information was obtained. Was information provided by DM&E verified by an outside source? I question the fuel used as compared to the total round trip distance. Was this comparison done without estimating any cut and fill on existing line but using extensive cut and fill on Alt B and C? This would have great effect on the fuel consumption. Please verify and re-figure this information.

Page 2-43 SEA using design information provided by the applicant evaluated the feasibility of these corridors for the proposed project.

DM&E is not a reliable source for information concerning any route. They are going to skew any data to reflect that Alternative B and C are the only feasible routes. Their figures are incorrect because they did not account for doing cut and fill and straightening the line on the existing corridors alternatives. Please do an independent study using correct information and reevaluate the potential for these alternatives.

Page 2-46 Footnote 15, The use of parallel or existing rights of way can cause greater impacts if the railroad is incompatible with adjacent land uses or if adjacent land uses have encroached on the existing right-of-way.

What about where there was no railroad to begin with? If a railroad was already there, and I chose to build next to or on the right-of-way, I should be expected to deal with the potential impacts. To expect someone who owns property through which no railroad has ever passed and who built their business without this interference as a possibility is discounting the importance of private property ownership in America. Then to say building along the right-of-way can cause greater impacts is ridiculous! Just please use some common sense before you make such statements!

Page 2-49 However, even with this type of reconstruction, SEA determined that it might not be possible for DM&E to operate the unit coal trains at its desired speed.
Might not be possible just isn't good enough. Where is your engineering data to prove this. You are talking about taking someone's private property and should be able to give of more conclusive data than "might not be possible."

Page 2-54 During scoping, the public suggested that SEA evaluate alternative energy sources, such as nuclear, hydroelectric, and wind in the DEIS as alternatives to burning coal to generate electricity.

These alternative energy sources must be evaluated, not as alternatives to burning coal and the fact they are cleaner environmentally, but as potential competition with coal. Coal production has declined and will continue to do so because of these energy sources, most particularly coal bed methane coming from the same region as coal but being much cheaper to transport, cheaper to extract, and much more compatible with current energy policies in the United States. Without product to haul, DM&E will not be able to meet its goal of upgrading existing line. These alternative energies including wind and solar must be included as potential competition to coal. To disregard them simply because they "would not advance the Applicant's goals" shows a one-sidedness that has become more evident with each page of this DEIS.

Page 2-74 Table 2.6 Siding locations—Location #52 Pennington County MilePost 590.5 - 605.8

Is this siding really 15.3 miles long or is this a misprint? Please address the impacts of a siding this long.

Page 2-77 Table 2-7 Siding Locations-Extension Alternative C

*The siding numbers intermingled with the * and no * is very confusing. I live near the WG Flat Alternative and have no clue from this where the sidings will be located. What route does the no * indicate? Where is the Oral Segment sidings and Hay Canyon Segment sidings information?*

Page 2-80 Table 2-8 Siding Locations-Extension Alternative D

The Mile-Post numbers jump from 36.0 (siding 49) to 675.84 (Siding 50). Since common sense would tell me this siding is probably not 639.84 miles long, please let the public know how long it is and where it is located. Maps with mile post markers would be helpful. Otherwise this information is meaningless.

*P. St. John
2/9/01*

Kennecott cuts coal production

GILLETTE, Wyo. (AP) - Kennecott Energy will cut its coal production by 8 million tons this year, but no full-time workers in Wyoming will lose their jobs, the company said.

Gary Goldberg, the company's chief executive officer, said Kennecott believes coal is undervalued in the market. Rather than accept lower prices, the company chose to slow production.

"We won't give our coal away," he said. "While we remain optimistic about the long-term viability of the market, it is important to make good business decisions to reflect short-term fluctuations."

Among its five western mines, the [REDACTED] in the Powder River Basin - Antelope Coal, Cordero-Rojo Complex and Jacobs Ranch, said spokeswoman Charlene Murdock. The Wyoming mines employ about 1,000 people.

Kennecott also owns portions of Decker Coal in Montana and Colowyo Coal Co. in Colorado, also affected by the production cut.

The basin mines contract much of their topsoil removal and replacement work. Now, fewer contractors will be hired and full-time mine employees will do that work this summer with fewer overtime hours, Murdock said.

The three Wyoming mines dug 97.5 million tons of coal in 1999, or 81 percent of Kennecott's total 120 million tons among its five western coal mines. It was a 14 percent increase from 1998. Production this year will be cut 10 percent to 108 million tons.

Depending on British thermal heating unit value, basin coal sells from \$3.20 to \$4.20 a ton, about 10 cents less than a year before, said Marion Loomis, director of the Wyoming Mining Association.

Coal has suffered in recent months despite a 4 percent increase in electrical energy consumption nationwide during the past year. A mild winter caused people to spend less money on heating homes.

And many utilities stockpiled coal and nuclear energy in anticipation of Y2K computer problems, Goldberg said.

Because the causes seem to be temporary, Goldberg expects coal prices will recover and production will follow.

"I do think we are going to see things turn around."

The Powder River Basin's 14 producing coal mines pushed state production to record levels the past two years, topping 334 million tons in 1999.

AUGUST HIGHLIGHTS

Attachment B
RailwayAge

Breaking News

- [Late Breaking Industry News](#)

Traffic & Market Trends

- [Industry Indicators](#)
- [Traffic originated](#)
- [Return on Investment](#)
- [Class I Employment](#)
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Commentary

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Powder River Basin coal: A bottomless pit?

High tonnage levels are predicted for the near term, but environmental constraints could put the brakes on long-term growth.

By Lawrence H Kaufman, Contributing Editor

Coal shipments from Wyoming's Powder River Basin have been one of the great railroad success stories for more than two decades, ever since soaring oil and natural gas prices and clean air legislation spurred electric utilities to increase use of low-sulphur western coal. But while coal will continue to be the leading commodity hauled by Burlington Northern and Santa Fe and Union Pacific for many years, its rate of growth appears ready to slow.

The change will have an impact on railroad and mining company capital investment plans. It also may affect whether investors will back competing plans to expand competition for coal hauling by injecting a third carrier into the PRB.

CBNSF and UP, which now have a duopoly on the business, are reluctant to discuss future coal market trends, but sources at both railroads say strategic planners and outside consultants have advised senior management of the slowing of growth.

This is not a doom and gloom scenario. Coal has been, and will continue to be, a driver of earnings as well as volume. But it does mean that both carriers will be forced to seek gains from other commodities if they are to sustain overall traffic growth at levels of the recent past.

It also means it will be even tougher for either regional Dakota, Minnesota & Eastern or a shadowy group talking of restoring the former Chicago & North Western's "Cowboy Line" across northern Nebraska to find the tonnage to justify the huge capital expense of becoming a third carrier into the PRB.



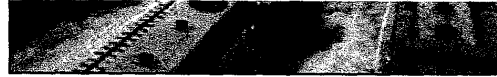
While coal will continue to be the leading commodity hauled by BNSF and UP for many years, its rate of growth appears ready to slow. This means that both carriers will be forced to seek gains from other commodities to sustain past levels of overall traffic growth.

Photo by Howard Ande



The coal business has been laggard so far in 2000.

Utility users of PRB coal started the year with large inventories accumulated in anticipation of possible Y2K problems. A very mild winter slowed the draw-down of coal supplies. Industry wide, coal volume was down 2.7% in the first half. By mid-July, Chicago had not had a single day over 90 degrees. Coal use finally picked up in late July, spurred by extreme heat in the Southeast and Southwest.



Dakota, Minnesota & Eastern wants to fill its cars with Powder River Basin coal, but it must first persuade investors to back a costly line expansion.

Photo by Briggs Business Communications

Revenue from coal was down 6% to \$529 million in the first quarter at BNSF. First half volume was down 4.5% to under one million carloads, enough to drag the railroad into an overall decline in carloadings even though traffic was strong in other commodities. Coal accounts for nearly half of BNSF carload volume, not including intermodal. At UP, where coal accounts for 35% of carloads, volume in the first six months of the year was down 3%.

Threats to coal's growth

More than weather, technology and environmental regulations are a long-term threat to continued growth of low-sulphur PRB coal.

"Environmental concerns are the biggest single impediment to coal growth," says UP Senior Vice President-Marketing and Sales Art Peters. "The global climate change agreement will have a negative impact on coal." Utilities face new, more stringent rules dealing with discharges of nitrogen oxide (NOX), mercury, sulphur, and particulate matter. "Every one of them adds cost to burning coal," he says.

Chris Leshock, senior consultant at Resource Data International (RDI), a Boulder, Colo.-based energy consulting firm, says ~~obsolescence and technology will affect the coal business in the future.~~ "We recently identified approximately 30 plants with a generating capacity of 3,000 megawatts that are at risk to closure," Leshock says. "But this is a very small percentage of the total coal-fired capacity, which exceeds 300,000 megawatts."

As the utility industry has been deregulated, companies like Duke Energy have become so-called "merchant producers," building merchant generating stations and selling electricity wholesale to capacity-constrained local utilities. All of the merchant plants announced in the last few years have been gas-fired. Leshock points out that a combustion turbine (a jet engine in front of a turbine) is low cost, takes only three to six months to build, and can quickly provide peaking power.

Other threats to coal are the combined-cycle gas turbine and synthetic fuel. The combined-cycle turbine is a combustion turbine that recycles heat. General Electric is a leader in the technology. "Combined-cycle is the most competitive for intermediate base load," says Leshock. Thus, RDI does not see any coal-fired plants being built for the next several years.

BNSF Group Vice President-Coal Marketing Tom Kraemer says a utility or merchant producer can build a 500 megawatt gas plant for about \$400 million. A comparable coal-fired plant costs about \$1.1-\$1.2 billion. A gas plant consumes less water than a coal-fired plant and can get permitted and sited very quickly.

Producers face a lengthy permitting process if they want to use coal, along with huge unknown risks of future Environmental Protection Agency energy policy. "A change in the rules could make a plant inoperable or add costs," says Kraemer.

Then there's synthetic fuel. Producers get a \$25 per ton tax credit through 2007. Syn-fuel facilities in the East are forecast to ramp up to 43 million tons annual capacity. With the tax credit, producers can sell syn-fuel cheaply, depressing the price of eastern coal, which in turn could delay the growth of PRB coal use in the

Wind project being considered

MITCHELL (AP) — A \$2 billion wind-energy project is being considered in Jerauld, Hand and Hyde counties in central South Dakota.

In five to seven years, Santa Barbara, Calif.-based Clipper Windpower could build up to 3,000 wind turbines on ridges between Weastingon Springs and Highmore, local officials said.

"We've given them the go-ahead to look for the best sites in the area," said Jerauld County Commissioner Merlin Feistner.

The project makes good economic sense for the area, he said, and would mean new jobs and more income for landowners.

"For 2,000 turbines, it would probably be about 200 people to support and maintain them," said Ken Hach, vice president of Clipper Windpower.

The proposal is to generate about 3,000 megawatts of electricity for export to Illinois and other points farther east, Hach said.

"You have a great resource here," he said. "South Dakota is probably either No. 1 or No. 2 when it comes to wind resource. North Dakota is next, and then probably Kansas."

The towers proposed for the Clipper Windpower project would be 284 feet tall and have 114-foot blades, Hach said.

Landowners with wind turbines on their property would be paid a percentage of revenue from electricity generated by the turbines.

"It's negotiable, but from what we know about the wind and the generators, a landown-

er could get about \$3,000 per year per turbine," Hach said. "If their land happened to be in the right place, the wind turbines could provide a nice additional income for the landowner."

Meetings with landowners show they are receptive to the idea, he said.

A power line would have to be built to carry the electricity to Illinois, and a conventional generating plant would be necessary to provide power when the wind is not blowing.

"The conventional plant will probably be fueled by natural gas," Hach said. "We would transport the power to Illinois and a marketer would take it from there, probably to Indiana, Ohio or someplace farther east."

Nothing has been filed with the state Public Utilities Commission in connection with the project, he added.

"We're not to that point yet," he said. "We're still contacting landowners for easements to take measurements at different locations. Once we know the specifics about the proposal, we will make the necessary filings. We know there will be environmental studies that will be needed and a lot of other work."

The proposal is one of several wind energy projects being discussed in the state.

In Howard, a development group and the city are looking at using wind to supply energy to the municipal electric utility.

And East River Electric and local electric cooperatives announced recently they would build a wind generator near Chamberlain.

attachment C

Attachment 0

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Newly published works of an
environmental bent

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Fuel Speed Ahead

***How Ballard is leading the charge to spread fuel cells far
and wide***

by Tom Koppel
06.30.00

"Our long-term goal is very simple," said California Gov. Gray Davis (D) outside the state capitol in Sacramento in April 1999. "Zero emissions in the air. Zero. Nada. Nothing. Zip." A crowd had gathered to hear Davis announce a major new state initiative, and to see the latest non-polluting automobiles to be unveiled by DaimlerChrysler and Ford. Running on electricity, the peppy performance of these cars dazzled the spectators. The two auto giants promised to have them in commercial production around 2003 or 2004. A new era of environmentally friendly transportation had begun.



Read more in Koppel's book:
Powering the Future
John Wiley & Sons, Inc., 276 pages,
1999

so pure you can drink it and generate electricity without
combustion or nasty emissions.

At the heart of these vehicles is the Ballard fuel cell, the drastically improved version of an exotic and prohibitively expensive technology that was originally developed by General Electric for the U.S. space program and then shelved. A fuel cell is like a battery, but better. It requires no charging. It simply reverses the familiar high school science demonstration in which electricity is put through water to produce hydrogen and oxygen. In a Ballard fuel cell, a polymer plastic membrane coated with platinum is sandwiched between two flat electrodes. Hydrogen flows in on one side, oxygen from the air on the other. They combine to form water

7/18/00

Attachment E.

- >
- >
- > By H. JOSEF HEBERT, Associated Press
- >
- > WASHINGTON (July 11, 2000 8:54 a.m. EDT <http://www.nandotimes.com>) -
- > Removing a key barrier to Environmental Protection Agency plans
- > to regulate mercury from power plants, a panel of scientists has
- > concluded that the agency was justified in setting rigid levels of
- > protection from the toxic substance.
- >
- > The findings by a committee of the National Academy of Sciences were
- > being released in a report Tuesday. It concludes an 18-month
- > review of the science used by the EPA in establishing new guidelines for
- > protecting the public from mercury contamination.
- >
- > The EPA's plans to regulate mercury emissions has been delayed for
- > nearly two years because Congress barred the agency from
- > proceeding until the study was completed.
- >
- > The 10-member panel in its report concludes that methyl-mercury "is
- > widespread and persistent in the environment" and that the
- > guidelines used by the EPA to establish maximum exposure levels are
- > "scientifically justifiable ... for the protection of public health."
- >
- > A copy of the executive summary of the report was obtained by The
- > Associated Press from sources familiar with its findings.
- >
- > While the panel concludes that most Americans face a very low risk,
- > children of women who consume large amounts of fish and
- > seafood during pregnancy face a much higher risk. It estimates as many
- > as 60,000 children annually may develop neurological
- > problems, including learning disabilities, because of low-level mercury
- > contamination through their mother prior to birth.
- >
- > While much remains to be learned about low-dose mercury contamination
- > and human health, the study says there is strong evidence
- > to link mercury exposure to neurological problems, including learning
- > disabilities, as well as immune system and cardiological

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and will show similar trends in 1998 and 1999.

North Dakota's use of intermodal shipping has declined in the past several years, because of a lack of intermodal loading sites.

Intermodal shipping is most cost-effective when done within 100 miles of origination. A private study in 1996 estimated that the Grand Forks, N.D., area could support an estimated 22,000 "lifts" of trailers and containers by year five of opening such a facility. Vachal has estimated that eastern North Dakota would generate 27,000 "lifts" in 2000 and 47,000 lifts by 2005, "if service and rate levels were competitive."

A Thief River Falls, Minn., intermodal facility closed in the summer of 2000 and there are no public intermodal loading facilities in North Dakota. (One intermodal site at Sawyer, N.D., ships in hazardous waste, but is private and was not included in the study.) The closest public intermodal sites are in Dilworth, Minn.; Minneapolis and Billings, Mont.

The complete study will include the results of a not-yet-complete telephone survey of existing manufacturers in the state to identify the potential intermodal and truck freight they could ship in this fashion.

"Transportation for a portion of North Dakota commodities will continue to change from unit trains to either truck or container," Berwick writes. "For export and long domestic, less-than-trainload shipments, a rail or intermodal option may lessen transportation costs, making the product more competitive."

Berwick last year estimated it would cost at least \$2 million to install an intermodal site on a short-line railroad.

"There's no steadfast number," Berwick says. "It all depends on land and equipment costs, and if the siding exists already, or if rail has to be constructed and how much rail."

Operating costs don't change much for increasing the initial investment, Berwick says.

The study also will include an analysis of logistical factors that influence the success of value-added processing factories in the state. Those factors include labor, transportation, quality of life, taxes, supplier networks,

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Getting it there

■ Study shows how trends affect North Dakota rail competitiveness

By Mikkel Pates
Agweek Staff Writer

FARGO, N.D. — Preliminary results from a new study show how a trend toward elevators that handle larger, heavier trains may lead to more small-elevator failures and challenges for transportation planners.

Upper Great Plains Transportation on the North Dakota State University campus in Fargo has spent the past year and a half peering into its crystal ball about transportation needs of the state. Early results from the "Biennial Strategic Transportation Analysis" were sent to selected legislators in late December, for use in the 2001 session, which began Jan. 9 in Bismarck, N.D.

Transportation and Appropriations committees are expected to be the prime users of the information, researchers say. A complete study report will be available in book form this summer.

Here are some of the preliminary findings in three project areas:

Shuttle trains

Shuttle trains are 100-car-plus trains that are loaded without switching, or in one complete length. Shuttles also use new, heavy cars.

The first of these trains were loaded within the past two to three years in North Dakota.

"Shuttle rates are the lowest rates out there. If we didn't have the shuttle facilities in our market and our competitor did, they would have that advantage in the market," says Kim Vachal, prime researcher in this area of the study.

Vachal looked at the influence of 10

■ RAIL: See Page 2A

Continued from Page 1

shuttle train areas in the region. All but one, in the Kindred, N.D., area, are in place or under consideration. The study doesn't show a shuttle train for northeast North Dakota, but projects are being considered.

"A half-dozen projects are under consideration everywhere in the state, except in the southwest, which is pretty well covered," Vachal says. "In relative terms, 2 percent of the 10 elevators may originate up to 32 percent of the average annual production of wheat, barley and corn.

"This market share of North Dakota production translates to an average of 16.5 million bushels per facility."

She calculates that the 10 shuttle train facilities in the state would handle about 135 million bushels of four major crops — spring wheat, durum, barley and corn.

Assuming they each need to handle 16.5 million bushels per year, that's an appetite for about 20 percent of the state's annual production of those crops. Within that would be 121.5 million bushels of wheat, or 38 percent of the state's production of that commodity.



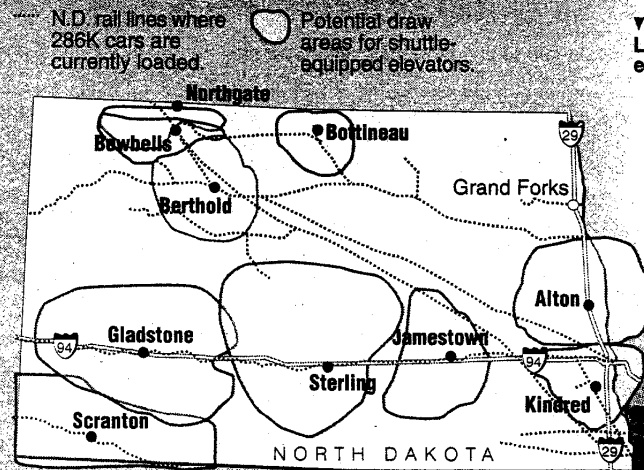
Vachal

The areas would cover 32.9 million bushels of durum, or 39 percent of the durum production. Similar results were found for barley and corn. The "draw area" of about 22.7 million acres of land is about 45 percent of the state's land area.

The implications of the shuttle train era include:

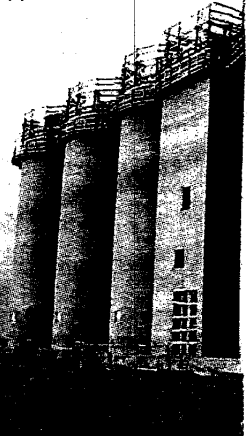
- Longer producer truck deliveries, which may require more local road and bridge spending within those "draw areas."
- Elevator failures in towns within those draw areas, as they compete with shuttle trains that have lower transportation costs.
- Branch-line abandonment within those draw areas.
- Short-line traffic shifting to Class I main lines.
- Local processors of ag prod-

shuttle-equipped elevators



Source: Upper Great Plains Transportation Herald file photo

Alton Grain Terminal L.L.C. is a shuttle-equipped elevator.



Bobbi Berberich, staff ar

ucts will compete with more competitive rail rates.

Vachal says the shuttle train facilities are sending trains primarily to export. Theoretically, they could ship to a few domestic processors or livestock feeders.

Another key on the horizon will be the extent to which railroads will allow "splits" of shuttle trains into 25- or 50-car subshipments for domestic markets. Those markets currently are served by elevators that can handle only smaller trains.

To be a shuttle elevator, a North Dakota independent elevator shipping wheat would have to be able to commit to load more than 2 million bushels in nine weeks.

In a typical example, it would cost the elevator 15 cents per bushel less to ship a 110-car shuttle train of wheat to Portland, Ore., compared with a typical 52-car unit train.

Heavy loading

Closely tied to the shuttle train issue is a trend toward increasing the weight of rail cars.

The 286,000-pound (111-ton) cars are replacing 263,000-pound (100-ton) cars. Currently, one in four cars in North Dakota is at this weight, compared



Bitzan

with one in 50 in 1993, researcher John Bitzan says.

The efficiencies from heavier cars have been passed on to shippers, at about 3 cents a bushel for wheat shipped to the Pacific Northwest ports.

Only a third of the system in North Dakota has 90-pound-per-yard lineweights to accommodate the heavy cars. The rest will face upgrading or abandoning in the next several years.

Towns that have the larger facilities will benefit from the changes. Towns that don't eventually will see increased costs, reduced income or increased highway maintenance costs, Bitzan says.

The Legislature may consider numerous options, including supporting the maintenance of shorter stretches of rail line, vs. keeping up highways at a greater density rating, Vachal says.

In the 1999-2000 crop year, 69 percent of all of the state's grains and oilseeds were shipped by rail, Bitzan says.

A previous study by the institute showed that 12 percent of the state's farm truck fleet now is in semi-trailers. That's up from 6 percent only five years ago.

"That's a pretty significant trend," Vachal says. "Producers' farm size is the key factor. They're able to handle more bushels on that one truck, and local processing is another thing, and a larger elevator is a third, with their more competitive rail rates."

Intermodal service

Intermodal shipment means

putting containers or truck trailers on trains for later off-shipping, either for domestic or export.

"It is probably the most important part of shipping identity preserved (products), at least in small quantities," researcher Mark Berwick says. "One of the most common shipments right now is identity-preserved soybeans. I'm not sure how valuable it will be for wheat, except for maybe organic or to try to make sure something isn't genetically altered."

The intermodal shipping alternative is also important for attracting and keeping manufacturing industry, such as Bobcat skid-steer loaders, Berwick says.

North Dakota is lacking in intermodal shipment sites, and might weigh the benefits of a private-public partnership for building an intermodal transloading facility.



Berwick

considering a value-added venture, Berwick says.

Nationally, intermodal shipments increased by 24 percent and 19 percent in 1996 and 1997 respectively, according to the preliminary study results. Berwick says updated statistics will be included in the final report.

Attachment G,



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PUBLIC INFORMATION

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Global Warming Action: Kyoto Protocol

In 1998, the United States joined some 160 countries in signing the Kyoto Protocol, requiring the U.S. to reduce its emissions of greenhouse gases to a level seven percent below 1990 levels by 2008 to 2012. The Protocol must be ratified by the US Senate before it can be considered binding, and the Senate has repeatedly indicated it will reject any agreement that does not include binding reductions for developing countries. Nonetheless, the agreement is a priority for the current White House and US participation should be viewed as a very real possibility.

Safety, Health &

In order to meet the Kyoto target, the US would have to cut its emissions by some 34 to 41 percent. Any attempt to cut greenhouse emission will have to focus on emissions from coal combustion, the most carbon-intensive of the fossil fuels. By one estimate, coal combustion releases 400 million tons of carbon into the air each year--the next largest single source is motor vehicle emissions, which account for 250 million tons. More than half of US domestic energy is generated by coal and the Department of Energy (DOE) expects that electricity production will account for two-thirds to three-quarters of the targeted domestic carbon reductions. An October 1998 DOE report estimated that full implementation of the treaty would cause domestic coal consumption in the US to drop 77 percent by the year 2010 and virtually disappear by 2020. If the level of US participation in the Kyoto Protocol is revised significantly (to a level nine percent **above** 1990 levels by 2010), DOE still predicts electricity generation from coal will drop to roughly half the current levels by 2010.

Unlike clean air standards that led to substantial increases in the use of low-sulfur Powder River Basin coal, a dramatic cut in greenhouse gas emissions will not have a similar result. An executive with American Electric Power estimates that cutting carbon emissions to meet Kyoto standards will require a large-scale shift to substitute fuels, predominantly natural gas.

Ozone Transport

Recent Environmental Protection Agency (EPA) studies demonstrate a pattern of progress in the control of ground level ozone: a pattern that indicates the Clean Air Act of 1990 is working in attaining the 1-hour ozone standard. In late 1998, EPA announced that ten additional proposed areas are to be redesignated as attaining the 1-hour ozone standard, including several Northeastern metropolises. Nonetheless, the EPA may be trying to nudge utilities toward decreased coal use through stricter clean air standards. In 1998, EPA promulgated new clean air rules that require 22 Eastern, Southern and Midwestern states along with the District of Columbia to cut NOX emissions an average of 28 percent from current levels. While past moderate increases in regulations on NOX, SO2 and particulates have lead to increased use

achieved with cleaner-burning coal. In fact, EPA strongly favors a reduction in coal use and increase in natural gas as means to meet the regulations—the same plan that would likely be put forward to meet Kyoto requirements. The new rule would most heavily impact older, coal-fired electric utilities which could be forced to install expensive selective catalytic reduction technology, or switch to natural gas. EPA reportedly is considering extending the rule to 15 other states in the South and Midwest.

Regional Haze

In 1997, EPA proposed a regulation to improve visibility in national park and wilderness areas. In order to meet the goal, emissions from sources affecting the areas would have to be reduced by as much as 70 percent below the levels that are required to attain the new national ambient air quality standard. Older coal-fired plants are among the largest emitters of pollutants that contribute to regional haze. Under the proposal, large steam electric plants would have to install expensive air-cleaning technology or switch over to natural gas or be shut down. A final rule is expected soon.

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