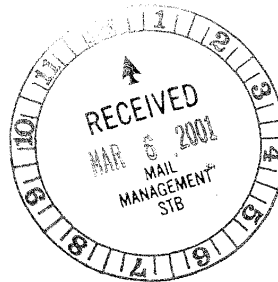


201639
HC56 Box 43
Oral, SD 57766
February 15, 2001

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 06 2001

Part of
Public Record

Dear Ms. Rutson:

Enclosed are the original and 10 copies of comments on Volume III-B 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This DEIS contains much inaccurate information, outdated information, and repetitious information designed to overwhelm the reader with voluminous material and no substance.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,

A handwritten signature in cursive script, appearing to read "Paulene Staben".

Paulene Staben

COMMENTS ON VOLUME III-B

Paula Stehn

Page 4.1-1 No Action Alternative. None of the construction impacts associated with constructing a new rail line would occur:

Mentioned in scoping but missing here are costs to schools associated with increased children to educate temporarily during construction from construction workers families, increase in police force required, overcrowding in jails, damage to roads from heavy construction equipment, lack of roads in areas of new and rebuild construction.

Page 4.1-1 The following operations impacts associated with rail transport of coal would not occur:

Improvement of DM&E's safety record

Going from one or two trains/day to 37 trains/day will not improve safety. Because of increased speeds, the potential for damage due to derailments is much greater. A system for use is proposed that has not even been tested and approved to run these coal trains. Safety would decrease, not improve.

Service and reliability improvements for existing shippers

Since there is no upgrade proposed on the Colony line nor from Rapid City to Wasta, the bypass of Rapid City (Alt C) will not fulfill this purpose. Since no new markets for coal are addressed and all coal fired power plants are currently being served, the proposal fulfills neither purpose. No-Build is the only option.

Inconvenience to ranchers and farmers whose lands are on both sides of the rail line.

Inconvenience is the wrong word; Destruction is the right word.

Missing from this list are: decrease in property values near railroad track, loss of economic activity from people leaving the area and people not moving in due to noise and "inconvenience" from trains, loss of jobs from BNSF and UP railroad workers in WY and Fall River Co., SD because of increased competition from DM&E to haul coal (this was mentioned in scoping).

Page 4.4.2 The Board, in its December 10, 1998 decision, indicated that absent the funds generated by the DM&E proposal, DM&E would cease to exist as a viable railroad.

I believe the Board found that DM&E could not afford to upgrade its 1000 miles of existing line. All this was based on information provided to the Board by DM&E. In reality, DM&E would only have to upgrade 400 to 500 miles of existing line. (Some has already been upgraded; it would be unnecessary to upgrade the line from Rapid City south to Chadron NE.) Existing shippers would then be served, accomplishing one purpose. It has been shown in Comments on Volume I that coal production is dropping, esp at the mines DM&E hopes to serve. Also, BNSF and UP have no trouble hauling all the coal available. (Check with the mines and BNSF and UP). The second purpose of providing coal to eastern US markets is no longer necessary.

Page 4.4-3 New rail line construction would involve earthmoving and excavation within an acquired right-of-way (Footnote 1- Average 400 ft)

No archeological studies have been done outside the 200 ft right of way on existing line and none have been done most of the new construction area.

Page 4.4-4 No impacts would occur to unique geologic formations. Portions of all the alternatives cross the Pierre Shale and Fort Union Formations. These formations are highly susceptible to landslides

A train passing within 800 feet or more, according to your studies, would cause vibrations. Provide information on the impact to unique geologic formations and Pierre Shale, particularly along the extensive cut and fill areas of the Cheyenne River, but elsewhere also. I also note in the information that follows this, Alternative D would cross the least amount of soils that have a high potential for slumps or landslides. Page 4.4-6) Yet you discard this as an Alternative. Why?

Page 4.4-7 Alternative C would cross 22.1 miles of prime farmland in South Dakota. *Is this the Oral Segment, WG Flat Segment, or Hay Canyon Segment? If all three are still viable alternatives, you should use the word approximate. I note also that Alternative D would cross 38.6 miles of prime farmland. Considering that Alt D is, for the most part, existing corridors, it may cross more prime farmland but will not take new prime farmland out of production than do Alt B and C. Please provide figures of the amount of new prime farmland taken out of production by each alternative in a side-by-side comparison so we can evaluate the impacts accurately.*

Page 4.4-9 The potential for loss of significant paleontological resources on private lands is therefore considered high, absent mitigation designed to protect these resources. *If any alternative but A is recommended in the Final EIS, private landowners must have the same protection as USFS and BLM guidelines provide. That must be set forth in mitigation.*

Page 4.4-10 Alternative D. In SD, 56.5 miles of these geologic units would be crossed.. (PFYC of 5) *I question the accuracy of these figures. Alternative C in SD is given as 5.5 miles. Since Alt D stays on existing line for much of the route, these formations are not likely to be disturbed further than they were during original construction of line. Alt B and C involve construction on 280 miles of previously undisturbed ground, causing much more destruction to these resources. I believe the figures for Alt B and C are far too low.*

Page 4.4-10 Impacts to land use would include: *Add to this increase in dust pneumonia for livestock and other animals from construction and coal train dust.*

Page 4.4-11 ...preclude some existing land uses on adjacent lands. *The land south of Angostura Lake has the same potential for development as has occurred north of the Lake, esp. with the development of a Rural Water System and the Heartland Express. People come here to build homes in areas of peace and quiet to relax in proximity to the recreational benefits of the Lake and also hunting, horseback riding, etc. Please provide dollar figures of impacts to the county, state, and local landowners if a train that can be heard for 10 miles precludes development of this area.*

Page 4.4-12 Movement of livestock could still prove challenging.

Mitigation must include underpasses where the rancher wants them at intervals where the rancher wants them. If ranchers are forced to cross the tracks, the ranchers will tell DM&E what time they will cross and DM&E will stop the trains to accommodate them. Remember that we are being forced to give up our land so DM&E can make money, and we did not invite them to come through. Please include mitigation measures that reflect this. Do not refer me to the Landowner Advisory Mitigation Agreement. That was written by Mr. Schieffer and his hand-picked board who are poster children for DM&E Railroad. It is weighted entirely to favor DM&E. Mitigation must be provided by you.

Page 4.4-15 Much of the cropland is found within the river valleys where a more dependable supply of water is available or soil moisture is sufficient to support crops. *Unfortunately the river valleys are also more suitable terrain for building a railroad and DM&E has taken advantage of the river valleys for their proposals. I note in previous Volumes, statements that DM&E tried to avoid impacts to cropland. This is absolutely untrue. Why do Alternatives B and C go through the best farmland in the 280 miles of new construction?*

Page 4.4-16 Alternative D would cross approximately 50.4 miles of cropland. Alternative C would cross 27.0 miles of cropland.

Since Alternative C is all new construction and Alternative D is mostly existing corridors, the impact would be so much greater on Alternative C. How much existing cropland would be taken out of production with each Alternative? To get a true picture of the environmental effects, you must include these figures.

Page 4.4-16&17 Alternative B, Alternative C and Alternative D-Residential
All of these Alternatives pass through Oral, yet it is not listed at all.

Page 4.4-17 Final design of this Alternative, should it be approved, would be required to determine the exact impacts it would have in Rapid City.
Did you not study this Alternative in detail before discarding it? In other Volumes, you state that you have retained Alternative D in the DEIS for further analysis. Yet you do not provide final design information to base decisions on. Please recall this incomplete DEIS and study Alternative D as it should be studied.

Page 4.4-18 Alternative B and C would not cross any land identified as business.
Farms and ranches are businesses and we deserve to be treated as such. Please update your thinking, rewrite this entire section, and include correct information as to numbers.

Page 4.4-18 In Rapid City particularly, the need to realign a sharp curve appeared to SEA to likely require the removal of one or more businesses to provide a reasonable curve for movement of unit coal trains.
Did you read any of the submissions to you concerning this proposal? Brian Brademeyer, Dr. Mott, and many others have sent you information that would include a

bypass of Rapid City. With a new highway bypass in the planning stages connecting Hwy 79 and I-90 (the Southeast Connector), this would be a perfect time and place to construct a short bypass of Rapid City paralleling this proposed truck bypass. You would not have to worry about this "sharp curve" in Rapid City. Are you concerned about the sharp curve entering Pierre, SD? This will slow the train to 18 miles/hr. Yet, because a bypass there is "not feasible" according to you, you ignore the problems with that curve.

Page 4.4-19 Different quarry areas would potentially be utilized due to their location in relation to the alternative approved...
Provide location of quarries for each alternative and distance from alternative so impact of traffic, noise, dust could be evaluated and commented upon.

Page 4.4-23 No impacts are expected to occur to project lands or the Irrigation District as a result of the construction and operation of Alternative B, C, or D.
This is an absolutely false statement. I refer you to Volume III-B Pages 4.6-1 through 4.6-42. All these alternatives cross land in the Irrigation District. All of the Hay Canyon Alternatives cross land in the Irrigation District. Not only do all the alternatives cross Irrigation land, each will take a significant amount of land out of production! BOR was brought in as a cooperating agency on January 5, 2000 but should have been in from the beginning. Please address the legalities of leaving them out!

Page 4.4-24 Rail line construction and operation would, however, provide employment opportunities for Native Americans living on the Reservation.
This is not the appropriate place for this discussion. It should be in the Socioeconomics section. Give distances of each Alternative from the population centers of the Pine Ridge Reservation so informed determinations can be made if the Reservation is indeed a "close location." Have the tribes ratified the MOA? , Schieffer can promise just about anything (and he has) but, absent mitigation in the EIS requiring this, it is just a promise.

Page 4.4-25 Alternative C would cross..... approximately 2.1 miles of state land in South Dakota.
I question the accuracy of this. Does Alternative C include the Oral Segment? If so, it will cross more state land than 2.1 miles.

Page 4.4-30 Low yielding wells for watering livestock could have their yields reduced or stopped.
One hot day in South Dakota with no water means a lot of dead cattle. In mitigation, DM&E should be responsible for damages if water yields are reduced or stopped. This is a significant impact in western South Dakota and must be treated as such.

Page 4.4-31 In the unlikely event of a spill of hazardous material occurred during train operation in the vicinity of a shallow aquifer of open well, contamination could occur.
Given the highly likely possibility of DM&E hauling hazardous material and the unstable soils over which they plan to construct their rail line, the event of a spill is likely. Who will be responsible for damages when this occurs? Please include this in mitigation in the Final EIS. In a article entitled "Nebraska Community copes with train traffic,

noise, danger” by Patrick Baker, Pierre Capitol Journal, 12-26-00, a hazardous spill is not all that unlikely. “In early November, a derailment caused evacuation of parts of the town because of a hazardous spill. Eric Guard works for Union Pacific which passes through the neighboring community of Gering. Guard said many residents are currently concerned with derailments because of the recent accident.” The entire article is enclosed as Attachment A.

Page 4.4-33 some fugitive coal dust may be noticed causing inconvenience to adjacent residences...

People suffering from asthma and COPD (chronic obstructive pulmonary disease) will be more than inconvenienced. They will be seriously compromised. Who will be responsible for their increased medical bills, etc.?

Page 4.4-38 and 4.4-39 Tables give NOX for Fall River County for 20MNT to be 242.92 for Alternative C and 356.99 for Fall River County for 20MNT for Alternative D. *In Fall River County, Alternative D is shorter and flatter than Alternative C. Yet the NOX produced by the train is higher. I question these results. Please reassess all these tables. All the values for emissions are listed as higher for Alternative D than for Alternative C in Fall River County. If they were calculated according to mileage and terrain, they are incorrect.*

Page 4.4-51 Table 4.4-12 Cumulative Extinction/Impairment Percent for Badlands National Park is 51 for Alt B and 58 for Alt D.

Alternative D is further west of Badlands National Park than Alternative B and the prevailing winds blow from the west and north. Since Alternative B is closer and both Alternatives lie to the west of Badlands, would not Alt B have a higher impact than D? Please reassess. (Reassess also Table 4.4-16)

Page 4.4-60 Alternative B Noise Sensitive Receptors and Page 4.4-61 Alternative C Noise Sensitive Receptors and Page 4.4-64 Alternative B Noise Sensitive Receptors and Page 4.4-64 Alternative C Noise Sensitive Receptors and Page 4.4-69 Alternative B Noise Sensitive Receptors and Page 4.4-69 Alternative C Noise Sensitive Receptors and Page 4.4-73 Alternative B Noise Sensitive Receptors and Page 4.4-73 Alternative C Noise Sensitive Receptors and Page 4.4-75 Alternative B Noise Sensitive Receptors and Page 4.4-79 Alternative C Noise Sensitive Receptors.

Oral, SD is missing.

Page 4.4-78 Alternative D would expose large numbers of noise sensitive receptors in Pennington County, Custer County, Fall River County...

In Fall River County, Alternative B, C, and D travel approximately the same route. You left out Oral on Alt B and C in the Tables but included it in Alt D. This is an error. Please reevaluate this statement with correct data.

Page 4.4-79 Alternative C would only affect Smithwick in this fashion.

If the Oral segment of Alternative C is chosen, then Oral would also fall entirely in the 65dBA Ldn contour for 50 and 100MNT.

Page 4.4-79 Approval (of FRA quiet zone) would require the community to implement supplemental safety measures, such as four-quadrant gates, directional horns, median barriers, temporary road closures or other measures...

Who pays for these safety measures? DM&E or the community? Please specify in mitigation that DM&E, who caused the problem, will also be required to mitigate the problem financially.

Page 4.4-80 Ground vibrations are a concern for several reasons:

Please include effect on unstable soils highly susceptible to land slides to impact safety such as a derailment. Consider the effect constant vibration might have on paleontological resources along the Cheyenne River. Prehistoric bones are fragile and must be carefully preserved.

Page 4.4-81 Table 4.4-38 Structures Potentially Impacted by Vibrations

All of this data is in question. I know for a fact that there are more structures than one within 400 ft of Alternative B and more than 3 structures within 400ft of Alternative C. This is false information. Reevaluate this information and rewrite a new DEIS.

Page 4.4-82 Construction of access roads, material staging and layout yards, man camps, and borrow and soil stockpile areas outside the rail line right-of-way would also result in damage or loss of vegetation.

Must the landowner allow these multiple intrusions on their property? What are our rights under eminent domain law, both state and federal, concerning these intrusions? What is the time limit for DM&E to reestablish disturbed vegetation to the owner's specification? Please include in mitigation. Has consideration been given on the use of soils with a high rating of plasticity to be used as fill? What is the rating of soils in the entire new construction area? Will soil used as fill dirt have to be hauled from great distance? What are the economic impacts of this, the damage to roads, the added cost of constructing if fill dirt in the area is not suitable for construction?

Page 4.4-83 Alternative B ...and 0.9miles of wetlands (in SD) Alternative C ...and 1.0 miles of wetlands (in SD) Alternative D...0.4miles of wetlands(in SD).

This is not correct. The wetlands impacted are many more acres and the miles of wetland through which these Alternatives pass is much greater. You ask us to comment on these various Alternatives through the Angostura District and we who live here know the information presented is incorrect. Please reassess, reissue the DEIS, and allow us to comment using correct information.

Page 4.4-86 More mortalities are expected:

You left out the fact that all Alternatives will cross antelope migration areas. Disruption of migration patterns will increase mortality. Please identify these areas of migration to determine which route, if any, would cause the least mortality.

Page 4.4-88 Noise increases associated with the introduction of train traffic would be long term for the life of the project.

Horn noise can be heard for 9.3 miles! That is a significant impact, especially when people live here and move in here for the peace and quiet. This should be given much greater significance as an adverse impact than what you have given it. Please address decrease in resale value of property, inability to develop property for home sites, etc. and the financial impact that will have on the area. Considering that "noisy urban residential" category would reach 3.0 miles from the center of the track, this would have an extreme adverse impact on the Lake Angostura Area. People do not build homes there for the "noisy urban residential" atmosphere!

Page 4.4-98 However, birds nesting within that distance of existing railroads are probably somewhat habituated to train traffic and noise...

Consider existing line on all alternatives in Fall River County. Increasing from one train/week to 34 trains/day does not habituate wildlife, raptors, or people to this new proposal.

Page 4.4-110 Blocked crossing time per train was calculated to be 2.4 minutes for 135-car trains.

This may be the calculated time but it is not the time in the real world. Do an actual study on BNSF and UP coal train routes, not a calculated time. In a newspaper article written by Patrick Baker, Pierre Capitol Journal, dated 12-26-00, the police lieutenant in Scottsbluff, NE, Greg Fullen, deals with BNSF coal trains in the "real" world. He states that, "These are coal trains predominantly, and they're anywhere from 100 to 130 cars in length. The delay is anywhere from 5 to 7 minutes when they block a crossing. Obviously, you have traffic congestion and backup at those intersections." Fullen says the delay is not easy to deal with for emergency vehicles. Train related deaths have occurred in Scottsbluff, including pedestrians, motorists, and suicides. After a young boy was killed in 1998, a railway safety committee was formed on which Fullen serves. The entire article is enclosed as Attachment A.

Page 4.4-112 Alternative D would have 10 new grade crossings at public roads.

Since Alternative B would have 44 new grade crossings, and Alternative C would have 45 new grade crossings, Alternative D would be the preferred Alternative. People are already accustomed to most of the train crossings on Alternative D. In fact, the crossings have been here longer than the people that live there. The property, houses, businesses, etc were designed around then railroad. It would make no sense to create a new barrier when one already exists.

Page 4.4-125 Pennington County

Your studies of Pennington County on Alternative D are meaningless as they relate to Rapid City. Experts have provided you with detailed plans for a bypass of Rapid City, yet this possibility is not acknowledged by you. You present meaningless safety, noise, etc analyses as if you expect the Alternative D to go through the heart of Rapid City. A truck bypass southeast of Rapid City to connect I-90 with Highway 79 is being considered. Now is the time to study the feasibility of paralleling this bypass to connect to DM&E

existing line west of Rapid City. You are just filling up space in the DEIS with the analysis of a route that will never happen (through Rapid City). When you reissue this DEIS, please include a rational analysis of a short bypass of Rapid City as was suggested to you in scoping.

Page 4.4-132 Hazardous Materials Sites

You identify in other Volumes that all sites within one mile of existing or new construction must be evaluated. There is a site near Edgemont within the one mile distance where uranium tailings are buried. This is not identified in the section. Please identify location and impact as it relates to this project.

Page 4.4-133 It would help alleviate service and congestion problems at the mines.

This contradicts your statement on Page 4.4-114 that DM&E expansion will create congestion at the mines. "These conflicts would primarily be related to access to the mines, where a train from one railroad would be required to wait for another railroads train to finish loading and exit the mine rail loading loop before it could enter and be loaded." A filing to the STB on June 10, 1999, by Kennecott Energy Company focuses on the near impossibilities of DM&E being able to access the mines, both from an engineering and environmental standpoint. Please read this filing as it pertains to your absurd assertion that this proposal would "alleviate congestion problems at the mines."

Page 4.4-113 Many of these mines do not currently meet their production levels, in part due to inadequate rail service.

This is not true. (See my Comments on Volume I). The mines are not meeting their production levels due to lack of demand for PRB coal. The mines cannot continue to produce below cost and are closing many sections. Base your conclusions on 2000 data, not 1994 data.

Page 4.4-134 Reconstruction of the existing rail line would not only generate large volumes of potentially recyclable materials, but would generate a potential market for them, as would Alternatives B and C.

However, three sentences later you say "However, it is anticipated that new materials would be used for most if not all new rail construction." I have found many contradictions in this DEIS but not usually in such close proximity to each other. So which is it? Will they or will they not use recyclable materials in construction?

Page 4.4-135 No impacts to cultural resources are anticipated from operation of the project alternatives.

Consider the effects of constant vibration on cultural resources, consider the negative impact to enjoyment of the cultural resources with passage of a noisy, dirty train every 30 minutes, consider the damage caused by coal dust accumulating on the resource, consider the increased possibility of fire ignited from a passing train destroying the resource.

Page 4.4-137 The remaining 76 sites have not been evaluated.

If a site is eligible for NRHP but has not yet been evaluated, does that make it any less valuable? Discuss the legalities of a site that is not now registered but becomes eligible for NRHP after the Final EIS is issued?

Page 4.4-138 DM&E has not indicated the locations, sizes, and facilities for these mancamps. However, they have indicated they would be located so as to avoid environmentally sensitive areas.

And would this be the same way DM&E has avoided environmentally sensitive areas so far? You must include the exact specifications of these mancamps (locations, sizes and facilities) in the Final EIS or the next release of the DEIS. It is unacceptable to take DM&E's word that they will be environmentally sensitive when it is already proven they are not!

Page 4.4-139 Table 4.4-41 Employment Compared to Population Statistics for Potentially Affected Counties.

The figures of direct and indirect jobs are different from the same figures presented in Volume VIII-C Page 16. For example, in this Table in Fall River County, direct jobs are listed at 189 and indirect jobs at 84. In Volume VIII-C, jobs in Fall River county are listed as 378 for direct and 418 for indirect jobs. The total for this table for affected counties is 922 Direct jobs and 384 indirect jobs. This is much fewer than Volume VIII-C, which lists direct jobs for these counties as 1853 and indirect jobs as 1682.

Page 4.4-139 Construction is expected to take 2 to 3 years...Approximately 498 direct construction related jobs are expected in South Dakota and 427 in Wyoming. 498 plus 427 equals 925. *Why list 922 jobs in the Table just above and 925 in the text? If Construction will take 2 to 3 years and DM&E estimates that construction will proceed at one mile per day, I would assume in Fall River County, these jobs will last 66 days. (66 miles of track in Fall River County.) All your positive economic impacts (Construction earnings, Sale and Use Taxes) are greatly over-inflated since they are based for each county on a 2 to 3 year construction period. This project may take 2 to 3 years overall but certainly not for each county. Please adjust your inflated figures accordingly.*

Page 4.4-142 These jobs would be primarily associated with rail yards and are discussed in Section 4.9.

Section 4.9 deals with the Brookings bypass, not jobs. In what section are the jobs associated with rail yards? You are correct in saying that permanent jobs would be associated with areas where rail yards are located, certainly not in areas where the train is passing through.

Page 4.4-143 Sales and Use Taxes Generated by County.

Because jobs in each county will not last 2 to 3 years but construction will move from county to county, these figures are too high. In fact, they are taken directly from material provided to you by DM&E and that biased source should be revealed here if you are going to use their figures. (Volume VIII-C). How were these Sales and Use Taxes calculated? Were they verified by you? It has already been pointed out that property taxes in the Economic Report from DM&E are inaccurate, job numbers are inaccurate,

in fact this entire Economic Report is inaccurate. Please do your own analysis from an unbiased source and reissue this DEIS.

Page 4.4-144 Table 4.4-44 Comparison of Property Taxes Paid and Anticipated for the Proposed Project.

Why are the Taxes assessed at 40MNT and 100MNT given in the Table when all other areas of this DEIS consider the impact for 20MNT, 50MNT, and 100MNT? Please redo these figures.

The estimated taxes are way too high. First of all, they were calculated using the old formula for assessing tax to railroads. A law was passed in February, '99 in SD which changes how that is calculated. Secondly, even with the old law, the figures are way too high. For example Fall River County is listed at \$3,037,100 for 100MNT. Pat Ginsbach, Fall River County States Attorney and expert in Railroad tax matters, calculated the true tax to be \$619,958. This is an exaggeration of 490%! An error of this magnitude is totally unacceptable! Please redo the entire Socioeconomic Section.

Page 4.5-4 No impacts to business or industrial areas are expected for any of these alternatives.

You must update your thinking. Farms and ranches are businesses.

Page 4.5-13 One house located along the Spring Creek Alternative would be within 100 feet of the proposed alignment.

Address the mitigation in the event of structural damage to this house due to vibration. How many houses are within the 800ft corridor at which there could be structural damage, according to the expert on vibration? (Volume VII-A, Appendix F)

Page 4.5-20 Only in the unexpected event of a spill or derailment ...

Consider the effect of constant vibration on the soil with a high slump, landslide potential in the area. A derailment is not be "unexpected".

Page 4.5-23 Both Spring Creek and Phiney Flat have environmental hazards that cannot be mitigated. No-Build here is the only option. (See your analysis of Swift Fox, Black-Tail Prairie Dog, Bald Eagle).

Page 4.6-1 However, this (WG Flat) alternative raised concerns with Reclamation because it would cross irrigated lands that are part of the Angostura Irrigation District.. On Page 4.6-4, you state that Hay Canyon would cross 2.6 miles of Irrigation District and Oral Segment would cross 1.5 miles of Irrigation District. Yet Reclamation was not asked to be a cooperating Agency until November 5, 1999 when WG Flat was identified and did not become a cooperating agency until Jan 12, 2000. Why? Hay Canyon and Oral Segment (as part of Alternative B) were identified as routes much earlier.

Page 4.6-5 No impacts to residential areas are expected for any of these alternatives.

All three alternatives go through Smithwick, SD. The Oral Segment goes through Oral, SD.

Page 4.6-5 No impacts to business and industrial areas are expected for any of the alternatives.

This is incorrect. There are many farm and ranch businesses that will be impacted. Also the Angostura Irrigation District is a business.

Page 4.6-7 No impacts to Reservation or Treaty Lands are expected for any of the Hay Canyon Alternatives.

All the Alternatives cross Treaty Lands. (1868 Treaty)

Page 4.6-8 The WG Flat Alternative would cross less than 0.1mile of wetlands. The Oral Alternative would cross less the 0.1miles of wetlands.

These figures are incorrect. Much more wetlands would be crossed by both alternatives. Please reevaluate and reissue the DEIS.

Page 4.6-10 through Page 4.6-21 Tables on Noise Sensitive Receptors.

I question the accuracy of this information. If residences are noise receptors, there are more residences than what is given in the tables. Table 4.6-17 for WG Divide lists 1 receptor for Wayside and 0 for Wayside/Horn. This is not possible.

Page 4.6.21 There are no houses within 100 feet along the Oral Alternative.

This is not correct.

Page 4.6-22 Big Game

All alternatives will have a major impact on big game because of the prevalence of big game hunting along all segments. This section must address the economic impacts to landowners who will lose hunting leases because of loss of habitat, loss of proper atmosphere to hunt big game, and relocation of game due to the disturbance of the railroad. This section is incomplete because it does not assess the impacts to big game and resulting impacts to landowners and hunters that will occur if any of these alternatives is approved. With the area being a Mecca for pheasants, geese, ducks, grouse, etc. the sections on Upland Game Birds, Waterfowl, Small Game and Furbearers should also address the impacts to those who lease the land for hunting and to loss of recreation to the hunters. There are several private hunting businesses in close proximity to the proposed routes. Identify those businesses and assess the impact of each alternative to those businesses.

Page 4.6-26 However, no raptor nest would be impacted by any of the alternatives ...

Raptor nests must be considered as impacted if they are within 0.5miles of rail line. There are raptor nests on the Oral Segment (and possibly all the segments) that are within 0.5 miles.

Page 4.6-30 Swift Fox-Oral-No mapping of prairie dog colonies was completed for this alternative. Page 4.6-31-Black-tailed Prairie Dog-Oral-No mapping of prairie dog colonies was completed for this alternative.

How can we be expected to evaluate these segments when you have not done the work necessary for us to evaluate them? Recall this incomplete DEIS, do your homework, and

re-issue a new DEIS. Perhaps this time with correct information, you will recommend the No-Build Alternative!

Page 4.6-32 The Oral Segment would have four new grade crossings of public roads, including three crossings in Custer County and one crossing in Fall River County. *How many total grade crossings (existing and new) for the Oral Segment? This is vital information because train traffic will increase from 1 train per week to 34 trains per day. We cannot adequately compare the Segments if complete information is not given.*

Page 4.6-37 SEA's safety analysis showed that for the proposed public highway/railroad grade crossing along the Oral Segment at County highway 2C..... *Only one grade crossing is considered on the Oral Segment in Fall River County. A number of crossings are identified for other Segments. Please provide this information for both existing and new crossings on the Oral Segment so we can compare the Segments in a meaningful way.*

Page 4.6-38 Archeologically, only one site is known along the Hay Canyon Alternatives. *That is because the WG Divide Segment and the Oral Segment were never surveyed by the archeologists. In fact, landowners along the routes were never even contacted as is required by NEPA law.*

Page 4.6-39 Oral-It is likely that the existing rail line would require some realignment onto new areas outside the existing right-of-way. *These areas must be identified before we can comment on the best route. If more irrigated land will be taken by this "realignment", this could have a great impact on which route would be better. Also please address eminent domain law, both state and federal, concerning condemnation of additional private land.*

Page 4.6-40 Public Federal and State Lands would not be crossed by any of the alternatives. *The Oral Segment crosses a State Game Production Area one mile south of Oral. Considering the above statement, it is likely that some of this land would have to be taken for railroad right of way.*

Page 4.6-40 Any recreational use of the areas along these alternatives would primarily be by the landowners, their families and guests, reducing the number of individuals affected by the project. *This statement shows complete lack of knowledge of the area and complete lack of study of the area. There is a game production area owned by the State of SD through which the Oral Segment passes. Hunters of deer, pheasant, turkeys, grouse, geese, and ducks come from all over the state to hunt there. Throughout the Irrigation Project and on all alternatives, landowners lease their property for hunting rights and depend on this income as part of their ranching business. Many areas through which these alternatives will pass have been sold to hunting groups who have paid premium prices for this form of recreation. I expect a study on the land values and the numbers of hunters who provide economic benefits to the area. Also a detailed analysis of the financial benefits. The*

USFWS could assist you in obtaining that information. Private hunting clubs also exist in the area, whose business would be severely diminished if not destroyed by this proposal.

Page 4.6-41 Topography of the area would likely limit the length of rail line visible from any one vantage point.

This should tell you something about the topography of the area. Extensive cut and fill would be required, creating an eyesore. Even if the train cannot be seen, it can still be heard ten miles away or further. The beauty of this area is its peace and quiet, and miles of no human intrusion. A train would have a severe impact.

Page 4.6-41 While such roadways tend to blend to the landscape, a rail line would generally be considered a compatible linear facility and not contrast visually with the visual character created by these other facilities....encountering rail line would not be considered an uncommon occurrence by travelers in the rural United States.
A 135-car train carrying coal cutting through the fields in a way that follows the drainages is not a "compatible linear facility" no matter what fancy words you use to make it sound good. Rail lines, particularly 135-car coal trains running past you every 30 minutes, are most certainly an uncommon occurrence in the rural United States.

Page 4.6-42..the new rail line would not present a visual change dramatically differently from that currently present in the area due to the existing rail line.

When traffic along the existing rail line increases from one train/week to 34 trains per day it will most certainly present a dramatic visual change. Please use common sense before you make ridiculous statements!

Page 4.9-2 Alternative B-1 No Action The associated loss of jobs and tax revenue, with DM&E headquarters located in Brookings, could have economic impacts in Brookings and...

With all the other alternatives, this will also happen because the DM&E headquarters will relocate to Huron. This is not mentioned in discussion of other alternatives.

Page 4.9-8 The Brookings Register reported on June 14, 2000 that, although the PRB expansion Project still has not been decided upon, homes along the existing rail line have maintained their value and are selling at a comparable rate to homes elsewhere in Brookings.

The County Auditor for Brookings reports that assessed value for home along the tracks dropped 10%. Please check for more accurate data before the above conclusion is drawn on just one newspaper article.

Page 4.9-15 Alternative B-3 Existing Rail line and Bypass for Coal Traffic—
Approximately 5.1 acres of wetlands would be lost within the right-of-way for the Brookings bypass alignment.

The actual figure would be 10.9 acres.(5.8 on existing rail line that would be disturbed during reconstruction and 5.1 acres of new construction.)

Page 4.9-25 Beyond 100 feet, the only potentially damaging effects would be to hospitals and other facilities with sensitive equipment.

Volume III-A Page 4.3-62 states that "SEA determined that between 101 and 200 feet, ground vibration would be of sufficient magnitude to cause structural damage. Structures between 201 and 400 feet would perceive some level of ground vibration." There are 117 houses between 101 and 200 ft and 203 houses between 201 and 400 feet. Please reevaluate the impact to these houses and provide mitigation in the Final EIS. The vibration study in Appendix F concludes that vibration damage could be up to 5000ft depending on the soil type. The vibration expert predicts that, because of unstable soils, structural damage could occur "much in excess of 200 feet." The information here is false.

Page 4.9-34 The combination of slower trains on existing rail line and faster trains on the bypass would require careful attention to avoid unnecessary train delay and potentially dangerous situations ...Should mistakes be made, two trains could risk operating on the same stretch of line in opposite directions or in the same direction with a train slowing to enter existing portion of ...rail line while a faster train approaches from behind. *This very same problem exists with the bypass of Rapid City (Alternative C) yet is not mentioned as a concern for transportation in that section. Please address this concern as it applies to trains coming from Rapid City and the northern Black Hills.*

Page 4.9-35 Therefore existing shippers would not recognize the efficiencies associated with rebuilding the entire line, or be able to ship loads comparable to their competitor on other lines. *This same problem exists for shippers from Rapid City and the northern Black Hills yet is not mentioned as a concern for transportation in that section. Please address this concern as it applies to the Rapid City bypass (Alternative C)*

Page 4.9-45 Energy resources would be available to users at a more economical rate..The shorter route proposed by DM&E would result in significant diesel fuel savings for the transportation of PRB coal. *Quantify the numbers of gallons of fuel savings with Alternative B-2 vs. each of the bypass options of Brookings. Consider that the bypass option would allow for continuous movement of traffic at a steady speed and the existing line through Brookings would not.*

Page 4.9-45 Construction activities along the DM&E rail line would create 62 two-year jobs directly associated with the railroad and an estimated 30 jobs indirectly associated with the railroad reconstruction activities. Page 4.9-46 Income from Railroad construction jobs would total 9.2 million county-wide. *DM&E estimates that it will construct one mile per day on existing line. Considering the length of Brookings County, this will not take two years. Also, in Volume VIII-C page 16, you give the figures for direct jobs as 124 and indirect as 122, a difference of 154 jobs. Yet the estimated earnings from these jobs is \$9.2 million in both Sections. Each worker will earn \$100,000. This is unrealistic.*

Page 4.9-46 Property improvements made to DM&E rail line could provide an estimated \$1.3 million increase in property taxes for Brookings County.

This estimate was figured by DM&E and provided to you using 1998 tax formula. The law in SD has changed and, using the new formula, the revenue will be only a fraction of this. Even with the old formula, this figure is over-inflated.

Page 4.9-46 Land values may increase along the proposed bypass segment if land is attractive to commercial or industrial developers.

Land values may also decrease because the land will no longer be attractive to residential developers.

Page 4.9-49 The proposed clean-up of the area and installation of new rail material would help to improve the current visual nature of the area from one of a dilapidated industrial corridor.

Increasing from 3 trains/day to 37 135-car coal trains/day will not improve the visual nature of the area.

Page 4.9-50 There are numerous clubs and organizations dedicated to the hobby of train watching.

Enumerate these clubs and organizations in the Brookings area and provide us their names. Just saying something does not make it true. Provide us also with numbers and names of these clubs in the Rapid City area as they will be deprived of this wonderful experience if Alternative C is approved.

Page 4.10-9 During construction, approximately 89 two-year jobs may be created that are directly related to construction of the proposed rail yard. The estimated earnings for workers would be \$12.3 million.

It is highly questionable that it would take 89 workers two years to complete construction of a rail yard 5.4 miles long and 1000ft wide. It is highly questionable that each worker would earn \$138,202. It is highly questionable that tax revenue for the state and county would be \$937,300. (Same economic benefits are given on Page 4.10-28 concerning the Middle East Yard. These figures are also incorrect.)

Page 4.10-10 If any of these sites are located within the proposed rail yard location, appropriate action would be necessary to avoid disturbance of the sites.

Define appropriate action. Who is responsible for clean-up if the sites are inadvertently disturbed? Who is financially responsible? Include mitigation.

Page 4.10-18 During construction, approximately 28 two-year jobs would be created that would be directly related to construction of the proposed rail yard. Estimated earnings for workers would total approximately \$3.8 million.

It is highly questionable that a rail yard 2.1 miles long and 300 feet wide would take two years to construct. It is highly questionable that each worker would earn \$135,714. It is highly questionable that tax revenue for the state and county would be \$309,200.

Page 4.10-21 Approximately 55.9 acres of wetlands are located within the proposed rail yard.

With the concern of the USFWS about wetlands, this seems like a large area of wetlands to be forever lost.

Page 4.11-2 The proposed Edgemont Yard would cross one intermittent stream, which is a tributary of the Cheyenne River.

Where is this crossing located in relationship to that portion of the Cheyenne River that is listed as impaired and what effect would that crossing have on this impairment?

Page 4.11-2 The construction of the Edgemont would result in loss of this wetland. (approximately 0.5 acres)

There are very few wetlands in the Edgemont area. This habitat is essential for the species that require wetlands to survive. Provide the numbers of acres of wetlands in a 20-mile radius of this proposed yard so the impact can be determined.

Page 4.11-12 During construction, approximately 63 two-year jobs would be created that are directly related to construction of the West Yard.

It is highly questionable that it would take 2 years for 63 workers to construct a rail yard 3.1 miles long and 1300ft wide. In Volume VIII-C page 16, you list 148 direct construction jobs for the West Yard. For the other yards in SD, you provide estimated earning and estimated tax revenue, but not here. Please provide accurate figures.

Page 4.11-22 Option A... would include 71.0 of USFS land...Option B...would avoid impacts to USFS land.

If this project is indeed a "public need and necessity", a condition that must be met for eminent domain to be exercised, then public land, not private, should be used wherever possible. If you have deemed this proposal to be for the public good, the entire route should be reevaluated to use as much Federal and state land as possible. Private citizens should not be expected to give up their private property "for the public good." If the public wants competition in the rail industry, let the public pay the price.

Page 4.11-23 Option A...the loss of Federal grazing on this land would be a permanent, long-term impact and would need to be mitigated by DM&E.

Again, if this proposal is for the public good, use Federal land, not private land.

Page 4.11-30 Middle West Staging Yard.

There is very little information on this yard, perhaps because it is on Alternative D and that Alternative overall is very poorly evaluated. The impacts of all other staging yards are addressed but for this one, we are simply referred to other sections, such as ground water, air, noise, cultural resources. The Socioeconomic Section lists the job numbers but does not give estimated earnings and tax revenues as in most other section. The entire analysis of Alternative D in all Volumes is incomplete.

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Wednesday 27 December, 2000

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Nebraska community copes with train traffic, noise, danger

By: PATRICK BAKER, Capital Journal Staff

December 26, 2000

Tapping the coal-rich Powder River Basin of Wyoming is not the only purpose behind Dakota, Minnesota and Eastern's proposal to revitalize its railroad system.

There are other reasons, DM&E president Kevin Schieffer has said. An improved railway would allow DM&E to better serve its existing customers - the majority of which are South Dakota producers who need to move freight like wheat, cement and clay.

Schieffer said the revitalization project would also improve safety conditions and decrease the likelihood of dangerous derailments.

Critics argue that the expansion would negatively impact railway communities like Pierre and Brookings with increased rail traffic. Others point to environmental impacts ranging from the disturbance of culturally significant sites to concerns about coal dust.

City officials and chamber of commerce representatives in Pierre have rallied behind an effort to create a bypass around the town. Though the effort has gained much local support, few people have attacked DM&E's project as a whole and some people have said they believe a bypass is unnecessary.

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READER POLL

Were you satisfied with the Christmas shopping you did online?

☐ YES

☐ NO

Reaching a consensus on such a topic may be impossible because every argument has at least two angles. A case in point would be the residents of a similar town in Nebraska.

Scottsbluff, Neb., is split down the middle by a Burlington Northern Santa Fe railroad. In early November, a derailment caused the evacuation of parts of the town because of a hazardous spill.

Make The Best Choice

Even in the wake of such an event, not all of the five residents who were

http://www.zwi.../news.cfm?newsid=1213745&BRD=1130&PAG=461&dept_id=99675&rft= 12/27/00



surveyed for this story agreed that living in a train town with considerable rail traffic is an undue hardship.

Scottsbluff city manager Rick Kuckkahn said, "From our perspective, people here occasionally run into a train and there's an inconvenience factor there, certainly - which is something that you just learn to live with, I guess."

More than 30 trains pass through Scottsbluff daily. That number is more than five times the current rail traffic experienced in Pierre and about equal to the maximum amount of rail traffic projected with the DM&E expansion.

"I don't think, at least from my perception, it's to the point of annoyance," Kuckkahn said.

Greg Fullen, a police lieutenant in Scottsbluff, has a different perception of the trains' impact.

"These are coal trains predominantly, and they're anywhere from 100 to 130 cars in length," Fullen said. "The delay is anywhere from five to seven minutes where they block a crossing.

"Obviously you have traffic backup and the congestion at those intersections. It's really an inconvenient type thing and it causes a bit of a problem," he said.

Traffic congestion has been cited as a concern of Pierre residents in the advent of DM&E's upgrade. The ability of emergency service and law enforcement vehicles to reach their destinations in a timely manner has also been suggested.

Fullen said the delay is not easy to deal with for emergency vehicles. However, Scottsbluff has fire stations on either side of the tracks like Pierre and dispatchers keep track of train traffic to direct emergency services most efficiently.

Train related deaths have occurred in Scottsbluff including pedestrians, motorists and suicides. After a young boy was killed in 1998, a railway safety committee was formed on which Fullen serves.

Eric Guard works for Union Pacific which passes through the neighboring community of Gering. Guard said many residents are currently concerned with derailments because of the recent accident. However, he said relatively few derailments occur in the area.

The big problem is the noise, he said. Guard lives about 100 yards from the

crossings even though he blows the same horns as a conductor for Union Pacific.

According to Guard, DM&E currently uses older trains with an older horn system. He said the expansion will likely mean newer engines with louder horns.

"They're going to have to have these brand new locomotives and they have electronic horns that are just mind-boggling," Guard said. "You definitely will see it.

"The horns you've got now, the engineer is actually regulating with an air valve," he said of DM&E trains. "You could live with that. The new style ... it will just pierce your ears."

Mark McCarthy, a Scottsbluff reporter who covered the derailment, said safety has been a recurring concern locally, but he said he does not think too many people in town are aggravated by the noise. He said he cannot hear the trains from work half a block away.

"Part of that could be that I've lived in the town for 20-some years," McCarthy said. "Like Rick (Kuckkahn) was saying, 'it's just a part of life.'"

Fullen said it is a bothersome part of life in Scottsbluff for those who live near the tracks.

"That is a significant problem," Fullen said. "If you live along those tracks, you simply cannot talk to anybody and make yourself heard."

City councilman Gordon Rock is another member of the railway safety committee which presented a list of recommendations to the local government to mitigate safety problems. He said noise was the secondary reason for forming the committee.

He said Gering has introduced an experimental automated horn system at crossings which directs the blast at on-coming traffic only and decreases the noise impact.

"The problem is the liability factor," Rock said. "There's a federal study involved in those crossing horns and the federal agency hasn't made a determination as to their safety."

Kuckkahn said noise and train vibrations could be a problem for Pierre residents or businesses near the tracks if DM&E starts passing more and newer trains through town.

But Kuckkahn said it is not easy to get a railroad to agree to a city's requests. Railroads answer to the federal government which gave them the right to exist indefinitely a long time ago.

"If you look at history, trains and train tracks are a lot of the reasons cities are where they are as with rivers," Kuckkahn said. "At one point they were liked a lot. Now they're just running through for convenience to get coal or freight somewhere else and we live with some of those liabilities."

One consensus was reached by all of the Scottsbluff residents surveyed - Pierre should push for a bypass but not count on one being built.

Contact staff writer Patrick Baker by phone at 224-7301 or via e-mail at news@capjournal.com.

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