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CLEAN WATER ACTION ALLIANCE

March 6, 2001

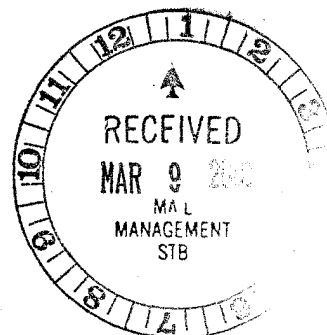
Office of the Secretary
Case Control Unit
STB Finance Docket #33407

Surface Transportation Board
1935 K Street NW
Washington D.C., 20423-0001

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Office of the Secretary

MAR 12 2001

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

Dear Victoria Rutson:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement for the proposed Powder River Basin Expansion Project (DEIS) on behalf of Clean Water Action Alliance of Minnesota. We are a membership based non-profit organization with over 43,000 members in the State of Minnesota. We have been following this project since the Summer of 1998 and are very concerned about the environmental, social and economic impacts to the citizens of this State.

First, we are in favor of Alternative A—the no action or no build alternative.

We feel that the DEIS is deficient in many areas. There is an overall lack of adequate information. Specifically regarding the air quality impacts associated with the increased availability of PRB coal, the lack of information surrounding where the coal goes at its eastern terminus in Winona, and not choosing an alternative for the communities of Rochester and Brookings. In addition, we feel there is not a sufficient mitigation package put forward in this DEIS. Because of the lack of information we are requesting that supplemental information be supplied prior to the issuance of the Final Environmental Impact Statement (FEIS).

Again, thank you for the opportunity to provide our comments on this DEIS. Should you have any questions please contact me at (612) 623-3666.

Sincerely,

Diana S. McKeown
Energy Program Coordinator

Incomplete & Inadequate DEIS

The DEIS is extremely incomplete in most areas and should be supplemented before the Final Environmental Impact Statement is produced. A supplemental draft should be prepared. The DEIS is based on partial information. DM&E has withheld information and has changed the proposed route since the scoping period ended. Full information on siting of all facilities must be released before the NEPA process begins, not as it unfolds. The lack of information makes it impossible to choose a preferred alternative. There are several alternatives and the Brookings and Rochester bypasses that do not state the preference of the SEA-NEPA law does not allow this. The DEIS states in several places (example, page 4.4-2.9) that final design information is not available and therefore impacts are difficult to quantify. The DEIS is difficult to read and follow and while there is much repetition, there are often important differences that are easy to miss because they are buried in repetitious statements. The tables of contents are only partially correct, there is no index, many terms that may not be commonly known such as "palustrine" are not defined. Even common terms such as "business" need definition, as it appears that ranches and farms are not considered businesses. The references to various chapters are difficult to follow because of the numbering system: example in chapter 5, page 8 we are referred to the SEA's air quality visibility analysis in Chapter 4, section 4.8 but section 4.8 has to do with the North Antelope Mine Loop alternative. The air quality analysis is in 4.4.8---a confusing numbering system that makes following the document very difficult. In this example you are then referred to another volume for further information. The graphs are mostly illegible due to many of the bars being so close in color and pattern. Most charts and graphs are located a number of pages away from the reading that explains them with no reference to a page number so it is difficult to find them and very difficult to relate them to the written words. For example: on page 4-110 the reading refers to fig 4-17 which is found on page 73 (37 pages away) and on page 4-110 the reading refers to 3-94 which is on page 3-147 (123 pages away). The maps in the DEIS are inadequate and antiquated. They do not show the width of right of way, which in many cases may be 1,000 ft. wide. They have assumed a 400' right of way. They are difficult to read and out of date with the BNSF line named the "Chicago, Milwaukee, St. Paul and Pacific" and the DM&E always referred to as Chicago and Northwestern. DM&E has been in existence for 14 years! In volume V-SD4 the present line and the proposed line are labeled backwards.

The DEIS attempt to transfer the agency burden to the public on the following points: What Rochester option to select, what Brookings alternative to select, and what yards to construct which depends on which alternative is selected and all environmental mitigation, including bypasses. As it is, this document's lack of specificity insures that the STB, numerous other agencies, the applicant, people who own property along the proposed route, and the public be in limbo for years while this issue is decided in the courts.

Examples:

- * In Chapter 7, the agency says that haze should be "minimized" in Class I airsheds, such as our National Parks, which the DEIS says will be significantly impacted by this project. What does "minimize" mean? Haze is measurable. What is the measurement that indicates the level of haze that would be acceptable for the preferred alternative to be in compliance with the Clean Air Act? Can DM&E meet that requirement?
- * In Chapter 4, the agency says that the STB's own air quality thresholds would be exceeded by this project, requiring "detailed analysis of potential air quality impacts." Where is that analysis? This subject is raised on p. 4.4-33 and abruptly dropped.
- * In Appendix D, the agency asks environmental justice communities to identify and analyze mitigation possibilities for environmental justice issues. This places the agency's burden on the

very people who it has identified as least able to fund mitigation analysis. The identification and analysis of alternatives is the agency's responsibility.

* In Chapter 7, the agency's proposed mitigation is composed primarily of exhortations to follow existing law, make plans, and consult with various people and agencies. Words like "reasonable" and "adequate" and "where appropriate" are not defined. Who decides, for example, where it is "appropriate" to install fencing? Who decides if grade crossing safety plans are "adequate"? What are "reasonable" steps toward avoiding using contaminated fill? This should all be spelled out.

* The DEIS provides information on the projected economic impacts as they involve the applicant and projected positive economic impacts of the project, but it does not provide economic impacts for local, state, and tribal governments, individuals along the route, taxpayers in effected jurisdictions, existing ranch and farm businesses, or more general negative economic impacts.

* The DEIS talks about meeting demand for more electricity in Chapter 1, but fails to consider alternatives other than DM&E's coal project for meeting this demand. Currently, available options include energy diversification, energy conservation, and renewable energy sources. These should be analyzed as part of the "Needs" section.

* The DEIS mentions increased coal mining. This means that the DEIS's "reasonably foreseeable" impacts include increased global warming, air quality changes, and public health problems from burning the increased coal. The DEIS also fails to consider the international impacts of the United States' violation of the Kyoto Protocol and other international agreements if this project is approved.

* The DEIS does not analyze barging coal on the Mississippi, rail transportation from DM&E's lines to destination points, and other impacts that are clearly "reasonably foreseeable" as a result of this project.

* Appendix D does not indicate what route or routes were studied as part of the Environmental Justice determination. The impacts differ from one route to another and should be analyzed separately.

* It is our understanding from Wyoming residents along the proposed route that the agency and its contractors have not set foot on even half of the land considered in this document that is within that state. How could archeological and paleontological surveys have been completed without even walking the area?

* How would existing federally-funded clean-up efforts under Section 319 of the Clean Water Act for waters categorized as impaired along the Bad River be impacted by this project? This is not covered. What other impaired waters exist in the project area that would be impacted?

* The DEIS also attempts to transfer the agency burden to the public on the following points:

- whether to choose the Hay Canyon Segment, Oral Segment, or WG Divide Alternative (ES- 45);
- what Rochester option to select (ES-59);
- what Brookings alternative to select (ES-62);
- what yards to construct, which depends on which alternative is eventually selected (ES-63); and
- all environmental mitigation, including bypasses (ES-72).

The agency has attempted to place the burden for deciding among the most contentious issues on the public. If the STB is not prepared to make politically difficult decisions, perhaps another agency should be the lead agency on this project.

Purpose and Need

In the needs section of the DEIS 1-6 there is a comment made about "reliable fuel source". Reliable for how long? Is coal mining and burning sustainable? We know that it is not renewable, and that we have other renewable options for generating energy, especially here in Minnesota. The benefits of wind power are not just the environmental benefits, but also the economic aspects because it doesn't have a cost to transport, clean up, or obtain. It has proven to be an excellent economic development tool here in Minnesota.

In section 1-10 the DEIS states "lower sulfur, cheaper coal." I would argue that since more of this coal needs to be burned to get the same thermal value, that it is not in fact cheaper.

In section 1.3.2 the DEIS discusses utility deregulation as a national policy that is a driving the need for cheaper coal. There is also a national policy movement towards paying the true cost of our electricity system including looking at the external costs of energy production (clean up of pollution) as well as the contributions of carbon dioxide to the global warming problem. If the Kyoto treaty is ratified, the national policy will be set to reduce the amount of carbon dioxide this country emits, a large share of which comes from the electric utility industry. This section cites the Edison Electric Institute, an electric utility lobbying group whose members are DM&E's potential customers, extensively for most of its "information" on national energy policies and how the proposed project would further them. This means the information provided in support of the STB's argument for the "need" for this project is terribly limited and one-sided and biased.

In section 1.4.1 the DEIS states that "existing vegetation would be cleared and disposed of according to landowner requests and appropriate Federal, state and local requirements." What kind of vegetation? What organisms are associated with the vegetation? Are there endangered plant or animals are found within these areas? According to the Minnesota Department of Natural Resources there are endangered species of orchids found in the right of way. Is that some of the vegetation that is discussed? Further in the same section, it states "however, most of the material removed would be sold for scrap or disposed of consistent with environmental regulations." What does most mean? What happens to the rest?

National Energy Policy

The full implications for national energy policy and for existing international agreements have not been considered. They should be in a complete DEIS. The DEIS mentions increased coal mining. Therefore "reasonably" foreseeable impacts include: increased global warming, air quality changes, and public health problems from increased burning. The proposed project would adversely impact national energy policy. It could lead to a significant increase in coal burning by Midwest utilities by supplying currently under-utilized coal plants with cheaper fuel and will widen the gap in cost between out-dated coal-fired power plants and other energy sources such as high-efficiency natural gas plants or wind energy.

The final scope states that the DEIS will "[E] valuate the potential air quality impacts associated with the increased availability and utilization of PRB coal. The SEA determined that the issue of air quality impacts associated with utilities' increased use of PRB coal is distinct from the air quality impacts which result from construction of the proposed rail lines and operation of the trains. The SEA accepted parties' recommendations that because DM&E justifies the need for its project by

reference to electric utilities' demand for PRB coal, that the air quality impacts that result from electric utilities' use of the transported coal must be examined in depth. The DEIS, however, fails to even attempt this necessary analysis.

The environmental impacts of the increased availability and utilization of coal are direct impacts of the DM&E proposed project. Indeed, the chief purpose of the project is to increase the availability and utilization of PRB coal by Midwest electric utilities. Unless the final EIS examines the associated environmental impacts of fulfilling the project's articulated purpose, it will not meet the requirements of NEPA. The impacts of electric utilities' increased consumption of PRB coal are not just reasonably foreseeable, but are inextricably linked to the project. The final EIS must include an analysis of these impacts.

Instead, national energy policy should encourage a transition away from the most polluting fossil fuels toward cleaner energy sources including renewables, natural gas as a transition fuel, and energy conservation through efficiency measures.

While there are also no current caps or regulations on mercury or other toxic air emissions from power plants, the U.S. Environmental Protection Agency made a positive determination on December 14, 2000 to regulate mercury and other hazardous air pollutants from electric utilities. This positive determination is likely begins the process of determining specific standards.

The DEIS includes statements like the repeated assertion that improved safety would be the "primary environmental benefit" of the proposed project. It is unclear how this conclusion was reached, given the STB's bias toward positive conclusions regarding other types of benefits, particularly economic benefits, and its observation that increased rail operations would offset some safety improvements. I was unable to find any evidence of a process of analysis that would lead one to a conclusion that safety was the prime environmental benefit of the proposed project.

Impacts on Barge Traffic

The impacts of barge traffic on the Mississippi as a result of this project have not been considered. In the original application DM&E suggests that barges will be used to move the coal once it gets to Winona, however the DEIS is silent on the impacts to the Mississippi River from additional barge traffic and building a barge-loading facility.

It seems that the DM&E plans to transfer the coal trains to the Canadian Pacific (CP) rail and transport the coal south. It appears that the CP rail going south is nearly at capacity. Again, the question remains, how is the coal going to be transported once it gets to Winona?

Air Pollution

In section 1.3.2, the DEIS says that building this project would help in the implementation of the Clean Air Act Amendments. The source for this assertion, made on page 1-12, is DM&E. The explanation that follows is unclear, but seems to say that switching to low-sulfur coal is cheaper than constructing, operating, and maintaining scrubbers. Nowhere is there evidence that any utility is operating without scrubbers at this point in time, so construction is a moot point in these cost-benefit calculations. Nowhere is there evidence that any coal plant that is currently using eastern coal is planning to now switch to western coal, creating a need for this project.

Despite the fact that DM&E acknowledges that the primary purpose of the proposed railroad is to ship cheaper coal to Midwest power plants, thereby aggravating the problem of pollution, the DEIS is silent on this important issue.

In Minnesota, coal-fired power plants provide two thirds of the state's electricity, and over one-half nationally. Most of these plants are well over 30 years old and currently are not used to their full capacity, thus they can increase generation, and emissions.

The root of the problem is this: when the Clean Air Act was amended in the 1970s, Congress exempted power plants from meeting the same air pollution regulations that a new plant must meet. Today, these "grandfathered" plants make up 77% of our nation's coal-fired fleet, and operate under the Clean Air Act's least protective standards, which allow air emissions 5 to 10 times greater than emissions from new, more efficient power plants. Therefore, because "grandfathered" coal plants do not have to meet the pollution control requirements of newer coal plants, they receive an environmental subsidy. They have lower pollution standards applied to them, invest in less emission control equipment and other measures, and thus have lower operating costs. All the while producing far more emissions.

Efforts are underway to bring competition to the current monopoly electric generators enjoy, or to deregulate the industry. As the utilities' least expensive generation option, companies are likely to rely more heavily on their fleet of aging and underutilized coal plants to reduce costs to meet competition.

Five primary power plant pollutants, emitted by coal-fired power plants, that should concern the Board.

Sulfur Dioxide

First, sulfur dioxide, the primary component of acid rain, acidifies lakes and streams to the point that fish cannot survive in them and causes other environmental degradation. The electric utility industry collectively emits over two-thirds of both Minnesota's and U.S. sulfur dioxide pollution.

Expanding the current rail line into the Power River Basin (which increases the use of low sulfur coal in the Midwest) **will not** decrease the overall emissions of sulfur dioxide pollution in the United States.

While coal in the western part of the United States does tend to have a lower sulfur content than coal from eastern areas of the United States, provisions in the Clean Air Act's Acid Rain Provisions set the total number of tons of sulfur dioxide that may be emitted in the United States each year. That cap on emissions remains the same whether certain power plants burn low sulfur coal or not. Therefore, the use of low sulfur coal in the Midwest will allow the use of higher sulfur coal in other areas of the country or another plant in the Midwest.

In addition, western coal has lower energy content, meaning it takes more low sulfur coal to create the same amount of electricity than with high sulfur coal. Therefore, increasing the use of lower sulfur, lower energy coal means more coal that must be burned and the more emissions of nitrogen oxides, carbon dioxide and mercury.

Because of new EPA mercury determination and the high cost of technologies to remove mercury from coal, it is likely that some coal-fired power plants will be used less because of the economics, therefore making the additional coal from PRB unnecessary.

Nitrogen Oxide

Next, the Board should be concerned about nitrogen oxide emissions, a precursor to ground-level ozone or smog. Coal-fired power plants emit over a third of U.S. nitrogen oxide emissions. When inhaled, ozone burns through cell walls of your lungs and can cause airways in the lungs to become

swollen and inflamed. Even healthy adults with no history of respiratory problems experience symptoms such as chest pain, coughing, congestion, as well as permanent reduction in breathing capacity when exposed to high ozone concentrations. Many Midwest cities, especially in Illinois, Indiana and Ohio, where the coal from the proposed train will be burned, posted between dozens and hundreds of unhealthy ozone days in the summers of 1998 and 1999.

Ozone air pollution is responsible for an estimated 3,300 respiratory emergency room visits and 120,000 asthma attacks in Minnesota each year and is especially harmful to vulnerable populations, such as children, the elderly, and others who suffer from lung disease.

As for impacts to our environment, ozone also causes plants to grow more slowly and be more susceptible to normal plant stresses. The U.S. Environmental Protection Agency has estimated that crop losses from ozone are costing Midwestern farmers up to one billion dollars a year.

Carbon Dioxide

Third, carbon dioxide, a climate change gas, is another primary power plant emission. The effect of CO₂ produced from human activities, like coal burning, has been well established. Heat trapped due to the "greenhouse effect" warms the Earth's atmosphere and alters our climate. About 38% of the carbon dioxide emissions in Minnesota originate from the states' electric utilities, again with coal-fired power plants playing the largest role. Nationally, 88% of power plant carbon dioxide emissions come from coal-fired plants.

There are a number of predictions about how global climate change will alter natural systems, and Minnesota is particularly vulnerable. Our state is a boundary area between three distinct ecosystems: hardwood, pine forests and prairie. These boundary areas can be disturbed and radically changed by even small climatic change. Climate change is likely to adversely impact Minnesota's water resources, forests and agriculture.

Mercury

Fourth, mercury and other toxic air emissions from power plants poison our health and environment. Power plants emit over 30% of the country's mercury emissions.

Mercury is emitted into our air by many sources, the largest single one of which is coal-fired power plants. Mercury deposits into water bodies, combines with bacteria in the water, and becomes a highly toxic compound: methylmercury. Methylmercury is eaten by fish at the lowest end of the food chain, and accumulates in larger fish, as they eat the smaller contaminated fish.

Eventually, by eating larger freshwater and commercial fish, humans take in the toxic mercury. Forty states, including Minnesota, have issued fish consumption advisories for women of child bearing age, pregnant women, children and populations that eat large amounts of fish, like Native Americans and persons who fish to provide a substantial amount of their food. This often impacts people at lower socioeconomic levels, adding a social justice aspect to the issue.

- Prenatal exposure to relatively low mercury concentrations can subtly interfere with the development of normal brain functions including motor skills, language, attention and memory.
- Birds and animals that prey on fish are impacted by mercury by compromised abilities to hunt and reproduce.

Mercury is one of many toxic air pollutants that are released from power plants. These toxic air pollutants may cause cancer, can impair reproduction and the normal development of children,

especially brain development, and damage our nervous and immune systems. Many toxic air pollutants are breathing irritants that can worsen conditions like asthma.

Particulate Matter

Finally, particulate pollution, also known as soot, is both a direct emission from power plants, as well as a by-product of their sulfur dioxide emissions.

Particulate matter contributes to stuffy noses, sore throats, hay fever, dry coughs, chest discomfort and shortness of breath. Small particles, which are not currently captured by most power plants, can also cause hospital visits, aggravated asthma, decreased lung function, and even death by penetrating deep into the human lung.

A recent report peer-reviewed by the Harvard School of Public Health estimates that U.S. power plant particulate pollution cuts short the lives of over 30,000 people every year. About two-thirds of these deaths would be avoided if power plants were forced to meet the same pollution standards as modern plants.

For Minnesotans specifically, the report estimates that particulate pollution from power plants is responsible for 249 premature deaths and 5,820 asthma attacks in Minnesota each year and, again, is especially harmful to vulnerable groups of persons, such as children, the elderly, and others who suffer from lung and heart disease. In addition, hundreds of thousands of Americans suffer from asthma attacks, cardiac problems and upper and lower respiratory problems associated with fine particles from power plants.

For all of these health-related reasons, and the regulatory reasons to follow, our nation's fuel mix must change in the future, and the Surface Transportation Board must consider this when considering the long-term economic feasibility of this project.

The U.S. Environmental Protection Agency (EPA) is currently implementing a rule that will require significant reductions in nitrogen oxide pollution for power plants in most Midwest states. That rule, in combination with a new ozone standard to be implemented by EPA soon (as soon as the Supreme Court resolves the dispute), will mean that power plants in Midwest states will need to reduce their nitrogen oxide emissions in order to meet these new regulations.

While there are currently no caps or regulations for carbon dioxide emissions from power plants, if any international plan to lower carbon dioxide emissions is endorsed, power plants will need to do their share as they contribute 35% to annual U.S. carbon dioxide emissions. Also, separate federal legislation is pending that will require power plants to reduce not only carbon dioxide emissions, but also nitrogen oxide, sulfur dioxide and mercury emissions.

Particulate emissions from power plants are also to receive tighter regulation soon under EPA's regional haze rule to improve visibility in the nation's national parks and wilderness areas and the new National Ambient Air Quality Standards currently under review.

There are alternatives to solely relying on burning coal. A change in fuel mix in this country from coal as the dominant fuel source, including cleaner power sources, including gas (which emits much less pollution), wind energy and other renewables will decrease air pollution. These alternatives are available at a reasonable cost to the average consumer.

The bottom line is that when you add more coal at an artificially low cost to the American fuel mix, rather than adding cleaner fuels, the results are devastating human and environmental impacts. The

cost of those impacts, including the lost opportunity to invest in cleaner power, far outweighs any benefits.

Air Quality

The DEIS contains repeated assumptions that are unsupported. In section 4.4.8, which state that dust from construction and construction-related vehicles will be confined to the right-of-way or rapidly dispersed. Anyone who has lived on a gravel road in dry country knows better than that, as plumes of dust from small vehicles are visible for long distances. The STB needs to research how much dust will be put into the air, what it contains, and where it will go. How would it affect air quality? Would it violate federal air quality standards? How would it affect quality of life as it seeped into cars, homes, and businesses and settled on fields and lawns? And how would it affect public health?

Staging and Marshaling yards

There is an absence of discussion of impacts related to the creation of marshalling and staging yards. We have major concerns with the Middle East Staging and Marshaling Yard (option A), which is located within the Minneopa State Park boundary. There is a lack of information on the impacts associated with the proposed East Staging and Marshaling yard located east of Lewiston, where there is concern regarding the karst geology prevalent in the region.

Mitigative Measures

The DEIS is not clear as to who is to pay for mitigative measures. State and local governments should not be responsible to pay for mitigation for a private project with no inherent benefits to the communities it passes through.

Winona

The DEIS is silent on the impacts that this project will have on Winona. This is a fatal flaw. What happens to the trains once they reach Winona? We are concerned about the impacts of transfer facilities to other railroads, harbor for barges, and increased barge traffic on the Mississippi.

Bypasses

The proposed bypasses for Mankato and Rochester have substantial impacts on the environment. The new tracks would traverse many farms, wetlands, streams etc. Again, it is unclear who will pay for the bypasses.

Economics

A recent study done by North Dakota State University's Upper Great Plains Transportation Institute suggests that Dakota, Minnesota & Eastern Railroad's proposed coal rail line would not be economically efficient. The study, done for the U.S. Department of Transportation, said that Class I railroads, such as those that serve Wyoming's coal industry, are natural monopolies. This means that coal transportation is most efficient when there are fewer -- rather than more -- rail lines. The Surface Transportation Board (STB), which will make the decision on the future of DM&E's proposal, is part of the Department of Transportation.

DM&E has claimed that its plan to build a new coal rail line into Wyoming's Powder River Basin would lead to competition and lower coal transportation costs. The NDSU study suggests that the opposite outcome is more likely. If coal rail transportation is most efficient when there are fewer carriers, as this study says, then we need to ask some important questions. For example, would DM&E's coal plan lead the company to bankruptcy, which would hurt their current agricultural customers? If DM&E fails economically, who will be left holding the bag -- the towns, counties, and taxpayers who have paid so much to study their proposal? Or will DM&E simply be

bought out by a larger company, as people have speculated since this plan was first suggested? If so, will farm products still be carried on the current line?

The NDSU study compared single-company and two-company costs and concluded that, because Class I rail lines are natural monopolies, having another carrier serving the same market results in excess costs. The DM&E's plan would duplicate a service already supplied by two Class I railroads, Burlington Northern-Santa Fe and Union Pacific.

Clearly the Surface Transportation Board needs to evaluate the proposed DM&E expansion in light of the North Dakota State University study, which was done for its own Department. Building a rail line that is inefficient and likely to fail economically and is not good public policy.

According to a report released on November 30, 2000 by the Energy Information Administration (EIA) the rail transportation has of coal has dropped. The report states "inflation-adjusted rates that electric utilities paid to ship coal by rail decreased by 26 percent between 1988 and 1997, and the rates for low-sulfur coal dropped by an even larger 35 percent. This was during a period when it was thought that the rail transportation rates for low-sulfur coal would escalate, following the passage of the Clean Air Act Amendments of 1990. With the rates of transport for this kind of coal dropping, why is this project needed?

In section 4.4.16, the STB offers its conclusions on the economic impacts of the project, such as the number of jobs created, earning from those jobs, sales and use tax increases, and DM&E property tax payment increases. These economic impacts are apparently based on Appendix M, which uncritically analyzes information provided by the applicant and its contractors. On the flip side, the DEIS offers no quantification of the costs of problems that the project would create. These include costs to upgrade roads near crossings, detours while crossings are upgraded, building new schools and infrastructure, providing increased social services to boom town populations, creating and studying various bypass proposals, providing the STB and other agencies with information, preparing testimony, and so forth. The STB just cheerily concludes that the economic benefits will outweigh the economic costs without providing any basis for that conclusion.

In section 3.2.1 the DEIS claims that if the no-action alternative is chosen that there will be a "greater reliance of shippers on trucks for transportation, resulting in hundreds of trucks being added to local roadways." However, isn't it true that because of the high speeds the train will be traveling that with the proposal to upgrade and expand that the trains will make fewer stops, causing shippers to move their commodities by truck to get to the stops. Therefore this would happen as a result of this project as well.

Environmental Justice

In Appendix D on Environmental Justice, the methodology is totally unacceptable. Even the Census Bureau said their 1990 numbers for reservation Native Americans were the worst undercount in the nation. Yet the STB is still using these numbers! Native Americans are the predominant minority in the proposed new construction area, and the methodology used must be suited to determining impacts on that particular population to get valid results. Using only the variables of ethnicity and income minimizes other critical impacts that go to Environmental Justice, some of which are unique to Native Americans. In this case, critical impacts include historical ties to place, the centrality of place in a culture, the presence of sacred sites, violation of international treaty rights, and violation of First Amendment rights.

Residential Impacts

The DEIS states that some overall impact is expected with regard to Residential areas. The DEIS even goes as far to state that it depends on the concern of the buyer, perhaps there is some buyer out there that would really enjoy living next to 37 mile long trains per day. It is very likely that properties along the route will decrease in value and that the rest of the properties in the community will see increases in property taxes to make up the difference. In section 3.2.6.2 it states "overall, some impact is expected". What does some impact mean? How do you quantify some impact?

In that same section the DEIS refers to the smaller rural communities that are already depressed "due to struggling agricultural economies". It seems that these communities would benefit greatly from increased investment in renewable energy, especially wind turbines as opposed to a coal train that brings them no economic benefit.

DM&E Statistics

It is interesting that all through the DEIS the statements made related to the accident rate of the railroad, claim that the solution to those problems will come through the upgrade of the tracks. While we do not dispute the fact that the railroad is in a state of disrepair, we offer some statistics of the DM&E's record that will show that the tracks are only one part of the problem. More than 50 percent – 2,676 of the total 4,789 defects cited by federal and state officials – have been unrelated to tracks. In addition, 92 of the 323 derailments for which DM&E has been responsible have been unrelated to condition of tracks. Since 1989, even when track defects are not considered, DM&E has had one of the top 10 worst accident rates among railroads that operate within the United States. The only exception was 1999. Since January of 1995, federal and state railroad inspectors have identified the following 4,700- plus defects in DM&E's operations:

- 292 reports for unsafe operating practices
- 1,256 reports from motive power and equipment problems
- 17 reports for mishandling hazardous materials
- 1,111 reports for defects in its signals
- 2,113 defects in the track

DM&E's record does not seem to be improving. Through May 2000, the DM&E train accident rate increased giving the DM&E the honor of having the third highest accident rate among railroads (through May of 2000). Last fall, the DM&E derailed between Dover and Eyota, Minnesota. The clean up costs for this incident were estimated at \$250,000.

Changes since scoping

The routes and locations of all facilities should have been established at scoping. They are still unclear and constantly changing. The agency says it will chose a final route after public input is completed and offer it in the Final EIS. This is contrary to the requirements for public input that are at the heart of the NEPA process.

Minnesota

The EIS does not recognize the interconnectedness of surface and ground water in southeastern Minnesota. The extent of the interconnections was quantified in ground water recharge modeling in the Rochester area conducted by the US Geological Survey (Delin, 1990). Delin reports that about nine percent of the aquifer recharge in the city can be attributed to stream leakage. Ground water sensitivity modeling conducted by the Minnesota Geological Survey suggests similar surface and ground waterinterconnections likely in the upland areas to the east and west of Rochester. Nearly

all of the DM&E rail line in Olmsted County crosses land mapped as highly susceptible to ground water pollution.

The EIS also does not recognize that the DM&E rail line crosses over the focused ground water recharge area that occurs at the terminal edge of the Decorah shale. This is the area identified by the US Geological Survey as contributing about 50 percent of the recharge for the City of Rochester's water supply. This hydrogeologic setting, referred to as the Decorah-Edge, is identified in the Olmsted County Comprehensive Water Management Plan as a high priority ground water recharge management area. The rail line crosses the Decorah-Edge west of Byron, west and east of Rochester, and west of Dover. Construction in these areas has the potential to interrupt ground water recharge and to hinder the natural attenuation processes that occur in this setting. Studies suggest that the soils and vegetation in the Decorah-Edge setting are responsible for removing nitrogen from recharge waters. Additionally, studies conducted in the Rochester area have documented serious structural damage in this hydrogeologic setting. This includes unstable roadbeds, slumping in road cuts, foundation instability, wet basements, and damage to sidewalks and retention walls. It should be noted that a recent derailment of the DM&E occurred in this hydrogeologic setting in the Dover area.

It should also be noted that some of the most biologically diverse wetlands in Olmsted County occur in the Decorah-Edge hydrogeologic setting. These wetlands are particularly prone to disruption from dewatering as a result of upgradient construction activities. This is particularly true for the wetland complexes that lie on the footslope of the Decorah-Edge. Based on the bedrock geology map of Olmsted County produced by the Minnesota Geological Survey, approximately six miles of the DM&E rail line in Olmsted County overlies the Decorah shale.

While the EIS does recognize that the karst geology of Southeastern Minnesota is susceptible to sinkhole formation there is no recognition that similar instability in the downtown Rochester area. Building contractors working in the City of Rochester often encounter solution cavities and caverns during foundation excavations. Further evidence of these geologically unstable conditions was documented in studies of sinkholes that occurred in the City of Rochester both north and south and north of the DM&E rail line. Local engineering firms would be able to provide additional information about the location and scale of these problems.

The Minnesota Department of Natural Resources estimates that the wetland delineations conducted for this DEIS were superficial and that there are actually 1000 wetlands in the project area. They also found that there will be nearly 400 acres of prairie that will be destroyed and that is a significant impact.

This project crosses Garvin Brook 15 times, and all of those bridges and culverts are to be replaced. The potential of sediment deposition into the stream is very high.

Land Use

In section 3.2.6.1 states "Following reconstruction, the rail right-of-way would be fenced and other land uses prohibited within the right-of-way." What kind of fence will be used? How will this effect wildlife habitat? How will animals cross the tracks?

In section 3.2.6.8 the DEIS states that "If adequate wildlife habitat is available, some wildlife would continue to use these areas." Will there or will there not be adequate wildlife habitat? Shouldn't that have been studied as part of this process? This section does not address the situation if there is not adequate wildlife habitat.

Conclusion

This DEIS has been found to be inadequate by many of the agencies, communities, organizations, and citizen's that have read it. There are too many unanswered questions, unanalyzed situations and data, vague language and just plain unknowns. A project of this magnitude needs to be thoroughly reviewed before an approval. This project has not been. A supplemental document with additional information should be completed before the issuance of the FEIS. In addition, the Draft Environmental Impact Statement for the Powder River Basin Expansion Project is inadequate without an examination of the impacts of coal-fired power generation on our region in its discussion of environmental and air quality impacts of the Project. The DEIS is also lacking a sufficient mitigation package for the significant impacts that it is proposing.

Clean Water Action Alliance of Minnesota would also like to support the comments of Minnesotans for an Energy-Efficient Economy (ME3).