



OFFICE OF THE HENNEPIN COUNTY ATTORNEY

AMY KLOBUCHAR COUNTY ATTORNEY

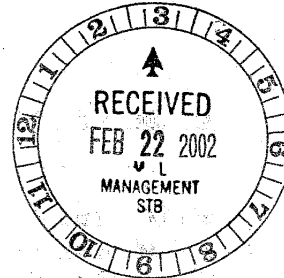
204827

October 17, 2001

Via Facsimile and U.S. Mail

Vernon A. Williams
Office of the Secretary
Room 711
1925 K Street NW
Washington, D.C. 20423

ENTERED
Office of the Secretary
FEB 25 2002
Part of
Public Record



Attn: Phillis Johnson-Ball

Re: Comments to Environmental Assessment Dated October 12, 2001
Docket AB-472 (Sub - No. 1X)
Dakota Rail Inc. Abandonment Exemption

Dear Mr. Williams:

Enclosed and delivered to you by fax, please find a copy of Hennepin County Regional Railroad Authority's Comments to Dakota Rail's Environmental Report submitted to the SEA on August 15, 2001. It is my understanding that you did not have the benefit of these comments in preparing the Environmental Assessment dated October 12, 2001. (I am also sending you an original and two copies of this letter and attached documents by U.S. mail.)

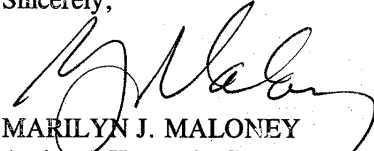
HCCRA requests that the STB impose the environmental conditions HCRRA requested in its August 15, 2001 letter. Additionally HCRRA requests that the STB impose as a condition of abandonment that DAKR,

- 1) enroll the corridor in the Minnesota Pollution Control Agency (MPCA)'s voluntary investigation and clean up program for hazardous substances and petroleum and

Page 2
October 17, 2001

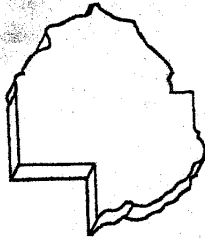
- 2) obtain and deliver to the STB all applicable written assurances from the MPCA that DAKR and RailAmerica have met their state and federal environmental obligations and responsibilities regarding salvage of the rail bed, tracks, ties, and other track materials, including those discarded and adjacent to the corridor.

Sincerely,



MARILYN J. MALONEY
Assistant Hennepin County Attorney
Telephone: (612) 348-7754
FAX: (612) 348-8299

MJM:ljb
Enclosures
cc: Marcia Wilda (w/o encls.)



HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY

417 North Fifth Street, Suite 320, Minneapolis, MN 55401-1362 (612) 348-9260
FAX: (612) 348-9710

August 15, 2001

Chief of the Section of Environmental Analysis (SEA)
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

Re: Docket No. AB-472 (Sub-No 1X)
Dakota Rail, Inc. – Abandonment Exemption – (Between Wayzata and
Hutchinson) in McLeod, Carver and Hennepin Counties, MN

Comments to Environmental Report-Request for Conditions

Dear Reviewing Officer:

Hennepin County Regional Railroad Authority (HCRRA), a political subdivision of the State of Minnesota, makes the following comments to the Environmental Report of Dakota Rail, Inc. (DAKR) and requests that the Surface Transportation Board (STB) impose public use, environmental and historical conditions to abandonment of the DAKR Corridor, as set out in this letter.

HCRRA is organized under the laws of the State Minnesota for the purpose of purchasing abandoned rail corridors for future public transportation purposes and implementing those uses. It has the authority to acquire abandoned rail corridors within and without its taxing jurisdiction for public transportation uses.

BOARD OF COMMISSIONERS

Peter McLaughlin
Chair

Gail Dorfman
Vice Chair

Mark Stenglein
Secretary

Penny Steele
Treasurer

Mike Opat

Randy Johnson

Mary Tambornino

Comment 1: Request for Public Use Condition

Land Use, 3 (iii) Suitability for Alternative Public Use

HCRRA requests that the STB find that the Corridor is suitable for alternative public use and that the STB impose public use conditions upon abandonment of the DAKR Corridor. The Corridor traverses Hennepin, Carver and McLeod Counties in Minnesota. More than one-half of its length runs through the Minneapolis-St. Paul metropolitan area within Hennepin and Carver Counties. The DAKR Corridor represents an exceptional opportunity for the public to preserve a historic and invaluable forty-four mile public transportation corridor that would otherwise be lost to future generations. HCRRA desires to retain the Corridor as an intact linear transportation corridor without reduction in width or size to maximize its potential use as multi-modal transportation corridor. Attachment A. Affidavit of Gary J. Erickson.

The governing board of HCRRA has expressed by resolution its desire to acquire and preserve the Corridor in collaboration with McLeod County Regional Railroad Authority, Carver County Regional Railroad Authority, interested cities along the Corridor and Suburban Hennepin Parks. Attachment B. (HCRRA Resolution 29R1-HCRRA-00 June 6, 2000, McLeod County Regional Railroad Authority Resolution October 5, 2000 and Carver County Regional Railroad Authority Resolution CCRRA 01-01, August 6, 2001). The Hennepin, Carver and McLeod Rail Authorities (Rail Authorities) were formed pursuant to Minnesota statute to preserve abandoned rail corridors for future transportation uses, including, but not limited to, rail transit, bus, bicycle and foot travel, and for the purpose of implementing those uses.

HCRRA has been instrumental in bringing the first Minneapolis-St. Paul Metropolitan Area's first light rail transit project to construction (Hiawatha LRT Corridor). A large portion of the Hiawatha Corridor will operate over abandoned railroad right of way that was acquired by HCRRA for future transportation purposes from the Canadian Pacific Railway (Soo Line). Similarly, HCRRA has been instrumental in bringing the Area's first commuter rail project through the EIS process and into final design. (Northstar Commuter Rail Corridor). The Northstar Corridor will operate over Burlington Northern Santa Fe railroad right of way. Both the Hiawatha LRT and Northstar Commuter Rail projects are expected to be in operation by the year 2004.

Since 2000, the Rail Authorities have been in negotiations to acquire the Dakota Rail Corridor from DAKR (RailAmerica) and preserve it as a transportation corridor in public ownership. Negotiations have been pursuant to a letter of intent between RailAmerica and Lake Minnetonka Parks and Trails, a nonprofit trails organization, whose mission is to preserve the Corridor for public use. HCRRA has actively participated in negotiations with Lake Minnetonka Parks and Trails and RailAmerica for the purpose of acquiring the Corridor for multi-modal public transportation uses. Recently RailAmerica has broken off those negotiations for purposes of negotiating with a private competitor.

The following communities along the Corridor similarly have expressed the desire to maintain the Corridor in public use and ownership: City of St. Bonifacious, City of Mound, City of Spring Park, City of Orono and City of Minnetrista. Attachment C. (Community Resolutions). Only one community (the Village of the City of Minnetonka Beach) has expressed a contrary view.

HCRRA and the other Rail Authorities' planned use for the Corridor is for future public transportation uses including, but not limited to, rail, bus, bicycle and foot travel. The Minnesota Department of Transportation holds a major mortgage on the property. It has expressed its intent to keep the Corridor intact as a linear public transportation corridor and to work with the Rail Authorities toward that common goal.

HCRRA requests that the STB impose a Public Use Condition for abandonment for the maximum period of 180 days pursuant to 49 CFR 1152.28. HCRRA requests that DAKR and RailAmerica be prohibited from disposing of the Corridor property and prohibited from disposing of, removing or destroying all Corridor structures, without limitation, bridges, trestles, culverts, tunnels, tracks, ties, and signal equipment, depots, buildings and other improvements, except for public use as an intact linear corridor without reduction in size or width upon reasonable terms.

The prohibition shall apply to the sale or transfer of the property directly or by sale or transfer of the stock of DAKR.

Further HCRRA requests that the STB order as a condition of abandonment, compliance by DAKR and RailAmerica of the following:

- 1) DAKR and RailAmerica shall offer sale of the Corridor property to HCRRA and similarly interested parties upon reasonable terms for public use as an intact linear corridor without reduction in width or size;
- 2) DAKR and RailAmerica shall promptly provide HCRRA and parties similarly interested in keeping the property as an intact linear corridor for public use without reduction in width or size with the first right to refuse any offer DAKR or RailAmerica receives, or makes, for acquisition of the Corridor property,

whether in the form of a direct sale for the Corridor property or as an offer for sale of the stock of DAKR;

- 3) DAKR and RailAmerica shall promptly disclose to HCRRA and other similarly interested parties all offers, letters of intent and other documents for the Corridor property that DAKR or RailAmerica has received or proposed prior to or after issuance of the public use condition, including, but not limited to, those containing offers to purchase the stock of DAKR;
- 4) DAKR and RailAmerica shall promptly disclose all environmental information in its possession regarding the Corridor to HCRRA and other similarly interested parties and shall permit HCRRA and other similarly interested parties to enter onto the Corridor within 60 days of the imposition of this condition for the purpose of conducting a Phase II environmental investigation to satisfy purchaser's environmental due diligence requirements. Or in lieu of said requirement that DAKR and RailAmerica conduct said Phase II environmental investigation to the satisfaction of HCRRA and other similarly interested parties, and provide the results of said investigation to HCRRA and other similarly interested parties within 75 days of the imposition of this public use condition. The basis for this request is that environmental investigations are reasonable parts of a prospective purchaser's due diligence investigation. The results of said investigation impact market value and what would be a reasonable offer for sale of the property. Attachment A. Affidavit of Gary J. Erickson.

The purpose of the conditions in 2) through 4) is to ascertain the reasonableness of any offer for sale of the Corridor properties, and to provide for enforcement of the requirements of 49 USC 10905.

Comment 2: Request for Environmental Condition

Safety, 7 (iii) Hazardous Materials

HCRRA requests that the Chief of the Section of Environmental Analysis recommend rejection of the Environmental Report of DAKR as inadequate pursuant to 49 CFR 1105.2. Further HCRRA requests that the STB require additional information pursuant to 49 CFR 11.21.4(c)(1) as set forth below from DAKR and require it to resubmit its Report to meet the Environmental Report requirements of 49 CFR 1105.7.

It is HCRRA's information and belief that several sites within the right of way contain contamination and hazardous materials which are the responsibility of DAKR or RailAmerica to remediate pursuant to federal, state and local environmental regulations, including, but not limited to, the St. Bonifacious Oil Site identified by, but disavowed by, DAKR in its Environmental Report (7. iii). Additionally HCRRA is aware of several instances of unusable materials and contaminants along the right of way that are discarded rail materials that pose hazards to the public for which DAKR or RailAmerica is responsible as the owner and operating railroad on the line under federal, state and local environmental laws. Attachment D. Affidavit of John Evans.

In that context alone, the failures of the Environmental Report are significant. The Report fails to comply with the provisions of 49 C.F.R. 1105 et seq. as follows:

1. Failure to serve or consult with the Minnesota Pollution Control Agency pursuant to 49 C.F.R. 1105.7(b)(2).

2. Failure to include a list of parties consulted or served with the Environmental Report.
3. Failure to consult with the Metropolitan Council, the regional agency with jurisdiction for regional planning for transportation issues and parks and trails issues over more than one-half of the Corridor; as well as failure to consult with local planning agencies of the communities that the Corridor transects as required by 49 C.F.R. 1105.7(e)(3)(i).
4. Failure to advise the STB of the clearly expressed intent of HCRRA and the Carver and McLeod County Regional Railroad Authorities to acquire the Corridor for public transportation uses.
5. Failure to fully identify and disclose the location of known hazardous waste sites and spills on the right of way as required by 49 CFR 1105.7 (7)(iii)
6. Failure to identify proposed mitigation for the adverse environmental impacts of hazardous materials that DAKR apparently proposes to leave on the Corridor without remediation despite the requirement to propose such mitigation. 49 C.F.R. 1105.7(10).
7. Failure to include a Historical Report pursuant to 49 C.F.R. 1105.6(b)(2) and 1105.8.

HCRRA requests that the STB prior to ruling on the exemption petition on its merits require additional information from DAKR pursuant to 49 C.F.R. 1121.4(c)(1) to address the environmental issues raised by these comments and include them in a revised and adequately prepared and served Environmental Report.

HCRRA further requests that the STB impose as a condition of abandonment, that prior to abandonment, DAKR and RailAmerica must comply with the following:

- 1) DAKR and RailAmerica shall remove and properly dispose of all contaminants, pollutants, hazardous waste and substances, petroleum related materials and all other materials and substances that pose a risk to human health and the environment (collectively referred to as "contamination") for which DAKR or RailAmerica is responsible in accordance

with state, federal and local environmental regulations including, without limitation, abandoned and unusable ties and rail, underground and above ground storage tanks, petroleum related and contaminated soils and waters;

2) DAKR and RailAmerica demonstrate to the STB that it has complied with this environmental condition by;

- a) enrolling the Corridor in the voluntary investigation and cleanup program of the Minnesota Pollution Control Agency (MPCA) for hazardous substances and petroleum;
- b) conducting all Phase I and Phase II environmental investigations necessary for said enrollment and
- c) obtaining and delivering to the STB all applicable written assurances from the MPCA to demonstrate that DAKR and RailAmerica have satisfied their environmental obligations and responsibilities under the laws of the State of Minnesota to the satisfaction of the MPCA. Such assurances include, but are not limited to, petroleum leak site closure letters, no action determinations, no further action determinations and no association determinations.

Comment 3: Historical Report

Request for Historical Conditions

Based upon its Environmental Report, it also appears that DAKR has failed to satisfy the Historical Report requirements of 49 CFR 1105.8. Pursuant to 49 C.F.R 1105.8 and 49 C.F.R. 1105.7(e), the Historical Report required for abandoned rail

lines 49 C.F.R. 1105.6(b)(2) should be filed with the Environmental Report. The Historical Report is not included in the Environmental Report. It is unclear from the Environmental Report whether DAKR has prepared a Historical Report or served it upon the State Historic Preservation Officer (SHPO) (Minnesota Historical Society, Minnesota State Preservation Officer) as required by 49 C.F.R. 1105.8(c).

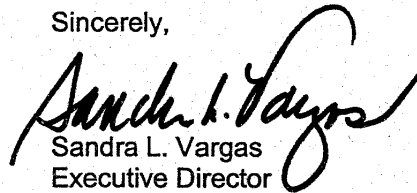
DAKR's Environmental Report should be rejected by the STB as inadequate for its failure to comply with the Historical Report requirements of 49 C.F.R. 1105.8. HCRRA request that the STB order DAKR to provide additional information in compliance with the Historical Report requirement before ruling upon the exemption petition on its merits.

Further HCRRA requests that the STB impose the following historical condition on abandonment of the Corridor: DAKR and RailAmerica shall be prohibited from disposing of the properties of the Corridor and prohibited from disposing of, removing or destroying all Corridor structures, without limitation, bridges, trestles, culverts and tunnels, tracks, ties and signal equipment, depots, buildings and other improvements of the Corridor until satisfaction of the historical review process and satisfaction of all historical conditions based upon that review process.

The request for a historical condition is based upon the following. The Dakota Rail Corridor, also known as the "Hutchinson Branch or the Hutchinson Minneapolis Railroad" of the Great Northern Railway was built between 1885 and 1886. It opened on December 31, 1886. DAKR states in its Environmental Report that 43.5 miles of the rail of the 44-mile Corridor were rolled in 1888. Without input from the SHPO and additional information regarding the historic nature of the Corridor, the Section of

Environmental Analysis (SEA) can not adequately assess the historical significance of the Corridor and the impact of any adverse effects from abandonment on it. Evidence should be examined by the SEA to determine whether the Corridor as a whole should be protected as a historic property and be kept intact as a historic linear corridor. Any adverse effects including a potential change in the property's use should be thoroughly examined and mitigated prior to ruling on the merits of the exemption petition.

Sincerely,



Sandra L. Vargas
Executive Director
Hennepin County Regional Railroad
Authority

CC:

Louis E. Gitomer, Esq., DAKR
Gary A. Laakso, Vice President, RailAmerica
Marilyn J. Maloney, Assistant Hennepin County Attorney
Gary J. Erickson, Assistant County Administrator

Attachments

A-Affidavit of Gary J. Erickson
B-Resolution Regional Railroad Authorities
Hennepin County RRA
Carver County RRA
McLeod County CRRA
C-Community Resolutions
Resolution of City of St. Bonifacious
Resolution of City of Mound
Resolution of City of Spring Park
Resolution of City of Orono
Resolution of City of Minnetrista
D-Affidavit of John Evans

AFFIDAVIT OF GARY J. ERICKSON

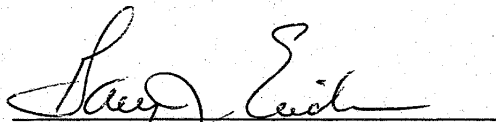
STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN

Gary J. Erickson, being first duly sworn, deposes and states as follows:

1. I am the Deputy Executive Director of the Hennepin County Regional Railroad Authority, and also Assistant County Administrator for Public Works and County Engineer for the County of Hennepin. I am responsible for facilitating programs, initiatives, and systems that ensure safe and effective movement of people and goods throughout Hennepin County. A healthful environment as well as thriving business and educational services are dependent on mitigating the negative effects of vehicle congestion and harmful emissions in the busiest parts of the County. My responsibilities include planning for future public transportation alternatives, acquiring abandoned rail corridors that have potential for multi-modal transportation uses (including, but not limited to, rail transit, bus, bicycle and foot travel) and facilitating the development of those transportation uses.
2. In that capacity I have actively participated in and guided development of the first light rail transit project in the Minneapolis-St. Paul Metropolitan Area (Hiawatha LRT Corridor) and the Area's first commuter rail project through the EIS process and into final design (Northstar Commuter Rail Corridor). The Hiawatha LRT Corridor will operate over right of way acquired from the Canadian Pacific Railway (Soo Line). The Northstar Commuter Rail Corridor will operate over Burlington Northern Santa Fe railroad right of way. Both the Hiawatha LRT and Northstar Commuter rail projects are expected to be in operation by 2004.
3. I am familiar with the Dakota Rail Corridor and its potential as a public transportation corridor. It has the potential for use as a multi-modal transportation corridor, including rail transit, bus, bicycle and foot travel. The Corridor traverses Hennepin, Carver and McLeod Counties in Minnesota. More than one-half of its length runs through the Minneapolis-St. Paul Metropolitan Area within Hennepin and Carver Counties. The DAKR Corridor represents an exceptional opportunity for the public to preserve a historic and invaluable forty-four mile public transportation corridor that would otherwise be lost to future generations.
4. The Corridor's maximum potential public use as a multi-modal transportation corridor is as an intact linear corridor without reduction in width or size.

5. Based upon information and belief, it is my opinion that the DAKR right of way contains materials and contaminants that are subject to the jurisdiction of the Minnesota Pollution Control Agency (MPCA) and other federal, state and local environmental agencies.
6. The existence of such materials impacts market value and the potential liability of a purchaser for remediation costs. It is reasonable for a potential purchaser as part of its due diligence to conduct a thorough environmental investigation, including a Phase I and Phase II investigation, prior to acquisition of the Corridor. The presence of and extent of such materials and contaminants impacts market value and what are reasonable terms for acquisition of the Corridor for public use.
7. Additionally, identification of contaminants through a Phase I and Phase II due diligence process allows a potential purchaser to apply for written assurances from the MPCA that the purchaser will not be associated with contaminants that are present on the property prior to acquisition.

Further your affiant sayeth not.

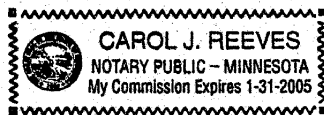


Gary J. Erickson

Subscribed and sworn to before
me this 14 day of August, 2001.



Notary Public



RESOLUTION NO. 29R1-HCRA-00.

The following Resolution was offered by Commissioner McLaughlin, seconded by Commissioner Stenglein:

BE IT RESOLVED, That the Federal Surface Transportation Board be notified of the Hennepin County Regional Railroad Authority's interest in acquiring the Hennepin County segment of the Dakota Rail Corridor proposed for abandonment west of Wayzata; and

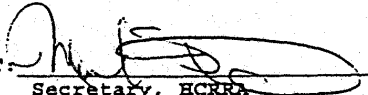
BE IT FURTHER RESOLVED, That the Executive Director be authorized to collaborate with the McLeod County Regional Railroad Authority, Carver County Regional Railroad Authority, and interested cities along the corridor, with the intent to negotiate with Rail America for acquisition of the rail line for an interim use as a recreational trail and long-term rail use, utilizing professional appraisal, environmental, financial and property analysis services as necessary, with close cooperation and discussions with the Suburban Hennepin Regional Park District and cities in the corridor; and that the acquisition document be brought back to the Board for approval.

The question was on the adoption of the Resolution and there were 5 YEAS and 1 NAYS, as follows:

BOARD OF COMMISSIONERS HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY	<u>YEA</u>	<u>NAY</u>	<u>OTHER</u>
Michael Opat	<u>X</u>	—	—
Mark Stenglein	<u>X</u>	—	—
Gail Dorfman	<u>X</u>	—	—
Peter McLaughlin	<u>X</u>	—	—
Randy Johnson	—	—	<u>ABSENT</u>
Penny Steele	—	<u>X</u>	—
Mary Tambornino, Chair	<u>X</u>	—	—

RESOLUTION ADOPTED ON 06/20/2000

ATTEST:


Secretary, HCRRA

OCT-05-00 THU 10:15

R. J. MCGRAW, P.A.

FAX NO. 3205879597

P. 01

R. J. McGraw, P.A.

Suite 209 - Citizens Bank Building, P. O. Box 98, Hutchinson, MN 55350

FAX TRANSMISSION

TO: MARILYN MALONEY

DATE: Thursday, October 05, 2000

FAX No: 612-348-8299

NO of PAGES: 2
(Including Cover Sheet)

FROM: R. J. MCGRAW, Attorney at Law
PHONE No.: 320-587-3900
FAX No.: 320-587-9597

SUBJECT: REGIONAL RAIL AUTHORITY

REMARKS: ☐ Urgent ☒ For Your Review ☐ Reply ASAP ☐ Please Comment

Dear Marilyn:

We had a Regional Rail Authority meeting this morning. Included with this fax is the Resolution which was approved by the Regional Rail Authority Board.

Very truly yours,

RJ McGraw

RJM: tps

The pages comprising this facsimile transmission contain confidential information from R. J. McGraw, P.A. The information is intended solely for use by the individual entity named as the recipient hereof. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this transmission is prohibited. If you have received this transmission in error, please notify us by telephone immediately so we may arrange to retrieve this transmission at no cost to you.

**REGIONAL RAIL AUTHORITY
CARVER COUNTY, MINNESOTA***Dakota Rail*Date: August 6, 2001Resolution No. CCRRA 01-01Motion by Commissioner: IscheSeconded by Commissioner: Neumann**CARVER COUNTY REGIONAL RAIL AUTHORITY**

BE IT RESOLVED, that the Federal Surface Transportation Board be notified of the Carver County Regional Railroad Authority's interest in acquiring the Carver County segment of the Dakota Rail Corridor proposed for abandonment; and

BE IT FURTHER RESOLVED, that the County Administrator be authorized to collaborate with the Hennepin County Regional Railroad Authority, McLeod County Regional Railroad Authority, and interested cities along the corridor, with the intent to negotiate with Rail America for acquisition of the rail line for interim use as a recreational trail and long-term rail use, utilizing environmental, appraisal, and financial services as necessary to lead to a successful acquisition document to be brought back to the Regional Railroad Authority for approval.

YES	ABSENT	NO
<u>Ische</u>	<u> </u>	<u> </u>
<u>Neumann</u>	<u> </u>	<u> </u>
<u>Ortman</u>	<u> </u>	<u> </u>
<u>Siegfried</u>	<u> </u>	<u> </u>
<u> </u>	<u>Swanson</u>	<u> </u>

STATE OF MINNESOTA
COUNTY OF CARVER

I, Richard J. Stolz, duly appointed and qualified County Administrator of the County of Carver, State of Minnesota, do hereby certify that I have compared the foregoing copy of this resolution with the original minutes of the proceedings of the Carver County Regional Rail Authority, Carver County, Minnesota, at its session held on the 6th day of August, 2001, now on file in the Administration office, and have found the same to be a true and correct copy thereof.

Dated this 6th day of August, 2001.

County Administrator

RESOLUTION

The following resolution was offered by Commissioner Al Koglin, seconded by Tim Smith, and unanimously carried:

BE IT RESOLVED, That Sheldon Nies, authorized to collaborate with Hennepin County, Carver County Regional Railroad Authority, and interested cities along the corridor with the intent to negotiate with Rail America for acquisition of the rail line and other off line property for an interim use as intact linear corridor for current and future public right of way use, including without limitation, rail, foot, bus, and bicycle travel.

BE IT FURTHER RESOLVED, That negotiations and discussions shall include Hennepin Regional Park District and cities in the corridor; and that the acquisition, maintenance, lease and other documents be brought to the Board of the Regional Rail Authority for approval.

CITY OF ST. BONIFACIUS

Office of the Clerk-Treasurer
8535 Kennedy Memorial Drive
St. Bonifacius, MN 55375
952/446-1061

**AMENDMENT ADOPTED 2/21/01
RESOLUTION 2000-3**

**A RESOLUTION IN SUPPORT OF THE CONVERSION OF
THE DAKOTA RAIL RAILROAD CORRIDOR
TO A REGIONAL RECREATIONAL TRAIL**

WHEREAS, the Dakota Rail Railroad runs through some of the most environmentally sensitive and scenic areas of St. Bonifacius; and

WHEREAS, the Dakota Rail Railroad is in a state of severe deterioration, such that even at very slow speeds there is a substantial probability of derailment; and

WHEREAS, the Dakota Rail line serves a very small number of shippers; and

WHEREAS, an upgrade of the railroad would result in a dramatic increase in impacts of the railroad on properties adjacent to the railroad; and

WHEREAS, the conversion of the railroad to a regional recreational trail would eliminate the adverse impacts of the railroad use on some of the most environmentally sensitive areas of the City; and

WHEREAS, the conversion of the rail corridor to a trail would provide a trail through some of the most scenic areas of St. Bonifacius; and

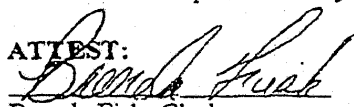
WHEREAS, Hennepin Parks has indicated that if the cities along the trail are supportive of the conversion, Hennepin Parks would be interested in working with the cities to make the trail a reality.

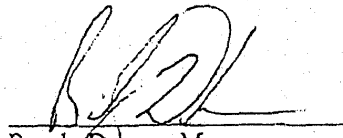
NOW, THEREFORE, BE IT RESOLVED, that the City Council of St. Bonifacius does hereby indicate support for the conversion of the Dakota Rail Railroad corridor to a regional recreational trail.

AMENDMENT: The corridor includes property widths of 400'. The City is interested in the possibility of a trail in 100' of the 400'. Remaining property of 300' to be the City of St. Bonifacius property.

Adopted by the St. Bonifacius City Council this 27th day of January, 2000.
Amendment adopted February 21, 2001.

ATTEST:


Brenda Fisk, Clerk


Randy Debnor, Mayor

RESOLUTION #00-9

**RESOLUTION IN SUPPORT OF THE
THE CONVERSION OF THE DAKOTA RAIL
RAILROAD CORRIDOR TO A REGIONAL
RECREATIONAL TRAIL**

WHEREAS, the Dakota Railroad runs through some of the most environmentally sensitive, densely populated, and scenic area of Mound; and

WHEREAS, the Dakota Railroad is in a state of severe deterioration, such that even at very slow speeds there is a substantial probability of derailment; and

WHEREAS, the owner of the railroad had indicated the railroad will be shut down unless they receive financial assistance in the amount of several million dollars from the State and Federal government to upgrade the line; and

WHEREAS, the Dakota Rail line serves a very small number of shippers; and

WHEREAS, an upgrade of the railroad would result in a dramatic increase in impacts of the railroad on the residential neighborhoods adjacent to the railroad; and

WHEREAS, the conversion of the railroad to a regional recreational trail would eliminate the adverse impacts of the railroad use on the most environmentally sensitive and densely populated areas of the City; and

WHEREAS, the conversion of the rail corridor to a trail would provide a trail through some of the most scenic areas of Mound; and

WHEREAS, Hennepin Parks has indicated that if the cities along the trail are supportive of the conversion, Hennepin Parks would be interested in working with the cities to make the trail a reality.

WHEREAS, the trails would be a positive addition to the Mound Downtown Vision program.

NOW, THEREFORE, BE IT RESOLVED that the Mound City Council does hereby indicate its support for the conversion of the Dakota Rail Railroad corridor to a regional recreational trail.

The foregoing resolution was moved by Councilmember Weycker and seconded by Councilmember Hanus.

The following voted in the affirmative
Hanus, Meisel and Weycker.

The following voted in the negative:
none.

The following Councilmembers were absent:
Ahrens & Brown.

Francene C. Clark
ATTEST: City Clerk

SS/PATMEISEL
Mayor

CITY OF MINNETRISTA
COUNTY OF HENNEPIN
STATE OF MINNESOTA

A RESOLUTION IN SUPPORT OF THE CONVERSION OF THE
DAKOTA RAIL RAILROAD CORRIDOR TO A REGIONAL RECREATIONAL TRAIL

WHEREAS, the Dakota Rail Railroad runs through some of the most environmentally sensitive and scenic areas of Minnetrista; and

WHEREAS, the Dakota Rail Railroad is in a state of severe deterioration, such that even at very slow speeds there is a substantial probability of derailment; and

WHEREAS, the Dakota Rail line serves a very small number of shippers; and

WHEREAS, an upgrade of the railroad would result in a dramatic increase in impacts of the railroad on properties adjacent to the railroad; and

WHEREAS, the conversion of the railroad to a regional recreational trail would eliminate the adverse impacts of the railroad use on some of the most environmentally sensitive areas of the City; and

WHEREAS, the conversion of the rail corridor to a trail would provide a trail through some of the most scenic areas of Minnetrista; and

WHEREAS, Hennepin Parks has indicated that if the cities along the trail are supportive of the conversion, Hennepin Parks would be interested in working with the cities to make the trail a reality.

NOW, THEREFORE, BE IT RESOLVED that the Minnetrista City Council does hereby indicate its support for the conversion of the Dakota Rail Railroad corridor to a regional recreational trail.

Adopted by the City Council at a regular meeting held on December 20, 1999.

ATTEST:



Tim Cruikshank, City Administrator



Cheryl Fischer, Mayor

**CITY OF SPRING PARK
SPRING PARK, MINNESOTA**

RESOLUTION 00-20

CONVERSION OF DAKOTA RAIL IN SPRING PARK

WHEREAS the existing Dakota Rail Railroad Line runs through the heart of and occupies significant land in Spring Park; and

WHEREAS the City of Spring Park has been notified of the intent of Hennepin Parks and/or Hennepin County to acquire the existing railroad right-of-way, and convert it's use to a Regional Recreational Trail; and

WHEREAS the conversion of this corridor from its present deteriorating condition to a recreational trail would have a significant beneficial impact on Spring Park and its residents; and

WHEREAS the City of Spring Park is interested in the orderly planning and implementation of the Regional Recreational Trail conversion and possible trail head within the City of Spring Park; and

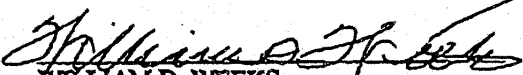
NOW THEREFORE BE IT RESOLVED that the City of Spring Park does enthusiastically support the conversion of the Dakota Rail Corridor to a Regional Recreational Trail in the City of Spring Park.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SPRING PARK THIS
2nd DAY OF October, 2000.

APPROVE:


JEROME P. ROCKVAM,
MAYOR

ATTEST:


WILLIAM D. WEEKS
ADMINISTRATOR/CLERK/TREASURER



CITY of ORONO

RESOLUTION OF THE CITY COUNCIL
NO. 4384

**A RESOLUTION IN SUPPORT
OF THE CONVERSION OF THE
DAKOTA RAIL RAILROAD CORRIDOR
TO A REGIONAL RECREATIONAL TRAIL**

WHEREAS, the Dakota Rail Railroad runs through some of the most environmentally sensitive, densely populated, and scenic areas of Orono; and

WHEREAS, the Dakota Rail Railroad is in a state of severe deterioration, such that even at very slow speeds there is a substantial probability of derailment; and

WHEREAS, the owner of the railroad has indicated the railroad will be shut down unless they receive financial assistance in the amount of several million dollars from the State or Federal government to upgrade the line; and

WHEREAS, the Dakota Rail line serves a very small number of shippers; and

WHEREAS, an upgrade of the railroad would result in a dramatic increase in impacts of the railroad on the residential neighborhoods adjacent to the railroad; and

WHEREAS, the conversion of the railroad to a regional recreational trail would eliminate the adverse impacts of the railroad use on the most environmentally sensitive and densely populated areas of the City; and

WHEREAS, the conversion of the rail corridor to a trail would provide a trail through some of the most scenic areas of Orono; and

WHEREAS, Hennepin Parks has indicated that if the cities along the trail are supportive of the conversion, Hennepin Parks would be interested in working with the cities to make the trail a reality.

NOW, THEREFORE, BE IT RESOLVED that the Orono City Council does hereby indicate its support for the conversion of the Dakota Rail Railroad corridor to a regional recreational trail.



CITY of ORONO

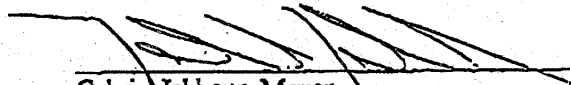
RESOLUTION OF THE CITY COUNCIL

NO. 4384

Adopted by the City Council at a regular meeting held on November 8, 1999.

ATTEST:


Linda S. Vee, City Clerk


Gabriel Jabbour, Mayor

[illegible]

STATE OF MINNESOTA)

) ss.

COUNTY OF HENNEPIN

John Evans, being first duly sworn, deposes and states as follows:

1. I am a senior environmentalist with the Hennepin County Department of Environmental Services. I have been with Hennepin County for three years. Prior to working for Hennepin County, I worked for nine years as a consultant specializing in environmental due diligence associated with property transactions. I have a Bachelor of Science and Master of Science degree in Geology. Part of my duties with Hennepin County is to provide environmental due diligence services and other environmental consulting services for Hennepin County Regional Railroad Authority (HCRRA) as it relates to properties it has acquired or desires to acquire to preserve for future public transportation uses.

2. In that capacity I have examined:
 - i. A Dakota Rail Corridor Phase I Environmental Site Assessment prepared by Short Elliott Hendrickson Inc., dated, August 2000;
 - ii. A Phase I Environmental Site Assessment, Dakota Rail Terminal Facility, 25 Adams Street North, Hutchinson, Minnesota 55350, prepared by Superior Environmental Corp., dated August 22, 1995;
 - iii. A Phase I Environmental Site Assessment, Dakota Rail Terminal Facility, 4100 Sunset Drive, Spring Park, Minnesota 55384, prepared by Superior Environmental Corp., dated August 22, 1995;
 - iv. Lease agreements and historical railroad right of way maps provided by RailAmerica and a document identified as Exhibit 7, a disclosure regarding environmental matters submitted to HCRRA by DAKR (RailAmerica) in anticipation of sale of the Corridor.

3. I have personally inspected the DAKR right of way for the purposes of a due diligence inspection of the property in anticipation of HCRRA acquiring it for public use.

4. Based upon information and belief, it is my opinion that the DAKR right of way contains materials and contaminants that are subject to the jurisdiction of the Minnesota

Pollution Control Agency (MPCA) and other federal, state and local environmental agencies for which DAKR or RailAmerica is likely responsible as follows:

- i. Both salvageable and unsalvageable railroad ties, which may contain hazardous and/or petroleum-based wood preservative compounds that may have leached into the surrounding soil and ballast
- ii. Petroleum contamination on the portion of the Dakota Rail property located adjacent to the Schmeling Oil Company property in Hutchinson, Minnesota, which was concluded to have occurred from surface releases on the Dakota Rail property as described in the February 25, 1998 correspondence from Peer Environmental & Engineering Resources, Inc. to Huron and Eastern Railway. Subsequent correspondence from the MPCA to RailAmerica Corporation, dated April 30, 1998, states, "State law requires that RailAmerica Corporation investigate and if necessary cleanup this contamination."
- iii. Unspecified contamination associated with the use of "the center of the two tracks just south of the depot" in Hutchinson, Minnesota by a scrap metal facility, as described in the Memorandum to File dated February 7, 2001 prepared by Robin Bergeron. The Memorandum indicates that "fill" was used to cover the area to make it "look presentable."
- iv. Petroleum staining observed along the railroad tracks adjacent to Dakota Rail's Hutchinson Depot during my site visit on July 12, 2000 and also described in Superior Environmental Corp.'s phase I environmental site assessment report of the property, dated August 22, 1995.
- v. Possible herbicide contamination suggested by dead vegetation observed along the railroad tracks adjacent to the Farmers Elevator and Lakes Gas properties in Hutchinson, Minnesota, an unidentified property with a quonset building in Lester Prairie, Minnesota and the Waconia Farm Supply property in New Germany, Minnesota.
- vi. Potential petroleum contamination from the past refueling activities in Mayer, Minnesota
- vii. Potential petroleum contamination resulting from the unloading of petroleum products at the St. Bonifacious Oil Company facility in St. Bonifacious, Minnesota. Correspondence from the MPCA to RailAmerica, dated March 4, 1999, indicates that the MPCA considers RailAmerica to be a potentially responsible party for the petroleum release at this facility.
- viii. Petroleum contamination observed by Superior Environmental Corp. at the Spring Park engine house as described in Superior Environmental Corp.'s phase I environmental site assessment report for this property.

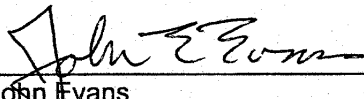
- ix. Potential petroleum contamination suggested by the operation of an apparent refueling and maintenance facility east of the Spring Park, Minnesota depot as depicted by the 1952 Sanborn Fire Insurance Map.
- x. Other railroad related contamination discovered through the environmental review process for which DAKR or RailAmerica is responsible.

5. Under Minnesota environmental law, a potentially responsible party may obtain written assurances from the MPCA that demonstrate that the party has satisfied its environmental obligations and responsibilities under the laws of the State of Minnesota to the satisfaction of the MPCA. The process that should be followed for obtaining such assurances for the Dakota Rail Corridor is as follows:

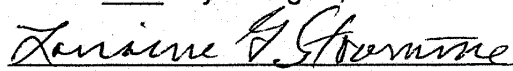
- a. Enroll the Corridor in MPCA's voluntary investigation and cleanup program for hazardous substances and petroleum,
- b. Conduct appropriate evaluations, including Phase I and Phase II environmental investigations as necessary, for said enrollment and,
- c. Clean up of contaminants, if required by the MPCA.

Written assurances include, but are not limited to, petroleum leak site closure letters, no action determinations, no further action determinations and no association determinations.

Further your affiant sayeth not.


John Evans

Subscribed and sworn to before
me this 15th day of August, 2001.


Notary Public



***** -COMM. JOURNAL- ***** DATE OCT-17-2001 ***** TIME 17:17 *** P.01

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FAX COVER SHEET

Office of the Hennepin County Attorney
Civil Division
A-2000 Government Center
Minneapolis, MN 55487-0200

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Date Transmitted: October 17, 2001

TO:

FROM:

Phillis Johnson-Ball

Marilyn J. Maloney

Surface Transportation Board

Hennepin County Attorney's Office
Civil Division

Fax No. 202-565-9000

Fax No. (612) 348-8299

REMARKS:

Letter dated October 17, 2001.

Number of Pages (including this one): 31

If there is a problem with this transmission, please call: Lorie Bursey
(612) 348-6222