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In The Matter Of:

*DM&E POWDER RIVER BASIN EXPANSION PROJECT
PUBLIC MEETING*

DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 14, 2000

Beta Reporting

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Washington, DC 20006

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*Original File AADAKOTA.TXT, 256 Pages
Min-U-Script® File ID: 1717453808*

Word Index included with this Min-U-Script®

DM&E POWDER RIVER BASIN EXPANSION PROJECT
PUBLIC MEETING
DRAFT ENVIRONMENTAL IMPACT STATEMENT
Brookings, South Dakota

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[1] **PROCEEDINGS**

[2] (1:05 p.m.)

[3] **MR. GARDINER:** We're going to get [4] started. My name is Charles Gardiner. I'm [5] going to be the facilitator this afternoon [6] and my role is to help make this meeting [7] productive for all of you as well as also [8] productive for the project team that's here.

[9] We're here to talk about the [10] proposed DM&E expansion project, so if you're [11] here for some other meeting you're in the [12] wrong room. I'm going to cover just a few [13] logistical things and then we have a short [14] overview presentation, and then we want to [15] get to your public comments.

[16] So first let me review our project [17] meeting purpose. We want to describe a [18] little bit to you the roles of the different [19] federal agencies that are involved; the [20] Surface Transportation Board and the other [21] cooperating federal agencies. We want to [22] provide a very brief overview of the project

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[1] and an overview of the results of the [2] preliminary Environmental Impact Analysis and [3] then most importantly, we want to be sure to [4] get to your comments to provide you an [5] opportunity to give comments to the team on [6] the project.

[7] So our agenda is in line with our [8] purpose. I'm going to cover team [9] introductions in a moment and I'm going to [10] cover some of the ground rules.

[11] We're going to cover the Surface [12] Transportation Board's role, the role of the [13] cooperating agencies, the overview of the [14] project, environmental review, and your [15] public comments. Let me explain, before I do [16] the ground rules and introductions, let me [17] explain a couple of things that you probably [18] picked up at the front desk. The first is [19] something that's got a green sheet on the [20] front, that includes our agenda for the [21] meeting, some important information inside [22] that — I think for most of you it's probably

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[1] a blue sheet that talks about how to provide [2] comments, particularly how to provide [3] comments today, it has our ground rules [4] listed there, they are also listed up around [5] the room also, how to provide written [6] comments, and on the back of that sheet are [7] all the addresses

to provide written comments [8] so if you need those addresses those are [9] there.

[10] The comments on the Draft [11] Environmental Impact statement are due [12] January 5, 2001, and the address to send [13] written comments is on there. You also have, [14] I hope you picked up at the front desk, a [15] white sheet that looks like this [16] (indicating).

[17] It is a comment sheet, we encourage [18] you if you want to provide comments today to [19] just write them right on this and you can [20] drop it at the table on your way out. You [21] can take it home and fill it out or you're [22] certainly free to submit written comments in

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[1] any other format you prefer, but this is to [2] make it easy for you today if you want to [3] provide any written comments.

[4] There's also a half page sheet [5] which for some of you is pink, I think for [6] others of you it is white, it has a couple of [7] contact numbers; one is the Surface [8] Transportation Board's web page, so if you're [9] on-line you can actually go get access to the [10] environmental documents at the Board's web [11] page. The other is the project hotline. [12] That is not a place to provide comments, but [13] it's a place if you have procedural [14] questions, you want to know where the [15] libraries are that have the documents, you [16] call the hotline and we'll get back to you. [17] There is also at the front desk a listing of [18] the library locations so if you're interested [19] in that you can pick that up on your way out.

[20] Last thing we wanted to cover is [21] there's another half page size card and [22] that's really if you have procedural

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[1] questions tonight or this afternoon you would [2] like us to answer, we're really not intending [3] to answer questions about the Draft [4] Environmental Impact statement, we're here to [5] hear your comments on it.

[6] We encourage you to phrase your [7] comments on the document, any questions you [8] have, phrase them as comments so if there's [9] something that's not clear to you about the [10] document tell us that the document needs to [11] be more clear. If there's information that [12] you can't find in there, "I don't find this [13] information in that document," those are the [14] kinds of things that the team is going to [15] address.

[16] You may have questions, procedural [17] questions, we're going to try to cover them [18] all with the presentation, but if you have [19] anything else you can fill that out and give [20] it to us during the

meeting. We'll try to [21] take a break and if you have any of those [22] questions we can address those, but mostly

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[1] we're here to hear your comments.

[2] So let me touch on some ground [3] rules of how we want to work together today. [4] First is one speaker at a time. This is [5] quite important, we have all the microphones [6] on and as you have already noticed they are [7] sensitive and they will pick up side [8] conversations and make it hard for other [9] people to hear. We also have a court [10] reporter here transcribing comments and if [11] there are several people talking at once it's [12] very hard for her to capture the comments [13] that she really needs to transcribe, so [14] please keep conversation or comments focused [15] up here.

[16] We want to honor time limits. We [17] set a time limit of three minutes for [18] comments, we've done that to be fair to [19] everybody, we have a large number of people [20] who have been signed up to offer comments and [21] we want to be sure that the people who are [22] further down on the list have an equal

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[1] opportunity to speak, so in fairness to [2] everybody we have set everybody at three [3] minutes to comment. What that means, as a [4] guideline, is if you have a prepared [5] statement you get about a page and a half, so [6] if your statement is longer than that you [7] won't finish it in three minutes and you [8] might want to start now thinking about how to [9] summarize it, what are your key points and [10] cover those in the three minutes.

[11] If you have a written statement, [12] and I should mention also for the court [13] reporter, if you're rushing through it to [14] finish it in the three minutes it's hard for [15] her to capture everything. So if you have a [16] longer written statement please feel free to [17] leave it with us at the front table, we'll [18] make sure it gets into the record and, again, [19] you can submit additional comments in detail [20] in your written comments.

[21] So being concise is important. Hit [22] on your key points. If previous speakers

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[1] have addressed your points, feel free to say, [2] "I agree with that person," and add other [3] points.

[4] Last thing is respect other's [5] opinions. This project has generated a fair [6] degree of controversy, there are viewpoints [7] on all sides of it, we're here to hear all of [8] them and I need your help in helping us do [9] that. So that means respecting opinions if [10] they are different from yours. If you have [11]

rebuttal statements those aren't particularly [12] productive, make your positive statement to [13] us.

[14] If you object to someone's comments [15] I encourage you to keep that to yourself. I [16] recognize you may support another commenter, [17] if you applaud during their three minutes it [18] may cut into their time to provide what they [19] are saying so I encourage you to hold that [20] until they are at the end of their [21] presentation.

[22] Let me quickly introduce the folks

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[1] who are up front. Vicki Rutson is here from [2] the Surface Transportation Board, Vicki is [3] the project manager for the environmental [4] review of the DM&E expansion project.

[5] Steve Thornhill is here from Burns [6] and McDonnell, Steve is the project manager [7] for the consulting team that is working under [8] the direction of the Surface Transportation [9] Board and prepared the Draft Environmental [10] Impact statement.

[11] Wendy Schmitzer from the Forest [12] Service couldn't be here today, but she is [13] the lead person at the Forest Service [14] addressing potential impacts to Forest [15] Service lands.

[16] Jerry Folkers is here from the Army [17] Corps of Engineers, he is responsible for [18] their activities in the permit issues related [19] to waterways, wetlands and so forth, he's [20] going to touch on that in the short [21] presentation.

[22] Again, my name is Charles Gardiner,

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[1] my role is to keep everybody moving forward [2] today.

[3] So with that we pass it to Vicki [4] and we're going to just do a quick overview [5] of the project and then we'll get right to [6] the comments.

[7] **MS. RUTSON:** Thank you, Charles. [8] Can everybody hear me? If someone has [9] trouble hearing me please put your hand up. [10] Again, I am Vicki Rutson, I'm an attorney [11] with the Surface Transportation Board section [12] of environmental analysis. I'm very happy to [13] be with you this afternoon and I'm looking [14] forward to hearing your thoughts on the Draft [15] Environmental Impact statement. I would like [16] to spend a few moments telling you about the [17] Surface Transportation Board, what it is, [18] what it does, and what is being done in [19] reviewing the Dakota, Minnesota and Eastern [20] railroad rail construction proposal.

[21] The Board is a three-member Board [22] located in Washington, DC. The Board is

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[1] composed of a chairman, a vice-chairman and [2] one board member. It is an independent [3] adjudicatory federal agency and Congress has [4] charged the Board with the responsibility [5] over new rail construction proposals, [6] railroad abandonments, and rail mergers. [7] Obviously, what DM&E has proposed is a new [8] rail construction so that's the type of [9] transaction the Board is reviewing here.

[10] Now in February of 1998, DM&E filed [11] an application with the Surface [12] Transportation Board to build a new rail line [13] from its existing line into Wyoming's Powder [14] River Basin. This application triggered two [15] processes at the Surface Transportation [16] Board. The first is called the [17] Transportation Merits Review. What does that [18] mean? It's a three-part test.

[19] In deciding whether an application [20] meets the transportation merits of the [21] Board's governing statutes, the Board asks: [22] Is this applicant financially fit? Second,

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[1] the Board asks: Is this proposal in the [2] public interest? Third, the Board asks: Is [3] there a public need for this action?

[4] On December 10 of 1998, the Board [5] answered those three questions for the DM&E [6] proposal. It issued a decision and said that [7] based on the information that was before the [8] Board at that time, DM&E's application did [9] meet the Transportation Merits criteria, but [10] the Board noted that it didn't have all the [11] information in front of it at that time [12] because the environmental review process had [13] only just begun.

[14] Until the environmental review [15] process is finished the Board said it [16] wouldn't have all the information in front of [17] it that it needed to make a final decision on [18] DM&E's application. The environmental review [19] process, that's what we've been engaged in [20] for a few years now, it involves a number of [21] steps; scoping, receiving public comments on [22] the scope of the analysis, and most recently,

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[1] issuance of the Draft Environmental Impact [2] statement.

[3] That's a document that we've issued [4] for public review and comment and now we're [5] in the public comment portion of that [6] environmental analysis.

[7] The Draft Environmental Impact [8] statement was intended to serve a number of [9] interests. We were hoping to analyze the [10] environmental impact of what DM&E is [11] proposing. The Draft

EIS also analyzes the [12] environmental impact of alternatives to [13] DM&E's proposal, including the no build [14] alternative. Another purpose of the Draft [15] EIS is to inform federal, state and local [16] agencies, affected communities, tribes, and [17] all interested members of the public on what [18] the Board is thinking about environmental [19] impacts related to DM&E's proposal.

[20] The draft also has some preliminary [21] recommended mitigation measures and some [22] alternatives identified as environmentally

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[1] preferable.

[2] Comments are due to the Board on [3] January 5 of 2001. We provided a 90-day [4] comment period because we understand that the [5] DEIS is quite long and the proposal is quite [6] complex. Therefore we provided twice the [7] usual 45-day comment period. Please remember [8] that written comments and oral comments are [9] given the same serious consideration and [10] deference at the Board. If you don't have an [11] opportunity or don't feel comfortable [12] speaking, please submit your comments in [13] writing, they will be treated with equal [14] consideration.

[15] When we're finished with the EIS [16] what's the next step? We'll gather all your [17] comments together and we'll respond to your [18] comments in a Final Environmental Impact [19] Statement. If appropriate and necessary we [20] will do additional environmental analysis. [21] When we issue the Final EIS, that will be the [22] end of the environmental review process. At

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[1] that point the decision-maker, the Board, [2] will have all the information in front of it to [3] make a final decision.

[4] The Board will issue one more [5] decision and it will make one choice out of [6] three choices before it. The Board could [7] either approve the proposal as DM&E has [8] proposed it. Approve the proposal, but only [9] if certain mitigating conditions are [10] implemented that would reduce some of the [11] impact of the DM&E proposal, and the third [12] option is denial of the proposal.

[13] So it's approval, approval with [14] conditions, or denial. Those are the three [15] options before the Board. So the Board will [16] issue a decision, making one of those three [17] choices. In issuing the Draft EIS the Board [18] is the lead agency, but we've worked [19] cooperatively with five other federal [20] agencies.

[21] These other agencies are known as [22] cooperating agencies. They are the

Forest

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[1] Service, the Bureau of Land Management, the [2] US Army Corps of Engineers whose [3] representatives are with us today, the Bureau [4] of Reclamation and the Coast Guard. EPA, the [5] Environmental Protection Agency, also has a [6] role in this project. EPA will be reviewing [7] the Draft EIS and issuing a rating based on [8] what EPA thinks of the draft.

[9] With that I will introduce Jerry [10] Folkers from the Corps and I look forward to [11] hearing your comments. Thank you.

[12] **MR. FOLKERS:** Thank you. Good [13] afternoon, my name is Jerry Folkers and I am [14] the project manager with the Omaha District [15] Corps of Engineers. The Omaha District Corps [16] of Engineers will be responsible for [17] reviewing project impacts in the states of [18] Wyoming and South Dakota. The St. Paul [19] District will be reviewing impacts associated [20] with the project in Minnesota.

[21] With us, I would like to introduce [22] to you right now, is Tim Fell, he is a

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[1] project manager for the state of Minnesota [2] and he's with us this afternoon.

[3] The Corps permit jurisdiction in [4] this matter is based on Section 404 of the [5] Clean Water Act and Section 10 of the Rivers [6] and Harbor Act. Corps permits are required [7] for discharge of — discharge or placement of [8] dredged material to waters of the United [9] States which includes wetlands, rivers, [10] streams and creeks. Corps permits are issued [11] when it is determined that the proposal is [12] not contrary to the public interest and the [13] plans represent the least environmentally [14] damaging alternative.

[15] There are many factors which are [16] considered during our public interest review. [17] Some of these include wetlands and wildlife [18] habitats, water quality, safety, cultural [19] resources, floodplain values, land use and [20] economics.

[21] Information in the Draft [22] Environmental Impact Statement and comments

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[1] generated by the Draft EIS, the Corps public [2] notice and comments received from the public [3] during these public hearings will be used to [4] make the determination whether to issue the [5] Corps permit.

[6] With that I will turn this over to [7]

Steve Thornhill with Burns and McDonnell.

[8] **MR. THORNHILL:** Thank you, Jerry. [9] Good afternoon everybody, my name is Steve [10] Thornhill, I'm with Burns and McDonnell [11] Engineering. We are the firm that served as [12] a third-party contractor working under the [13] guidance and the supervision of the STB to [14] prepare the Draft Environmental Impact [15] Statement. What I'm going to do is just take [16] a few minutes to kind of breeze through what [17] the DEIS contains and what some of the [18] results and conclusions that are in it are, [19] then we'll get on with comments.

[20] The DEIS contains several different [21] components; one of the things that it does is [22] describe the existing environment within the

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[1] project area and in doing that what it [2] attempts to do is kind of paint a broad [3] picture of the environmental and natural [4] resources, human resources, that are present [5] in the area are so that the reader has an [6] understanding of what's there and what the [7] values of the area are.

[8] The second thing that it does is it [9] looks at the different alternatives that are [10] considered reasonable and feasible to meet [11] the project need or purpose. One of those [12] alternatives as required under the Natural [13] Environmental Policy Act is the no action [14] alternative. [15] After those alternatives are [16] identified and discussed the DEIS then [17] evaluated what the impact of each of those [18] alternatives would be on the environmental [19] resources previously determined or defined in [20] the existing conditions.

[21] As has been noted, the DEIS was [22] served to the public on September 27 of the

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[1] year 2000, there is a 90-day comment period [2] and the comment period will conclude on [3] January the 5th. The DEIS did discuss the [4] purpose and need for the project which [5] generally fell into two different purposes.

[6] One purpose was by extending the [7] existing DM&E system into the coal fields the [8] project would provide DM&E the financial [9] resources necessary to rebuild its existing [10] system and facilitate it continuing to [11] provide efficient rail service to its [12] shippers.

[13] The second purpose was to allow a [14] third rail carrier access to the Powder River [15] Basin, thereby increasing competition and [16] availability of coal resources in that [17] region. The alternatives that were proposed [18] as part of

or were evaluated as part of that [19] purpose and need included; Alternative A, [20] which was the no action alternative. [21] Alternative B, which included new [22] construction of rail lines generally along

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[1] the Cheyenne River Valley in both South [2] Dakota and Wyoming.

[3] Alternative C, which again was kind [4] of a modification of Alternative B that took [5] the alignment away from sensitive areas along [6] the Cheyenne River. Alternative D, which [7] included reconstruction of additional DM&E [8] rail line section and additionally new [9] construction along existing rail within the [10] region utilizing, to the extent practical, [11] existing rail corridors in the area.

[12] Just to kind of highlight some of [13] the things that are contained in DEIS, [14] Within the state of Wyoming the project would [15] involve new construction of rail line to [16] access the mine. There would be one new rail [17] yard constructed.

[18] Alternatives were investigated in [19] addition to the extension alternatives I [20] mentioned a moment ago. Alternatives were [21] evaluated for accessing the Black Thunder [22] Mine and North Antelope Mine, and some of the

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[1] unique characteristics and concerns that we [2] identified, there were many, but two that [3] I'll just point out here were impacts to [4] Thunder Basin National Grassland and impacts [5] to the many ranches and ranchers throughout [6] the region.

[7] In South Dakota the project would [8] involve new rail line construction, again, to [9] facilitate access to the coal mine, there [10] would be two new rail yards constructed. [11] DM&E's existing rail line would be [12] reconstructed across the state. There were [13] alternatives investigated in the Spring Creek [14] area of South Dakota, the Hay Canyon area and [15] also around the community of Brookings.

[16] Some of the unique characteristics [17] identified included impact to Buffalo Gap [18] National Grassland, many and numerous tribal [19] concerns, impact to ranchers and farmers [20] throughout the area, both along the existing [21] rail line and in the new construction areas, [22] sensitive riparian areas, particularly those

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[1] along the Cheyenne River, impacts to the [2] Angostura irrigation project, impact to the [3] communities in the area and the impacts [4] associated with either

rehabilitation of the [5] existing bridge or construction of a new [6] bridge over the Missouri River at Pierre.

[7] In Minnesota, the project would [8] involve reconstruction of the existing line, [9] there would be three new rail yards [10] constructed, there would be new construction [11] or proposed new construction in the [12] communities of Mankato, Owatonna and [13] Rochester.

[14] Some of the unique characteristics [15] identified included the many communities [16] located along the line, again, the farmers [17] located both in the new construction areas [18] and along the existing rail line, the Mayo [19] Clinic, sensitive riparian areas and wetlands [20] and the flood control projects found in the [21] communities of Mankato and Rochester.

[22] In completing the analysis of the

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[1] different alternatives for the project and [2] all the many project components it was [3] determined that the project would have [4] significant impact to a variety of resources [5] throughout the area. Not all of the project [6] components would impact all of these [7] resources significantly, but some components [8] of the project would have a significant [9] impact on one or more of these resources. [10] These resources included safety, that's [11] particularly applicable to grade crossing [12] safety, highway rail grade crossing safety, [13] geology and soils, water resources, wetlands, [14] paleontological resources, cultural [15] resources, both historic and archeological, [16] threatened and endangered species, land use, [17] noise, air quality, environmental justice, [18] esthetics, socioeconomics and cumulative [19] effects.

[20] Finally the DEIS contained a [21] recommendation for mitigated measures which [22] could be imposed by the Board should they

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[1] take an action alternative on this project to [2] minimize or reduce the potential [3] environmental impact of the various [4] alternatives. In general these mitigation [5] measures were general in nature and could be [6] applied to many or all of the alternatives [7] proposed.

[8] Because of that general nature they [9] mostly took the form of what could be [10] considered best management practices and that [11] would be things like silt fences or straw [12] bales to control erosion, not necessarily [13] specific to any particular community or [14] things like that. There were numerous [15] mitigation measures which involved [16] coordination between DM&E and various [17] federal, state and local agencies

to address [18] the concerns of those agencies or in many [19] cases those agencies had some jurisdictional [20] or other interest in the actions of the [21] project.

[22] However, the Board did recognize in

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[1] doing so that many of the impacts of the [2] project would be difficult to mitigate or [3] difficult to mitigate effectively. So [4] because of that, part of the process of [5] commenting on the draft EIS involved [6] requesting your comments on what you feel [7] would be appropriate mitigation measures to [8] minimize the various impacts of the project.

[9] Finally then, one of the things [10] that was pointed out was the use of [11] negotiated agreements and these would be [12] agreements between DM&E and some other entity [13] whether it be a citizens group or a community [14] or the state or some other agency that would [15] allow those agency's concerns to be met [16] through some agreement between the railroad [17] and the entity as to how those measures could [18] be implemented or what things could be used [19] to minimize the different impacts of the [20] project.

[21] In doing that the Board also [22] indicated the process whereby those

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[1] agreements need to be submitted to the STB so [2] that they could be considered in the [3] environmental analysis and conditions of [4] those agreements imposed as part of any [5] conditions that could be placed on project [6] approval should the project in the end be [7] approved.

[8] So with that I will turn it over to [9] Charles to get on with your comments. Thank [10] you.

[11] **MR. GARDINER:** Again, just to [12] review a couple of things about the comments, [13] as we've said, oral comments today go into [14] the record, we welcome your comments today. [15] Written comments on the comment sheets today [16] or submitting a statement that you want to [17] make or want to provide to us that would be [18] great or written comments by mail.

[19] As we said, all of those will be [20] considered by the team in looking at the [21] comments, responding to those and then [22] preparing the Final Environmental Impact

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[1] Statement.

[2] The things that the team is looking [3] for comments on are specifically the Draft [4] Environmental Impact Statem-

ent, included in [5] that are the Programmatic Agreement which [6] deals with Native American issues and the [7] Biological Assessment which deals with [8] threatened and endangered species, the [9] Section 404 permit application, that's what [10] Jerry talked about dealing with waterways, [11] wetlands, impacts and permits associated with [12] that and the proposed Forest Plan Amendments [13] that are part of the Forest Service's review [14] of the project.

[15] So those are the things we would [16] like comments on, we encourage you to be [17] specific about your comments. "I would like [18] the Draft EIS to address this. The [19] information contained in the Draft EIS is not [20] accurate, this is the accurate information," [21] those kinds of things are very helpful to the [22] team in being able to respond to your

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[1] comments.

[2] The order that we're going to take [3] commentators; we're going to first have several [4] state elected officials who are here, the [5] preregistered speakers, those folks who [6] called our hotline to register to speak we'll [7] go through those first, and then other [8] speakers if you came today and signed up [9] we'll take those folks and then people who [10] may have spoken at other meetings, with time [11] available we'll get to those folks.

[12] Again, the ground rules for those [13] who came in late; we are setting a time limit [14] to be sure we get to everybody, three [15] minutes, I'll give about a 30-second warning [16] so you can wrap up. If you can provide your [17] name and then any organization that you are [18] representing the court reporter can then [19] capture that. Again, we want you to be [20] concise, summarize your points, you get about [21] a page and a half of a written statement you [22] can read in three minutes, and I think that's

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[1] the only things I wanted to cover.

[2] Again, if you have — if there's [3] something in our presentation of a procedural [4] nature you still have a question about, grab [5] one of these cards, fill it out, get it up to [6] the front and we'll see if we can get it [7] addressed during the course of the meeting.

[8] So, let's see, I want to start with [9] a couple of elected officials that are here, [10] the first is State Senator Charlie Flowers.

[11] **MR. FLOWERS:** Thank you. I'm going [12] to address my remarks probably more for the [13] agricultural segment of what we're trying to [14] do here.

[15] I am testifying in support of the [16] DM&E Powder River Basin project. This

rail [17] line is very important to South Dakota [18] because it will also open up new markets on [19] the west coast for South Dakota agriculture [20] commodities. We have a trucking business, [21] but I am well aware that if all agricultural [22] products needed to be moved by truck our

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[1] roads would not stand the pressure put on [2] them.

[3] It is unfortunate that for years [4] the rail line was allowed to deteriorate. [5] Since 1986 when the DM&E bought this line [6] they have worked very hard to make it a [7] viable rail service. While the service has [8] improved dramatically, more needs to be done. [9] If this project is allowed to continue it is [10] going to change the whole complexion of South [11] Dakota.

[12] There would be hundreds of better [13] paying jobs, several million dollars of new [14] property taxes to help support governmental [15] entities and better prices for our farmers [16] because of more markets and quicker [17] transportation of products.

[18] There is a concern that all these [19] trains will create safety problems for the [20] citizens of South Dakota. I feel you could [21] make the case that it will be safer because [22] people will know there will be more trains

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[1] passing through on a daily basis. Under [2] current conditions, because of few trains, [3] people are a little complacent and don't pay [4] much attention to the railroad crossings.

[5] In closing, I feel South Dakota [6] would be better served by putting politics [7] aside and do what's best for the bulk [8] commodity transportation needs of the state.

[9] Thank you for giving me this [10] opportunity to testify before this committee [11] and I ask your favorable consideration of [12] this project. Thank you. Senator Charlie [13] Flowers.

[14] **MR. GARDINER:** Thank you. State [15] Representative Ron Volesky.

[16] **MR. VOLESKY:** Thank you. I want to [17] thank the Surface Transportation Board for [18] being here today to take public comment on [19] this very, very important project and [20] opportunity for the people of South Dakota. [21] South Dakota desperately needs the Dakota, [22] Minnesota and Eastern railroad as an

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[1] essential part of its economic future. The [2] present expansion project being proposed by [3] the DM&E is an important opportunity for the [4] people of

our state.

[5] The expansion project will do a [6] number of things that are in the overall best [7] interest of the citizens of our state. It [8] will upgrade the current DM&E railroad to a [9] Class I railroad which will stabilize its [10] future in this region. It will provide a [11] safer more efficient rail system in South [12] Dakota. The expansion will also provide an [13] economic boost to the economy of our state, [14] and this economic boost will consist of [15] increased job opportunities.

[16] Also, the expansion will provide a [17] much needed advancement in the transportation [18] of agricultural products for our state's [19] farmers, particularly with regard to opening [20] up markets to the west coast. The project [21] offers additional opportunities for [22] manufacturing and industrial development, and

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[1] finally, the project offers greatly increased [2] tax revenues for the counties in which the [3] project will travel through our state.

[4] As a state representative I [5] represent District 21, which includes all of [6] Beadle County and a portion of Spink County. [7] The major population center in this [8] legislative district is Huron and I firmly [9] believe that a vast majority of my [10] constituents believe in this project and the [11] opportunities that it offers to our region of [12] the state is good for our state as a whole [13] and will benefit our state as a whole. I [14] believe the project is an important milestone [15] in developing the economic future of our [16] state.

[17] I would also state that the 90-day [18] comment period is more than sufficient to [19] meet the needs of gathering the necessary [20] input for the Surface Transportation Board to [21] make an informed decision. As an elected [22] representative of the state legislature, I

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[1] urge the Surface Transportation Board to give [2] favorable approval to the expansion proposal [3] being offered by the Dakota, Minnesota and [4] Eastern Railroad, and in closing I will say [5] that the participatory agreement entered into [6] between the Tribes in South Dakota and the [7] DM&E and the Surface Transportation Board is [8] an extremely important part of this project [9] and an extremely important document and I [10] believe that it sufficiently addresses the [11] sensitive needs of the Tribes in our state [12] and in this region and therefore, I would [13] urge that the Surface Transportation Board [14] give approval to this project in light of the [15] fact that it

would be good for the overall [16] economy commerce of our state and also it [17] does address the significant needs and [18] concerns of the Native American Tribes in [19] this region. Thank you.

[20] **MR. GARDINER:** Thank you. Next I [21] have Dana Nelson here representing the [22] governor and the state agencies.

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[1] **MR. NELSON:** Thank you to members [2] of the Surface Transportation Board, Section [3] of Environmental Analysis, and the [4] cooperating agencies for this opportunity to [5] provide oral comments on the Draft [6] Environmental Impact Statement. My name is [7] Dana Nelson, I'm offering these comments on [8] behalf of the South Dakota State Government [9] and they will be brief. State government [10] will provide further comment on a variety of [11] topics discussed in the Draft EIS in writing [12] prior to the January 5, 2001 deadline.

[13] Much controversy surrounds [14] discussions in this community about the [15] prospects of a bypass. In an effort to help [16] reach a solution or fashion some degree of [17] compromise, Governor William Janklow offered [18] the DM&E the use of state highway right of [19] way for Highway 14 and 14 bypass as [20] alternative routes for the railroad.

[21] State and local business people are [22] currently attempting to fashion such a bypass

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[1] proposal and a negotiated agreement by [2] accepting the governor's offer and the [3] funding which DM&E president, Kevin [4] Schieffer, subsequently offered to help [5] construct such a bypass. For the record I [6] would like to restate the governor's intent [7] to offer the use of the highway right of way [8] and further advise the STB, the DM&E, and the [9] community of Brookings that the state of [10] South Dakota will fund the construction of a [11] grade separation structure where the bypass [12] route would potentially cross Interstate 29.

[13] It is hoped in continued [14] discussions among the DM&E both the city of [15] Brookings and Brookings County, and Railco, a [16] group of local business, civic, and education [17] leaders, will result in the adoption of a [18] negotiated agreement which can be submitted [19] to the STB and made a part of a final [20] decision as described in Section 7.5 of [21] chapter 7 of the Draft Environmental Impact [22] Statement, which is SEA's proposed

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[1] environmental mitigation chapter. [2] The other comment the state wishes

[3] to make a part of the public record relates [4] to the project impact on residential property [5] values. The Draft Environmental Impact [6] Statement indicated no real impact will be [7] noticed on these values as decreases in [8] property values would be offset by similar [9] increases in other property values. Further, [10] the DEIS indicates reduced residential [11] property values would not be realized because [12] of the demand for housing by new employees of [13] the railroad. It is naive to suggest [14] property values of homes in close proximity [15] to the railroad tracks will not be impacted [16] because of increased housing demands by new [17] railroad employees.

[18] Please don't expect the citizens of [19] Brookings or the state of South Dakota to [20] accept this superficial treatment of property [21] values. The DEIS does a very inadequate job [22] of analyzing the impact on property values.

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[1] While the DEIS conclusion may have some merit [2] with regard to property tax revenues for the [3] city and county, it has no merit with regard [4] to actual property values.

[5] The impact on residential property [6] values is real, particularly to homes and [7] properties immediately adjacent to the [8] railroad tracks. The negative impact to [9] property values is certainly less as the [10] distance to the railroad perhaps becomes [11] greater. The DEIS should take a considerably [12] more in-depth look at property values, not [13] only in Brookings, but throughout the entire [14] route of the DM&E line in order to make this [15] section of the Environmental Impact Statement [16] credible.

[17] Such analysis should be set out in [18] the table that's described above comparing [19] the distance from the railroad tracks with [20] the projected reduction in property values [21] and in that manner citizens can make a more [22] informed analysis of the impact on property

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[1] values. Thank you.

[2] **MR. GARDINER:** That concludes the [3] elected representatives, so I'm going to work [4] through the list that I have of registered [5] speakers and I'll check to be sure they are [6] here as I go. First name I have is Liliias [7] Jarding and then Rodney Freeman, so you're on [8] deck, and then Lynn Schneider.

[9] **MS. JARDING:** Back up information [10] is in writing and I have just handed it to [11] you so you have it because I will be speaking [12] quickly. I've been reading EAs and EISs for [13] over 20 years and to

my knowledge I'm the [14] only person in South Dakota with a specialty [15] in environmental policy at the Ph.D. level, I [16] have over 50 publications. The Jardings have [17] been farming in South Dakota for five [18] generations and I do not live by the tracks. [19] I am commenting today from an environmental [20] policy perspective only.

[21] First, I request 180 days to read [22] and consider the Draft EIS and the 404

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[1] Permit. Both should have the same closing [2] date. This huge amount of information was [3] poorly arranged and the CD-ROM is unusable. [4] From an environmental policy standpoint I [5] have become convinced that this project is [6] totally unnecessary in terms of the coal [7] aspect of it. I also believe that this [8] process is irreparably damaged and can only [9] lead to delays in the courts if it is allowed [10] to continue.

[11] Three specific problems. First, it [12] is bad public policy for the STB to issue [13] such an incomplete Draft EIS. The STB knows [14] it has done this and has repeatedly asked the [15] public to do its work for it by researching [16] various options. The STB is attempting to [17] turn the NEPA process on its head by having [18] the public do the research and tell the [19] agency what alternatives might work.

[20] This transfers the agency's [21] specific burden to a diffuse public. [22] Examples include information on Class I

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[1] airsheds, National Register of Historic [2] Places, proposed mitigation, economic [3] impacts, demand for electricity, reasonably [4] foreseeable impact and unmitigatable impacts [5] as well as Section 319 of the Clean Water Act [6] and archeological and paleontological [7] surveys.

[8] Second, it is bad public policy for [9] the STB to issue a document that ignores [10] basic professional standards for citations.

[11] **Examples:** You use an electric utility [12] lobbying group as your basic source for [13] information on energy needs. Citation form [14] and references are incomplete. Information [15] on economic impact is not properly [16] documented. You use 1990 census data in [17] discussing Native Americans, which is totally [18] horrendous, I guess is the word, and you [19] repeatedly make unsupported assumptions. I [20] used to teach college and the methodology in [21] this Draft EIS would have led to a failing [22] grade for any term paper in my undergraduate

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[1] classes.

[2] Third, environmental justice. It [3] is bad public policy for the STB to proceed [4] with this process in a manner so obviously [5] ignorant of treaty rights, Native American [6] sacred sites and tribal sovereignty. These [7] are the key environmental justice issues. [8] The DM&E can get signatures from as many [9] native nations as it wants, but if it hasn't [10] got permission from the Lakota nation under [11] the 1868 Fort Laramie Treaty, this project [12] will be in court for a long time.

[13] In conclusion, the agency has [14] rushed an incomplete and unsubstantiated [15] document to press and has not shown an [16] adequate understanding of environmental [17] justice issues. I suggest that good public [18] policy would be to voluntarily withdraw the [19] DEIS, issue a complete one at the applicant's [20] cost and then proceed with the NEPA process. [21] Thank you.

[22] **MR. GARDINER:** Mr. Freeman. Lynn

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[1] Schneider is next and then Dennis Bowman.

[2] **MR. FREEMAN:** Thank you very much [3] for the opportunity to address you. I'm [4] Randy Freeman from Huron, South Dakota. [5] Huron is a community of approximately the [6] same size as Brookings and also about the [7] same size as Pierre where you were yesterday. [8] I am here representing or on behalf of Huron [9] Greater Development Corporation. I have [10] served for two years as the volunteer [11] president of that group, during that time we [12] have had some ups in Huron and the area and [13] we have had some downs.

[14] Two and a half years ago we lost a [15] major plant which resulted in [16] approximately 800 jobs leaving the community. [17] We've worked diligently with state and [18] federal and local representatives, I believe [19] we've made great strides forward, but I want [20] you to know this project and its approval is [21] absolutely critical and essential for our [22] continued economic well-being, not only in

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[1] Huron, but in the state as well.

[2] In Huron alone this project would [3] create at least 500 well-paying railroad jobs [4] and enumerable auxiliary or side jobs would [5] flow into the area and the community and the [6] state. I believe the estimates are well [7] over 1000 railroad jobs in South Dakota alone [8] and we all know what that would mean in side [9] jobs to fill in for those new employees and [10] families.

[11] I drive around the country quite a [12] bit, my wife won't fly and so I really don't [13] have much choice when she's going with me. I [14] can tell you in those travels I have seen [15] hundreds of coal trains go by. I don't see [16] coal dust, I don't see safety issues, I don't [17] hear a lot of racket. What I do see is the [18] economic prosperity of the communities along [19] that track. Especially communities that have [20] facilities as Huron would have. [21] Now I know it's probably selfish or [22] in our own best self interest to ask for

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[1] approval of this project for economic [2] well-being, but I can tell you if it's [3] selfish to want to improve the quality of [4] life in our area and our state, if it's [5] selfish to want to provide good jobs, if it's [6] selfish to try and improve the environment [7] and the safety of our citizens, then so be [8] it. In closing, I would urge this panel to [9] issue the final impact statement as soon as [10] is humanly possible and hopefully then the [11] STB will approve the project. Thank you very [12] much.

[13] **MR. GARDINER:** Mr. Schneider and [14] Dennis Bowman and Dr. Robert Hohm.

[15] **MR. SCHNEIDER:** Thank you. I am [16] speaking in support of the project. I'm Lynn [17] Schneider, a nearly lifelong resident of [18] Beadle County in Huron, South Dakota. I was [19] born, raised and educated there and served in [20] the US Army during the Vietnam era conflict, [21] receiving a honorable discharge. My wife and [22] I raised three sons who were educated in

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[1] South Dakota earning college degrees except [2] for one who earned his degree at the [3] University of Nebraska.

[4] Only one has gained his employment [5] in South Dakota, the others are working out [6] of state. I tell you this personal [7] background because I believe it to be a [8] common example in South Dakota. South [9] Dakota's quality of life is great in terms of [10] space, work ethic, education and personal [11] safety. Yet a great number of our young [12] people must leave the state to secure [13] attractive employment and careers, except for [14] a few who find it in the two population [15] centers of Sioux Falls and Rapid City.

[16] In my case I was fortunate to [17] develop my career in community banking, [18] principally financing farmers and [19] agri-business. During the past 29 years I [20] have worked with more than 600 farm and ranch [21] customers.

[22] Currently I am president of

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[1] Marquette Bank in Huron, South Dakota, a [2] position I have held for 14 years. I see [3] firsthand the great challenges our farmers [4] face in generating reasonable profits from [5] cash flow of their business. A strong [6] transportation system for farm commodities [7] and to develop value added agriculture [8] processing is critical.

[9] The DM&E railroad's request to [10] revitalize and expand is most worthy of the [11] Surface Transportation Board approval. That [12] approval must happen swiftly. The very [13] economic life of our farm customers depend [14] upon it.

[15] This railroad cannot survive [16] without that project. South Dakota's [17] highways cannot survive the added wear and [18] tear of the grain hauling semis that would be [19] needed to replace the railroad. My bank also [20] serves many commercial, consumer and public [21] entity customers in east central South [22] Dakota. Their economies have also been

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[1] greatly strained.

[2] This railroad project would provide [3] major opportunities for them as well as all [4] of South Dakota to improve everyone's [5] welfare. New job creation and tax base [6] growth would abound. When you positively [7] impact those areas, you improve the general [8] welfare which we desperately need in this [9] part of the United States.

[10] New markets for our farmer's grain [11] production mean better prices for their [12] product. Job creation means new business [13] opportunities and new capital investment in [14] an otherwise stagnant economy. Growth of the [15] tax base means government has a better [16] opportunity to serve citizens more [17] effectively with a more equitable tax burden.

[18] I thank the Surface Transportation [19] Board for its careful deliberate process in [20] arriving at a credible conclusion in the [21] Draft Environmental Impact Statement. There [22] is no logical reason to continue delays

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[1] advocated by some parties.

[2] I urge you to proceed diligently [3] and stick with your established deadline to [4] end the comment period on January 5, 2001. I [5] implore the STB to grant approval to the DM&E [6] promptly within a scope they can accept so [7] that they can begin actual construction next [8] year in 2001. The future of thousands of [9] people hang in the balance. Thank you.

[10] **MR. GARDINER:** Mr. Bowman, then

[11] Dr. Hohm.

[12] **MR. BOWMAN:** Thank you. My name is [13] Dennis Bowman. I'm employed by the Otter [14] Tail Power Company. Otter Tail Power Company [15] is a relatively small electric utility [16] operating in South Dakota, North Dakota and [17] Minnesota. We operate coal fired generating [18] plants at three locations. Two of those [19] locations involve rail transportation of [20] coal. Both of these locations are captive to [21] a single railroad.

[22] Otter Tail Power will not see a

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[1] direct benefit from the construction of the [2] proposed DM&E line. We have however [3] supported and actively encouraged competitive [4] access within the railroad industry. It is [5] in this context that we support the proposed [6] DM&E line.

[7] As a captive rail customer we find [8] it virtually impossible to negotiate [9] delivered fuel prices for our generating [10] plants. While there is intense competition [11] at the coal mine it's negated by the impact [12] of the freight. The freight portion of the [13] delivered cost of fuel is typically 75 [14] percent of the total cost.

[15] As the electric utility industry [16] moves toward deregulation, it is vitally [17] important that the industry have a [18] competitive access to rail service. The [19] electric utility industry is facing [20] deregulation efforts throughout the country [21] because of the fundamental belief that [22] competition is what ultimately lowers prices

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[1] and stimulates innovation. Large monopoly [2] railroads do not have proper incentives for [3] either efficiency or innovation and we [4] applaud the DM&E for their proposed project [5] which demonstrates the advantages of both.

[6] It is our belief that competition [7] within the railroad industry will enhance the [8] economy of the area by providing low cost, [9] quality rail service for other businesses. [10] Thank you.

[11] **MR. GARDINER:** Thank you. [12] Dr. Hohm, David O'Donnell and then Mark [13] Whaley.

[14] **DR. HOHM:** My name is Dr. Robert [15] Hohm from Huron, South Dakota. Like Lynn [16] Schneider, I was born and raised in Huron, [17] South Dakota, educated in Huron, did five [18] years at the University of Oklahoma in my [19] training of internal medicine. Through the [20] years that I lived in Huron, Huron was a [21] railroad town.

[22] My second father was a retired

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[1] railroad man and I spent many, many hours at [2] his house learning about the Chicago [3] Northwestern railroad. Over the years the [4] Chicago Northwestern deteriorated, was [5] ultimately bought by the DM&E and operated as [6] it is now. [7] In regards to healthcare, rural [8] South Dakota does not enjoy the benefits of [9] Rapid City or Sioux Falls. Rural South [10] Dakota functions on rural economy. As rural [11] economy provides, rural healthcare is reliant [12] upon rural economy to continue the existence [13] and provide adequate healthcare to the rural [14] population.

[15] With the Balanced Budget Act intact [16] and proceeding forward, the reimbursement for [17] healthcare for our aging population is on a [18] downhill spiral. Healthcare, on the other [19] hand, is on an upward spiral. The cost of [20] equipment for testing and diagnostic [21] instrumentation skyrockets literally as we [22] sit here.

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[1] With the population becoming a [2] higher and higher percentage of Medicare aged [3] patients, the reimbursement of the Balanced [4] Budget Act all have a phenomenal negative [5] impact on healthcare. The current fiscal [6] year of 2000 for Huron Regional Medical [7] Center is slated to lose over a million [8] dollars on its Medicare aged patients. This [9] process will proceed and continue and worsen.

[10] With the influx of non-Medicare [11] aged patients, such as what would be supplied [12] by DM&E employees, and the support mechanism [13] in businesses that would be associated with [14] the DM&E project, healthcare itself would [15] benefit tremendously in allowing us to [16] maintain a positive balance, such that the [17] test equipment and the facility itself would [18] continue to grow and meet the standards of [19] healthcare as the larger metropolitan areas [20] do as well as the larger communities in South [21] Dakota. I beseech you to consider in a [22] positive fashion the DM&E project and thank

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[1] you much for your time.

[2] **MR. GARDINER:** Mr. O'Donnell and [3] then Tim Brown and then Mike Williams.

[4] **MR. O'DONNELL:** David O'Donnell, [5] chancellor of Huron University. I came up [6] here with some of our colleagues today to [7] speak to this group, I want to thank you for [8] the time. I'm appreciative that you've [9] doubled the standard of time normally allowed [10] from 45 days to 90 days. I'm appreciative of [11] the fact that you're moving around our

large [12] geographic state, we don't have the [13] population of Washington, DC.

[14] I moved here in 1997 to be the [15] chancellor of Huron University. I moved here [16] from Colorado and I can tell you that trains [17] come from Wyoming down Colorado through [18] beautiful mountains down to Colorado Springs [19] and on south. These are the coal trains and [20] I will tell you Colorado is not covered with [21] coal dust, it's not covered with traffic, [22] it's not covered with accidents, it's able to

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[1] be managed very well.

[2] I've relocated 37 families to Huron [3] with over 25 children who were school age and [4] I will tell you if you look at the state, [5] we're three or four communities that are [6] thriving and that are doing well, but like so [7] many areas in the middle of our country, the [8] rest of us are having difficulty with [9] economic success, with diversification and [10] with growth and whether we find it with [11] railroads or whether we find it with [12] agriculture and how to move products and sell [13] products, we need to do something in a [14] positive sense to help our communities.

[15] Not just Huron, we need to work [16] together to resolve our differences in a [17] nonadversarial way. Instead of saying "why [18] not" if a company wants to invest in a [19] business enterprise we should look at it [20] maturely with what the problems are and work [21] together to resolve those problems so we can [22] move forward. Thank you for the time.

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[1] **MR. GARDINER:** Mr. Whaley and then [2] John Moore.

[3] **MR. WHALEY:** My name is Mark [4] Whaley, I'm speaking on behalf of the DM&E [5] upgrade, but opposed to a bypass in the city [6] of Brookings. I'm a traffic accident [7] reconstructionist and have specialized [8] training in railroad grade crossing [9] collisions and therefore feel qualified to [10] speak on rail safety as it applies to the [11] Brookings areas.

[12] Banner Associates Incorporated, a [13] consulting engineering firm, was hired by the [14] city some time back to put together a [15] railroad bypass feasibility study. I believe [16] the STB received all or at least portions of [17] that study when the city submitted its [18] nearly 16 mile bypass proposal to the STB. [19] In the introduction, Banner stated that, "The [20] most important concern the Brookings [21] community has as it addresses the proposed [22] DM&E upgrade plans is the impact on public

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[1] safety. The major issue in this regard is [2] the potential for train and vehicle [3] collisions at crossings."

[4] I agree very strongly with this [5] statement, but would argue just as strongly [6] that running new track around the city is not [7] the best way to ensure public safety. The [8] proposed 16 mile bypass adds 16 new at grade [9] crossings. 16 new at grade crossings in a [10] time when states and the railroad industry [11] are working hard to eliminate at grade [12] crossings because of their recognized danger [13] to the motoring public.

[14] These 16 crossings will be on roads [15] with speeds of 55 to 65 miles an hour, [16] whereas the six at grade crossings currently [17] in the city are on streets with posted speed [18] limits of 25 to 35 miles an hour. I could [19] talk volumes about increased stopping [20] distances, decreased visibility due to [21] weather conditions, lack of lighting, the [22] lack of advance warning devices on most rural

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[1] roads, et cetera, but instead I will talk [2] about a grade crossing accident that occurred [3] in the city on Monday morning, November 13.

[4] A motorist was driving south on [5] Western Avenue at approximately 5:48 a.m. [6] The city streets as well as country roads [7] were extremely slick due to a recent heavy [8] snowfall. The driver of the vehicle said [9] that she could not get stopped in time to [10] avoid hitting the side of the train. This [11] crossing is equipped with advance warning [12] lights. These lights were working properly [13] at the time of the accident.

[14] Why the driver did not see these [15] warning lights and stop before hitting the [16] train is not known and probably never will be [17] clear. Maybe she was not paying close enough [18] attention to her driving, maybe the icy roads [19] prevented her from coming to a stop, maybe a [20] combination of several things, but what we [21] know is that the vehicle was able to slow to [22] a low speed, driver stated less than 10 miles

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[1] per hour before impact. The vehicle hit the [2] side of the last of three locomotives and [3] bounced back away from the train causing only [4] front-end damage to the car and minor [5] injuries to the driver.

[6] Take that same accident and move it [7] out to a rural crossing. Vehicles should not [8] be traveling 55 to 65 miles an hour on [9] slippery roads, but we all know that they do. [10] Make that impact speed 30 to

40 miles an [11] hour, maybe higher, instead of less than 10 [12] miles per hour. The immediate change in [13] velocity alone is enough to cause fatal [14] injuries, not to mention the penetration of [15] the vehicle into the train and quite possibly [16] getting caught under it and being dragged [17] some distance before the train is able to [18] stop.

[19] Add to that 10 proposed gravel road [20] crossings that will not be equipped with any [21] more than an unlit cross-buck sign at unlit [22] crossings. It sounds like the makings of a

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[1] fatal car/train accident instead of minor [2] injuries.

[3] We can also talk about the safety [4] of the people who operate the trains. On the [5] early morning of August 26th, 2000, a young [6] man stands accused of tampering with a switch [7] in the city of Brookings, causing a loaded [8] westbound train to change tracks and collide [9] with a parked group of loaded railcars. This [10] collision caused the death of one of the [11] operators and critical, life-changing [12] injuries to another.

[13] DM&E CEO, Kevin Schieffer, has [14] stated publicly that this kind of tampering [15] would not go undetected with the upgrade DM&E [16] has proposed. Switches would be monitored [17] and unauthorized changes would be noted so [18] that crews could be alerted before [19] approaching with switch. If DM&E is forced [20] to build a bypass around the city, will they [21] be able to upgrade the tracks through town [22] and will it be warranted for only local

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[1] traffic? I think these are questions the STB [2] should be asking itself as lives are at [3] stake.

[4] **MR. GARDINER:** Mike Williams and [5] then John Moore and Carol Humberg.

[6] **MR. WILLIAMS:** Good afternoon, I'm [7] Mike Williams, I'm the city manager here in [8] Brookings. Thank you for the opportunity to [9] be heard. My comments do represent the [10] position of the city council and most of them [11] are represented here; Mayor Virgil Herriott [12] and Councilpersons Bill Davidson, Tom Bozied, [13] Keri Weems, Sam Artz and Mike McClemons are [14] present.

[15] The project that we're talking [16] about is a good project in so many ways, but [17] the proposed expansion will dramatically harm [18] this community if it's allowed to proceed as [19] requested in the application. The bypass [20] suggested by the state of South Dakota and [21] the city of Brookings mitigates the negative [22] environmental impacts of the route through

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[1] residential and commercial historic areas of [2] Brookings, all which have been well [3] documented. The city followed the STB's [4] notice of April 14, 1999, and demonstrated [5] that the bypass proposal was reasonable and [6] feasible.

[7] However, in an effort to compromise [8] and continue to support the DM&E project, the [9] city of Brookings with the assistance of the [10] state of South Dakota and a committee of the [11] state chamber of commerce negotiated with the [12] DM&E and explored alternative routes for the [13] bypass. The reason for this exploration was [14] to design a bypass that affected even less [15] people, even less land and utilized public [16] right of way and state and city-owned lands [17] as much as possible.

[18] This process was successful in [19] identifying an alternative bypass route that [20] is only eight miles long and traverses [21] adjacent to the Highway 14 bypass through [22] state and city-owned land and through many

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[1] less private property owners and road [2] crossing than the bypass originally [3] submitted.

[4] The shorter bypass is also less [5] expensive to build and only slightly longer [6] than the in-city route. However, at this [7] time the city has no agreement with the DM&E [8] and no option but to petition the STB to [9] impose mitigation on the DM&E in the form of [10] a shortened bypass because we have no [11] agreement with the DM&E.

[12] The shortened bypass that we have [13] found is a more reasonable and feasible [14] alternative for the railroad and causes less [15] environmental consequence than both the [16] in-city route and the 14 and a half mile [17] route. The shortened bypass proposal is a [18] version of B-3 B-4 alternatives. It is a [19] version of that and the city is willing to [20] conduct further analysis as required by the [21] STB so that the environmental review process [22] moves forward without undue delay.

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[1] The state and the city, as Dana [2] Nelson has said, has combined with a local [3] effort of \$8.5 million dollars towards [4] this \$26 million dollar project. This is a [5] very large commitment from the city and [6] illustrates its strong support and genuine [7] belief that a bypass is absolutely necessary [8] for mitigating the adverse impact of the DM&E [9] expansion project.

[10] In summary I have a few points to [11]

make. The city council has held many public [12] hearings and many public meetings and [13] negotiations with the DM&E on the expansion [14] project for the last few years. The DM&E and [15] other engineers and architects have analyzed [16] the bypass routes. These hearings, meetings, [17] negotiations and diligent study are the basis [18] for the city of Brookings position on this [19] project. [20] The city of Brookings remains [21] supportive of the overall project with that [22] support conditioned upon the construction of

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[1] a bypass around the community. The city of [2] Brookings is unique in comparison to the many [3] communities on the DM&E expansion route. The [4] DM&E has reached agreement with other [5] communities and land owners during the [6] project development, but we have not reached [7] resolution in Brookings because it is unique [8] and different mitigation efforts are [9] required. The STB DEIS properly demonstrated [10] a preference for a bypass around the city of [11] Brookings.

[12] The city will conduct further [13] review of the proposed shortened bypass, but [14] argues that the shortened bypass is clearly a [15] reasonable and feasible route, clearly a more [16] reasonable and feasible route than the long [17] bypass and clearly a route that negatively [18] affects far less people than both the in-city [19] route and the long bypass.

[20] The city at this time must request [21] that the STB order construction of a [22] shortened bypass route as mitigation. We

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[1] will continue to have a dialogue with the [2] DM&E and we will further refine our position [3] and submit a further filing if that is [4] necessary. Thank you.

[5] **MR. GARDINER:** John Moore and then [6] Carol Humberg and Harold Bisch.

[7] **MR. MOORE:** Thank you. My name is [8] John Moore, I am here to represent Ag First [9] Farmers Cooperative which is headquartered [10] here in Brookings, but also has facilities in [11] Aurora and Palmer located along the DM&E. [12] Additionally we have facilities in White and [13] Toronto in which we have our grain shipped [14] via the DM&E. Ag First is owned by over 500 [15] farmers from Brookings, Moody and Deuel [16] Counties. In order to save time at the [17] hearing today I will summarize my comments [18] with the main points and will submit more [19] detail via written comments.

[20] We strongly support the Alternative

[21] C action of the Draft EIS. Ag First depends [22] on the DM&E rail for shipping grain, but

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[1] added the option for receiving fertilizer and [2] propane products and these products are moved [3] by rail. If the no-action alternative became [4] a final decision we envision the eventual [5] loss of our rail service. If this came to [6] pass it would take away our soybean markets [7] in Mankato and the Mississippi River, leaving [8] us with only one market for our soybeans.

[9] It would also take away our corn [10] market at the river and for Chicago and [11] beyond shipment. There are also less [12] frequently used markets that can only be [13] reached by rail that would be gone, leaving [14] us without the option of using those markets [15] as well to achieve the best possible price [16] for our farm customers. Conversely, if the [17] upgrade is approved then it opens up [18] additional markets in the Pacific Northwest.

[19] The mere fact that by rail, Ag [20] First can reach markets more than 1000 miles [21] away, but by truck are limited to markets [22] within a few hundred miles speaks clearly

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[1] regarding maintaining competition between [2] markets for our customers and the efficiency [3] of rail transportation. That efficiency is [4] only improved with faster rail traffic.

[5] Conversely, that gain in efficiency [6] is offset many times over with quadrupling [7] the truck traffic that it would take to move [8] our grain to market without rail service. [9] The impact for our economic environment from [10] the loss of rail market and the increased [11] cost of truck transportation could only be [12] negative ones. We also feel that the safety [13] of our local roads would also be improved.

[14] Certainly when we look at a 25-car [15] train, that unit makes two trips through [16] town; one arriving and one departing. If we [17] were forced to ship by truck that 25-car unit [18] would require 100 trucks to move the same [19] number of bushels. That's 200 trips through [20] town counting arrivals and departures. The [21] improved safety at intersection crossings of [22] two trips versus 200 trips seems rather

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[1] obvious to us.

[2] In addition, a new rail would [3] decrease derailments and move trains faster [4] so the intersection is tied up for a shorter [5] period of time. In summary, the actual [6] efficiency will improve

while at the same [7] time maintaining our market options and [8] transportation efficiency. This all has a [9] positive impact on our economic environment.

[10] We also see it as a viable option [11] from a more safe traffic environment [12] standpoint when you look at increased truck [13] traffic through town as the option to rail [14] transportation.

[15] Regarding the bypass, the bypass is [16] a "my backyard" issue and only moves the [17] problem to a different area. Workers, [18] shoppers, students, emergency vehicles and [19] incoming suppliers still have to cross the [20] railroad no matter where it is located. [21] Therefore it becomes a waste of dollars and [22] the matter is either public, private, or a

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[1] combination of two. This concludes my [2] comments. Thank you.

[3] **MR. GARDINER:** Ms. Humburg.

[4] **MS. HUMBURG:** Thank you. My [5] statements are abbreviated due to the time [6] abbreviation. The proposed upgrade of the [7] DM&E rail line is unquestionably important to [8] the future of the state of South Dakota. [9] However, the bypass being sought by the city [10] of Brookings only serves to move any negative [11] impacts of that project onto another [12] population.

[13] I am not unsympathetic to our [14] friends and neighbors who knowingly purchased [15] homes along the railroad as there will be [16] changes that accompany the rehabilitation of [17] the existing line. It's regrettable that the [18] issue of a bypass around the city of [19] Brookings, which relocates the potential [20] consequences onto another population, has [21] become and continues to be divisive for [22] citizens both within and outside the existing

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[1] city limits.

[2] The DEIS recognizes that the [3] railroads can repair, replace and [4] rehabilitate their existing line without any [5] Board authority and included the analysis to [6] the extent necessary for the Army Corps of [7] Engineers. The DEIS notes the presence of [8] the proposed rail line, this being the B-4 [9] alternative, could also act as a dam [10] resulting in changes to surface drainage [11] patterns along the rail line.

[12] It should be noted that a majority [13] of the area through which the proposed B-4 [14] bypass would cross is indeed lowland and [15] floodplain and the damming effects would have [16] the potential of causing catastrophic damage [17] to residences and roads north of that line.

[18] In addition, the roadbed would have [19] to be built up considerably which could [20] involve subsurface alterations with the [21] potential for adverse affects for the ground [22] water. The city has just spoken to the

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[1] reasonableness of the B-4 proposal by [2] offering a shortened bypass route, hence some [3] of the comments that I had prepared may be a [4] little bit adjusted. In its summary the DEIS [5] concludes that Alternative B-2 would have [6] significant impact to noise sensitive and [7] vibration receptors that would be difficult [8] to mitigate effectively.

[9] With regard to noise the STB, in [10] agreement with other federal agencies, [11] considers noise levels up to 65 decibels to [12] be compatible with most noise sensitive [13] receptors, while levels at or above that [14] level are adverse. Tables confirm that there [15] are no noise sensitive receptors within the [16] city of Brookings on the existing route from [17] wayside noise regardless of the level of [18] train traffic.

[19] Only when the horn is factored in [20] are there any noise sensitive receptors. [21] Whistle-free status with the accompanying [22] safety measures of quadrant gates and

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[1] flashing lights when and if rail traffic [2] reaches 40 million net tons, has been offered [3] to the city of Brookings repeatedly over the [4] last two years by DM&E railroad at the [5] railroad's expense, the last offer as recent [6] as last week.

[7] One would assume that the city [8] could share in the cost of such measures at a [9] lower level of rail traffic if so desired by [10] the city. The communities of Volga and [11] Aurora already have community agreements with [12] the DM&E which will provide them with these [13] safety measures.

[14] The bottom line concern here is [15] safety, both within and outside the city of [16] Brookings. Most notably, safety is not [17] listed as an issue which could not be [18] mitigated on an existing route. The issue [19] here is cost, not only in dollars, but also [20] in human life. The Mayor's Ad Hoc [21] Committee's report states, "There is [22] considerable belief that the city of

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[1] Brookings helped to create this problem when [2] it zoned land along the right of way as [3] residential. One way the city can help [4] correct this situation and assist these [5] people is to provide the leadership and some [6] financial

support."

[7] The city is looking at bearing [8] substantial, if not the entire, cost in a [9] bypass situation and rightly so. A fraction [10] of that bypass cost would serve to make rail [11] passage on the current route both safe and [12] efficient. Thank you.

[13] **MR. GARDINER:** Harold Bisch and [14] then Josephine Waldner.

[15] **MR. BISCH:** I'm Harold Bisch, a [16] retired Huron businessman. I had a 33 year [17] career with Sears, Roebuck and Company, [18] including being the Sears retail store [19] manager in Huron from 1965 to 1983. I was [20] the Huron area Chamber of Commerce Executive [21] Director for four years and Executive [22] Director of the Greater Huron Development

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[1] Corporation for three and a half years, [2] retiring at age 65 in 1991. As a Huron, [3] South Dakota businessman I was keenly aware [4] of the need for a viable railroad, especially [5] to transport South Dakota grain to the [6] Midwest and eastern markets.

[7] The DM&E railroad needs to have a [8] secure source of operating income that the [9] coal source can provide for the railroad. [10] South Dakota and Minnesota grain producers [11] especially need to have a dependable railroad [12] to market their crops to the midwest and [13] eastern markets and now with exports to China [14] becoming a possibility.

[15] In 1984 the Chicago Northwestern [16] railroad announced plans to close down part [17] of the railroad. In 1986 the Chicago [18] Northwestern railroad did close down the [19] entire railroad between Rapid City, South [20] Dakota, and Winona, Minnesota. Their [21] expenses were obviously greater than their [22] income. As Chicago Northwestern was heading

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[1] for close down, central South Dakota's [2] highways were full of grain haulers. Our [3] grain producers were being charged more to [4] ship their farm commodities and South Dakota [5] and Minnesota highways were taking a beating.

[6] United States Senator Larry [7] Pressler and his staff assembled a group of [8] railroad executives to see if a new railroad [9] company could be put together. In 1986-1987 [10] the Dakota, Minnesota and Eastern railroad [11] came into being. They purchased used [12] locomotives, railroad cars, et cetera, to [13] begin hauling South Dakota's agricultural [14] commodities over a deteriorated railbed to [15] the Midwest and

eastern markets. The DM&E [16] has made major investments in upgrading the [17] railbed and tracks, now installing seamless [18] tracks for smoother running and eliminating [19] the clickety click people are accustomed to [20] hearing. Much more is needed to be done. [21] Our farmers are again having their grain [22] transported at reasonable costs. More and

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[1] more grain elevators and grain bins have been [2] added along the railroad line in recent [3] years, also, major investments to market [4] their grain via the railroad.

[5] South Dakota and Minnesota farmers [6] need to have a railroad that is stable and [7] secure. The coal commodity can be just what [8] the DM&E railroad needs to become a solid and [9] secure railroad company.

[10] Folks are worried about all the [11] trains and that they will be held up going [12] from one side of town to the other. The coal [13] trains will not be switching, they will just [14] roll through. On Sunday afternoon, [15] October 8, 2000, I was on a South Dakota [16] Farmers Union bus tour returning from the [17] east coast. In western Wisconsin we [18] encountered a 116-car freight train. I timed [19] the crossing as the bus driver counted the [20] rail cars. It took two and a half minutes [21] for the 116-car freight train to roll past in [22] front of us. Not much different than waiting

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[1] for signal lights to change at a down-town [2] intersection.

[3] The long range survival of the DM&E [4] railroad is no doubt the most important [5] investment that has been made in recent years [6] in South Dakota. I urge the Surface [7] Transportation Board to approve the DM&E [8] railroad plan to expand into the Powder River [9] Basin in Wyoming and secure the future of [10] this most important railroad for South Dakota [11] and Minnesota's economic well-being. Thank [12] you.

[13] **MR. GARDINER:** Ms. Waldner. Is Jim [14] Lambertz here?

[15] **MS. WALDNER:** I'm Josephine [16] Waldner, a landowner who will be directly [17] affected by a railroad bypass around [18] Brookings.

[19] First let me say I appreciate the [20] opportunity to provide my comments on this [21] extremely important project. I urge you to [22] reexamine and reevaluate your preferred

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[1] environmental alternative for Brookings, [2] South Dakota.

[3] Number one, I do support the DM&E [4] expansion project. It is not only a coal [5] train project, but vitally important to the [6] agricultural industry in South Dakota.

[7] Number two, I do oppose any bypass [8] through Brookings, whether it be the [9] ridiculous 16 mile bypass submitted or the [10] recently formulated Railco bypass. The [11] bypass issue for Brookings, South Dakota, is [12] essentially a political issue proposed by [13] approximately 200 trackside residents and [14] bought into by Governor Janklow, who then [15] spearheaded a drive for Brookings to be able [16] to submit a bypass plan as well as the cities [17] in Minnesota.

[18] Unfortunately our congressional [19] delegation also bought into the plan. [20] The 200 residents sold the plan to the city [21] commission, who then hastily contracted with [22] an engineering firm to put a line on a map,

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[1] and Governor Janklow submitted it. At no [2] time were any of the rural residents who are [3] directly affected consulted about the plan [4] until it appeared in the newspaper. At that [5] time it had become a fact and we have spent [6] two years fighting it.

[7] This 16 mile irrational and [8] ridiculous bypass, which was recently called [9] a bunch of crap by the Mayor, was really the [10] city of Brookings' recommendation and desire [11] until the DEIS mentioned they had to pay for [12] some of it. Suddenly they became more [13] reasonable and adopted a bypass proposal by [14] Railco, a group of business and educational [15] leaders in Brookings, that bypass being [16] only 8 miles long, now they feel that had [17] possibilities because they have to pay for [18] part of it.

[19] Railco sang long and loud that they [20] had contacted all of the affected landowners, [21] et cetera. Until it came out at a public [22] meeting that they had intended for the state

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[1] to provide right of way along Highway 14, [2] which is our property, and it would be taken [3] by eminent domain so they didn't have to [4] contact us.

[5] Preferential treatment was given to [6] the University, they were allowed to comment, [7] they didn't want the Railco bypass going [8] through their land and that was done even [9] though the University property is state [10] property and Governor Janklow had originally [11] offered that.

[12] The Railco proposal shows no [13] analysis of need for a bypass. Citizens [14] against the Brookings bypass tried to [15]

negotiate the right to due process for all [16] affected landowners and we did not get it. [17] However, Senator Daschle assured in me in his [18] letter of July 22, 1999, "You can be assured [19] I will work with the STB and DM&E to ensure [20] that any bypasses, if required, will be [21] chosen with the input of affected residents."

[22] Both bypass proposals are strictly

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[1] a classic case of moving the city's perceived [2] problem to the rural residents north of [3] Brookings. A bypass cannot constitute a [4] transferred burden of problems to other [5] residents, there has been no demonstrated [6] need for a bypass. I strongly urge you to [7] reject Alternatives B-3 and B-4 as described [8] in the DEIS and adopt B-2 as it relates to [9] Brookings.

[10] This request is based on the [11] unreasonableness of B-3 and B-4 alternative [12] routes, it is neither economically reasonable [13] or feasible. I will submit written comments.

[14] **MR. GARDINER:** Thank you. [15] Mr. Nelson and then Lori Hintz, Larry [16] Zickmund, Mary McKinney.

[17] **MR. NELSON:** Jack Nelson here to [18] represent the Arlington Farmers Elevator [19] which is a cooperative supply business. We [20] buy and sell grain and supply fertilizer and [21] ag chemicals. Some of the things we have to [22] do with the DM&E project is our grain is

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[1] mostly all shipped out, about three million [2] bushels a year by rail, we receive some of [3] our fertilizer.

[4] Some of the impacts that could have [5] on a community the size of Arlington, which [6] most of you are probably aware of the size of [7] the town, is when you compare what the [8] farmers are going to be paid on this grain [9] versus a truck market, roughly it adds up to [10] be about seven cents a bushel and on three [11] million bushels you're talking \$210,000 and [12] according to some of the state figures I have [13] seen, every time a new dollar comes in or [14] goes out, it has the impact of turning over [15] six to seven times in a community.

[16] So if you use a conservative figure [17] you're talking about \$1.2 million in a town [18] the size of Arlington, the impact it could [19] have it.

[20] Some of the things that I feel will [21] be important to us if the DM&E could upgrade [22] to this project, we'll have a lot quicker car

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[1] turnarounds so we don't have this problem of [2] car shortages to move

mass volumes of grain [3] where we can't do with truck and if we went [4] back, like John Moore said, with trucks we [5] would have major safety problems trying to [6] bring that major volume in at one time. The [7] railroad is a very important asset to rural [8] communities. Not only to the elevator and [9] the farmers, but it also affects the whole [10] town itself.

[11] I would hate to see what could [12] happen with the small towns if we didn't have [13] our railroad coming through. I just had a [14] magazine the other day that came to me that [15] had a picture of an old empty rural elevator [16] sitting there, the town was gone and I think [17] the heading on there was "Rural Agriculture [18] Prairie Monuments" and it even mentioned it [19] as a tombstone.

[20] So it kind of gives a guy an idea [21] of what could happen to our rural community [22] if we don't have a railroad, we have seen

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[1] what has happened to them already. This not [2] only affects the small rural towns, when [3] these towns start going down, they start [4] dying, it creates a chain reaction where we [5] have people leaving our state at that point, [6] and it creates a chain reaction back to our [7] bigger cities also where we don't have those [8] people to do business with. I feel we need [9] to support the DM&E project, let them [10] diversify their income and stay viable and be [11] able to provide not only a new service, but [12] the existing services that we've been used to [13] in the past. Thank you.

[14] **MR. GARDINER:** Mr. Lambertz and [15] then Larry Zickmund, Mary McKinney and Carl [16] Anderson.

[17] **MR. LAMBERTZ:** My name is Jim [18] Lambertz, I live at 1227 30th Street, my [19] wife, Linda, and Shawn live there also. Our [20] daughter, Liz, attends the university here in [21] Brookings. Our home is one-half mile north [22] of the proposed B-4 alternate as it cross

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[1] Highway 77 north of Brookings. Our home is [2] in an incorporated housing community called [3] Sunnyview, we love the aspects of being a [4] near to city rural environment. It's because [5] of these values that I address this panel.

[6] I've had the opportunity to review [7] particularly chapter four of the EIS draft [8] document. I found the document to contain [9] errors and misleading facts. It is my [10] concern that these errors are corrected and [11] facts are completed so that a reasonable [12] person could make an informed decision about [13] the issue. I would like to list some of the [14]

concerns I found in chapter four.

[15] The introductory explanation of B-3 [16] and B-4 give directions about rail traffic [17] movement. I do not understand that the [18] Transportation Safety Board has the [19] regulatory authority to effect which trains [20] go on which tracks. If the Board does have [21] that authority please amend the document to [22] state that authority. If not, these

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[1] alternatives are being misrepresented as [2] reasonable alternatives.

[3] The topographic inputs of the [4] bypass alternates are significantly [5] understated. I offer an example which I will [6] attach and submit. The picture reflects a [7] location where the proposed bypass would [8] cross through the Six Mile Creek drainage [9] area. The picture reflects a driveway to the [10] city's water treatment plant that has been [11] cut to eliminate the damming effect.

[12] This driveway is 200 feet south of [13] the proposed bypass route. I live within a [14] half mile of this location and have seen [15] flooding which occurs each spring or during [16] heavy rains. At least two years in memory [17] that same driveway with culverts has been [18] cut.

[19] The section about surface water [20] impacts has significant errors. The B-2 [21] alternative has stated that runoff affects [22] the water quality of Lake Goldsmith. I'm

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[1] familiar with this area, and will state that [2] water would have to run uphill for this to [3] occur. The wetland section seems [4] impractical. B-1 and B-2 alternatives are [5] stated as affecting 5.8 acres of wetlands [6] encompassing 12 intermittent streams and a [7] river.

[8] Alternate B-3 and B-4 are stated as [9] affecting 20 intermittent streams and a [10] river. I note that almost twice the [11] crossings affect a lesser acreage of 5.1 [12] acres. The bypass alternative near our home [13] would be considered by a mortgage insurance [14] company as being in the floodplain. This too [15] should be an indication that measurement of [16] wetlands within the meandering Six Mile Creek [17] has been misjudged. I'm not aware of any [18] formal wetland audit on these proposed bypass [19] routes.

[20] Section 4.9.5 speaks to ground [21] water. The document suggests activities [22] would not have a potential impact on ground

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[1] water. I very seriously point out the north [2] Brookings city well field is

within 100 feet [3] of the proposed bypass. That same route [4] would sff another potential exposure to the [5] very shallow aquifer that this well field [6] pumps.

[7] One of the biggest issues and the [8] reason I am here today is the question of [9] safety. The EIS draft addresses the exposure [10] in technical terms. I have a concern which [11] has not be evaluated, this is the ambient [12] lighting condition difference that would [13] exist between the two alternatives; bypass or [14] not bypass. All city passages are lighted [15] with streetlights.

[16] This is true for both the city of [17] Brookings and the city of Volga. None of the [18] bypass alternative crossings have lighted [19] requirements. I believe my neighbors and [20] family would be substantially at risk. 35 [21] to 55 mile an hour at grade rural crossings [22] with poor lighting are totally different

[1] than 25 to 35 miles an hour at grade with [2] good streetlights. I would point out — I [3] would just want to make one other final [4] closing comment. The DEIS executive summary [5] at ES-48, "The railroads are not required to [6] seek the Board's authority to rehabilitate or [7] improve their existing system."

[8] **MR. GARDINER:** Ms. McKinney and [9] then Carl Anderson. Is Scott Brandon here?

[10] **MS. MCKINNEY:** Hello. I'm not a [11] lawyer, an architect, an engineer, or [12] representing any business here. I am just a [13] homeowner living one mile north of town. My [14] name is Mary McKinney, my husband and I own a [15] home, again, one mile north of town in a [16] small subdivision called Sunnyview. Our home [17] was purchased in 1983.

[18] We chose to live out in the country [19] for what we feel is a better quality of life. [20] Breathing room, larger yards, virtually no [21] traffic and a quiet lifestyle and no city [22] noise or close neighbors. As a trade-off we

[1] have had to pay a price for this lifestyle.

[2] Our utilities are more expensive, [3] our commute time is greater, and our travel [4] costs are greater than those of people living [5] in the city of Brookings. The little gravel [6] road that leads to my home frequently is not [7] plowed of snow for several days. When the [8] fog settles in our rural area we have trouble [9] getting to town safely. In fact, just a few [10] years ago a stoplight was installed at a busy [11] highway intersection leading to town and [12] we're very grateful for that. [13] However, many times the trucks [14]

leading to the soybean plant do not stop for [15] this red light. I am concerned about that [16] highway leading to the soybean plant because [17] the proposed bypass, one of the proposed [18] by-passes, would have to cross that two [19] additional times and those trucks are going [20] awfully fast and they don't like to stop.

[21] Now certain residents in the city [22] wish to remove the train tracks from their

[1] backyard and put them in our backyard. Yes, [2] that empty cornfield north of town is my [3] backyard. I feel this not justified for many [4] reasons. When I was a kid growing up in [5] Aberdeen, a city with many rail tracks, it [6] was known as the hub city, my folks lived [7] right next to the track, but it was also [8] close to the school.

[9] I would never buy a home next to [10] the tracks. We made that decision when we [11] purchased our little rural home and the [12] homeowners along the track made their [13] decision to buy there as well. I would not [14] want a home near an airport or major highway [15] or shopping mall or a gas station, a large [16] factory, or other high traffic areas.

[17] People in our town sometimes buy [18] near the university and then complain about [19] poor parking, noise. Location, location, [20] location. Usually the homes are priced lower [21] with the undesirable factors in mind.

[22] Secondly, the train traffic moved

[1] to the country will not be as safe. This is [2] particularly true with the longer bypass. [3] Again, I stated this earlier, coming through [4] the cornfield while trucks are traveling 55 [5] miles an hour, cars are going too fast. Will [6] there be an overpass? Will there be safety [7] gates? Nobody can guarantee me this. [8] Another concern we have with the bypass is [9] the potential for more flooding in our area. [10] Essentially the new set of tracks would act [11] like a little dam for the creek and ditches [12] that flood annually in the field north of [13] town. Drainage is very poor.

[14] What justification can folks in the [15] city who request this bypass give me, a [16] homeowner near the proposed bypass, to push [17] the undesirable effects of the train on me? [18] This may be variations of the story you've [19] heard over and over, but I am the voice in [20] the country that you're pushing the track on. [21] Please continue to negotiate with the DM&E. [22] Buyout of homes was once on the table. Thank

[1] you for your time.

[2] **MR. GARDINER:** Mr. Anderson and is [3] Redlin Murphy here? Ralph Nelson? Jack [4] Yonkovich? Okay.

[5] **MR. ANDERSON:** My name is Carl [6] Anderson, I'm the executive secretary of the [7] South Dakota Grain and Feed Association. Our [8] membership is about 250 members and associate [9] members in the grain trade. Most of our [10] members are grain elevators across South [11] Dakota and we have supported this project [12] since it was first proposed and continue to [13] do so for reasons already stated by the [14] gentleman just a moment ago from Arlington.

[15] We are concerned about the [16] viability of the DM&E and let's talk about it [17] in terms of two segments. From Pierre to all [18] the way across the west river to Rapid City, [19] the line is 80 to 100 years old. It doesn't [20] have enough traffic to support upgrades, [21] which it desperately needs, the trains travel [22] from 5 to 10 miles an hour, certainly not an

[1] economical thing in anybody's book. [2] In eastern South Dakota something [3] that nobody else has addressed is the fact [4] that the Burlington Northern, our only other [5] railroad in South Dakota, has encouraged, [6] through lower rates, the construction of [7] approximately 16 to 18 110-car unit train [8] facilities and they are — if you draw a [9] theoretical 50-mile radius being the drawing [10] power of those more favorable rates around [11] them, you will find a heavy concentration [12] across this section of South Dakota which is [13] the heart of the DM&E line, and we're [14] concerned that it is going to have an adverse [15] effect on the bottom line of the DM&E, and [16] with coal people have repeatedly said, "Why [17] in the world would the grain industry support [18] coal trains?"

[19] Because we think coal trains are [20] going to preserve the DM&E and preserve two [21] competitive railroads in South Dakota. Thank [22] you and we urge your approval on this

[1] project.

[2] **MR. GARDINER:** Scott Brandon.

[3] **MR. BRANDON:** Hello, Scott Brandon. [4] I'm an employee of the DM&E railroad speaking [5] kind of for the DM&E railroad, but I'm also [6] speaking as a citizen of South Dakota. I [7] moved here approximately three years ago, I [8] used to work for other railroads in the [9] eastern United States, used to be a coal [10] railroad out there so I know exactly

what the [11] coal railroads do.

[12] As my other supporters have [13] mentioned, I've never seen any coal dust or [14] problems of that nature out that way. I have [15] seen the impact of loss of railroads in town, [16] it's not very pretty. I can tell you this [17] since I have been a railroad engineer for [18] some time; that a new rail infrastructure is [19] very well needed in this area. This rail, as [20] the other gentleman just before me spoke [21] about the deterioration of the line between [22] Pierre and Rapid City, is terrible.

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[1] As you well know there's been quite [2] a few derailments out that way. If you look [3] at our rail line between Huron and Pierre [4] where that has been upgraded to a continuous [5] welded rail, which much of the new railroad [6] will be, there has been absolutely no [7] derailments on that line since it's been [8] constructed.

[9] The safety aspect of this new line [10] that's going to be constructed is just, I [11] mean — the comment that people have already [12] made about the wait at the crossing, there's [13] going to be added lighted crossings, gates, [14] and things of that nature. The signalling [15] for the switches, as another man had [16] mentioned about an accident that happened [17] here a few months ago, very tragic, could [18] have been avoided with the new signalling [19] system that this infrastructure will provide.

[20] The grain traffic has been [21] mentioned here. I agree with everything that [22] the fellow supporters have said here today.

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[1] On a personal note, as a citizen of South [2] Dakota I have a two year old now and I have [3] one on the way and I would like for them to [4] have a future here in South Dakota. As it [5] stands right now I don't see much of that. [6] If this railroad does get its approval to [7] move on, then there will be a future for them [8] and I won't have to relocate again.

[9] In conclusion here, I would just [10] like to say that one train equals 400 [11] semi-trucks. If you feel comfortable sharing [12] the road with 400 more semi-trucks to equal [13] one of our trains, then good for you. I [14] don't care for it personally. The [15] maintenance of the roads, you don't need it. [16] This project will cost the taxpayers [17] absolutely nothing except for the people who [18] hit the bypass. I guess that's about all I [19] have to say. I'll be submitting a letter [20] with more details. Thank you.

[21] **MR. GARDINER:** Thank you. [22] Mr. Yonkovich, Is Nicole Kurtenbach here

or

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[1] Paul Koespell? Jerry Cope? Paul Johnson?

[2] **MR. YONKOVICH:** My name is Jack [3] Yonkovich, I'm the director of Human [4] Development and Distribution for Larson [5] Manufacturing. I moved to South Dakota [6] in 1970 as part of 3M's management team and [7] except for four years in the '70s I have been [8] a resident of this area. I managed the 3M [9] operations in Brookings until retirement [10] in 1995.

[11] We have participated in and shared [12] with the Brookings community the prosperity [13] that has come with the dynamic growth our [14] community has experienced. It would be my [15] opinion the majority of the Brookings [16] community does not oppose the expansion [17] that's being proposed.

[18] However, many of us are concerned [19] about the quality of life we would experience [20] in this community if we would have trains run [21] through the heart of our town 30 times a day. [22] The issue in Brookings is not just a "who

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[1] lives across or along the tracks issue," it [2] is an issue that affects almost everybody in [3] our community every day. Our residential [4] growth is to the south and will continue in [5] that direction. We have three schools south [6] of the tracks and two schools north of the [7] tracks. There is an obvious safety concern, [8] access to fire protection and emergency help [9] will be comprised for a great number of [10] people. Grade separations at the major [11] intersections within the city would improve [12] the logistics, but it is unimaginable what [13] they would do the esthetics of the city.

[14] This world works through the act of [15] compromise. Compromise is necessary and will [16] work when all parties can step back and have [17] an open mind to alternatives. We find that [18] difficult to do especially when a quick [19] consensus is not available. The position [20] taken by the DM&E with regard to Brookings [21] has not been one of compromise or a hope of [22] compromise. The DM&E has opposed bypass

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[1] discussions since the beginning. It stated [2] repeatedly that the bypass was not feasible, [3] but provided nothing to support that [4] contention. It's a tactic that's divided our [5] community. During the same time we've had a [6] significant change to our city governing [7] structure that added some delay as we put the [8] new formal government in place. Now two [9] serious bypass proposals have

been formalized [10] and there's been an opportunity for some [11] negotiation and for compromise.

[12] The original proposal was submitted [13] with a study and more recently a proposal was [14] formalized and submitted by Railco. The [15] Railco proposal is one of compromise. It [16] best considers the needs of the entire [17] community and provides the opportunity for [18] the city and the railroad to grow together. [19] Cost estimates of the Railco proposal have [20] ranged from \$17 to \$25 million depending upon [21] grade separations. With the city funds and [22] state funds that been proposed, the

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[1] additional cost to the DM&E on the project is [2] quite a small part of the \$1.4 billion. We [3] encourage you to support the Railco bypass [4] proposal when considering this project. This [5] proposal is a reasonable compromise to a very [6] difficult situation. Thank you.

[7] **MR. GARDINER:** That concludes our [8] preregistered speakers, but I want to go back [9] through and just double check these people. [10] Is Tim Brown here? Lori Hintz? Larry [11] Zikmund? Redlin Murphy? Ralph Nelson? [12] Nicole Kurtenbach? Paul Koespell? Jerry [13] Cope? Paul Johnson. Onto the folks who [14] signed up on the way in. Claire Hannasch [15] you'll be up next. Melissa Meyer? Lowell [16] Slyter? Pat Fishback? So you'll be on deck.

[17] **MR. HANNASCH:** Good afternoon, I'm [18] Claire Hannasch, I'm the mayor of Tracy, [19] Minnesota, and I have asked to get on this [20] here. I fully support the DM&E, their [21] project. I guess the thing is coal makes it [22] feasible. The winner on this here is rural

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[1] South Dakota and rural Minnesota. If we can [2] pick up a line of connections to the west [3] coast ports for crops and other markets we [4] will all win on this here. The way the rail [5] is right now, if we don't have a way that we [6] can move coal they cannot possibly afford to [7] rebuild that railroad and we all lose. Some [8] communities are against this here for [9] different reasons. I'm hoping that all of [10] the communities can get together, resolve [11] their issues, take this here back to the [12] Surface Transportation Board and approve this [13] project. It will be good for rural Minnesota [14] and rural South Dakota. It will help our [15] economy and it definitely will be good for [16] our future generations. I fully support this [17] here and I hope you do too. Thank you.

[18] **MR. GARDINER:** Thank you. [19] Ms. Fishback? Bryon Carsrud, you'll be up [20]

next, and Dan Cook.

[21] **MS. FISHBACK:** My name is Pat [22] Fishback and I'm the current chairman of the

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[1] Brookings Historic Preservation Commission. [2] One of our historic districts, the Brookings [3] commercial historic district, which consists [4] of 59 buildings and has been listed on the [5] National Register of Historic Places [6] since 1988 is located next to the existing [7] track. The central residential historic [8] district is listed on the National Register [9] of Historic Places in 1994 and other [10] individually listed sites are in close [11] proximity. We are interested in learning [12] more about the cumulative affects of the [13] rebuild on sites and structures directly [14] affected. During the Section 106 [15] consultation at the appropriate time we will [16] be putting any concerns we have in writing.

[17] **MR. GARDINER:** Thank you. [18] Mr. Carsrud.

[19] **MR. CARSRUD:** My name is Bryon [20] Carsrud. I would like to offer some comments [21] on the opposition to the bypass proposal for [22] the Brookings community. My wife and I and

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[1] our four children live in a home a few [2] hundred feet from the route of the proposed [3] bypass. We have lived in our home for 13 [4] years and have made many sacrifices to enjoy [5] the quite and seclusion of our home. We have [6] paid a premium price in electricity, water, [7] fuel, property tax, and original investment [8] to have this lifestyle. Now with no chance [9] to give any input or any talk about how it [10] will affect our lives, we are told we will [11] have a train on our doorstep. This will ruin [12] our life that we have worked to achieve and [13] no one seems to care how it will affect us or [14] how we will ever recover from this financial [15] and lifestyle destruction.

[16] From an environmental standpoint I [17] can't understand why any bypass of Brookings [18] would be the preferred alternative. The [19] bypass will cross 16 miles of previously [20] undisturbed land. The use of the existing [21] route through the city of Brookings will not [22] disturb any new land. From the standpoint of

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[1] the natural environment, clearly the greatest [2] negative impact will be to build the bypass [3] around Brookings. Since there is no need for [4] the bypass and it would have the greatest [5] negative impact, why would we want to [6] unnecessarily waste and disturb more land?

[7] The proposed bypass was developed [8] with no input from landowners that will be [9] affected by it. It was developed by people [10] who currently live by the railroad tracks and [11] the city of Brookings behind the backs of [12] those who will be affected. It was developed [13] out of concern for those who live in town by [14] the railroad and out of no concern for those [15] who it is now proposed to go by. You cannot [16] develop a project that affects so many people [17] and expect it to go unchallenged. This [18] bypass proposal is legally flawed and will be [19] the source of many lawsuits. We can not [20] stand by and have people walk all over us [21] when a clear alternative exists.

[22] There is the issue of safety being

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[1] used as a reason for the need of a bypass. [2] There will be no fewer safety issues with a [3] bypass of the city. In fact, there will be [4] more safety issues with the route of the [5] bypass. The city of Brookings was designed [6] around the railroad with only five streets [7] that intersect with the rail line. These [8] intersections in the city will be made safe [9] with cross arms and lights. There are many [10] more than five rural crossings and these will [11] not get the protection of cross arms. These [12] rural crossings will also have the traffic [13] crossing them at a higher rate of speed than [14] they would be crossed in town. There are [15] many people that commute to work in Brookings [16] and will cross these rail crossings at least [17] twice every day. There are also school buses [18] that will have to encounter these rural [19] crossings that will have little protection.

[20] Who will be responsible for the [21] gigantic cost of this proposed bypass? I can [22] see no reason why DM&E should pay anything to

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[1] fund a bypass when they own an existing route [2] through the city and should have every legal [3] right to use that route. I do not understand [4] how a railroad can be told to not use an [5] existing rail line that they now own and [6] operate. There is clearly no need for a [7] bypass, especially when there are many other [8] towns the side of Brookings or larger that do [9] not have a bypass for the trains. These [10] towns have much higher train traffic than the [11] maximum expected 34 trains per day that is [12] predicted for ten years from now in [13] Brookings.

[14] In conclusion, this bypass has no [15] clear need presented for it and appears to be [16] a legal battleground when none of the [17] affected people have been

negotiated with. [18] It would be bad policy for the Surface [19] Transportation Board to recommend the bypass [20] as a preferred route as it clearly would have [21] a negative effect on the environment and the [22] farmers and landowners whose land would be

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[1] taken. It also seems that it would be bad [2] policy to tell DM&E that they can no longer [3] use the rail line that they now own and [4] operate through town. This is the rail line [5] that the city is built around and the rail [6] line that has built the city. Therefore it [7] is my recommendation that the Surface [8] Transportation Board support the use of the [9] existing route through the city of Brookings. [10] This would be in the best interest of the [11] city. Thank you.

[12] **MR. GARDINER:** Thank you. [13] Mr. Cook.

[14] **MR. COOK:** My name is Donald Cook, [15] I own Cook Seed Company in Huron, South [16] Dakota, and before I continue my talk I got [17] to tell you where Cook Seed Company is [18] located. The DM&E railroad runs east and [19] west through Huron, First Street runs north [20] and south and I live right on the corner of [21] both of them. All the traffic and all the [22] trains go right by my place. This is not a

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[1] problem, it's never been a problem, and I [2] don't think it would be a problem for Huron. [3] We have lights, we don't have accidents, they [4] do all the switching right there and they tie [5] up the track for just a little bit, but not [6] long and we move on down and everything works [7] good. I've been in agriculture all of my [8] life, farming or ag industry. Agriculture is [9] one of the biggest commodities we have in the [10] state of South Dakota and we have very few [11] tracks through all of the state. Last year [12] DM&E hauled 62,000 train carloads of [13] agricultural product out of our state. That [14] would be 250,000 truckloads of agricultural [15] products we would have to haul out by truck. [16] Our governor is very protective of our [17] highways, we don't have many, and he likes to [18] keep them held up and this undoubtedly would [19] not last very long if we had to do that.

[20] I think it's extremely important [21] that DM&E gets to haul coal over these [22] tracks, an area where we can build a new rail

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[1] line. Seems like just every few weeks they [2] have a wreck where this railroad track is [3] becoming weaker and weaker, and they do haul [4] some big long trains of grain. I'll never [5] forget one time I sat

in a meeting with [6] Senator Hubert Humphrey, Al Barns and myself [7] and he was being considered to run for [8] president. He said, "If I get to be [9] president, one thing I will try hard to do [10] and that's take over all the railroads and [11] we'll treat them as interstates and the [12] railroads will pay the government to travel [13] over them and I'll guarantee that they will [14] be good." I hope you can support DM&E so [15] that they can haul coal and all of our [16] agricultural products out of this state. [17] Thank you.

[18] **MR. GARDINER:** Thank you. Next I [19] have Harold Murphy. Are you here? Andy [20] Carter?

[21] **MR. CARTER:** I guess the obvious [22] isn't being ignored here, that the housing in

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[1] Brookings was built adjacent to the existing [2] tract. I suspect the major impetus in [3] Brookings for a bypass or total opposition to [4] DM&E expansion is concern for impact on [5] property value for adjacent properties and to [6] a lesser extent noise and vibration. I spent [7] a night in a motel near high speed tracks. [8] In the morning a desk clerk told me there had [9] been several trains that I had otherwise not [10] noticed. I have been in one home along the [11] DM&E track here in town. The current railbed [12] causes considerable vibration. I strongly [13] suspect reconstructing the railbed would give [14] much less vibration, which makes me wonder [15] why these owners who purchased these homes, [16] implying they were willing to live with the [17] current operations, wouldn't be willing to [18] live with less noise and vibration, albeit it [19] may come with more traffic on the improved [20] DM&E tract.

[21] As I said, I suspect the owners see [22] a chance for enhancing property values. The

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[1] figures I've heard for the shorter Brookings [2] bypass, the Railco one, the eight mile one, [3] is \$26 million dollars with the DM&E [4] offering \$8.2 million and the state of South [5] Dakota offering \$4 million. The Brookings [6] housing immediately adjacent to the tracks [7] has a value of about \$14 million dollars, [8] which is the difference between the \$12 [9] million that's up on the bypass and what the [10] DM&E and state are offering.

[11] With the greater safety of the [12] gating allowed by whistle-free zones, the [13] only major safety issue I see is possible [14] delays of emergency vehicles. The 22nd [15] Avenue overpass would allow free passage of [16] the ambulances and for two-thirds of the fire

[17] stations. I understand that DM&E is [18] currently offering \$6 of the \$8 million [19] dollars to construct an overpass, if 800 [20] million tons is shipped annually. This would [21] leave \$2 million dollars for the city to pay. [22] I wasn't quite sure that the figure was 800

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[1] million tons, but with Scott Brandon's [2] comments I think that would come out to [3] about 25 trains a day, I was just doing some [4] rough figuring, that may or may not be right; [5] I'm not sure if the 800 million tons number [6] was right.

[7] That's kind of my next paragraph [8] here, but at an October 18th meeting, Kevin [9] Schieffer, DM&E president, said 20 to 30 [10] trains would be a realistic expectation. I [11] have also heard that the DM&E offer to [12] purchase housing was tied to tonnage quotas. [13] I guess what I would like to see is possibly [14] the 22nd Avenue overpass. I don't know if [15] it's really required, but where the city is [16] required to pay 25 percent seems fair as long [17] as they are pressing for a bypass which I [18] oppose. I would push for a local settlement [19] of this where the city pays a significant [20] portion of any bypass, like, 20 to 60 [21] percent, and then if a bypass is constructed [22] I would like to see the people benefitting

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[1] from it pay a considerable amount say, [2] like, 7 percent for the first tier of housing [3] and then decreasing out. I think, about a [4] million and a half dollars could be raised at [5] that.

[6] **MR. GARDINER:** Thank you. Let me [7] check a couple of other names that we have. [8] Melissa Meyer? Lowell Slyter? That [9] concluded the list of people who have signed [10] up to speak. We have some time available, [11] are there others that feel moved to provide a [12] comment or something additional to say?

[13] **MR. BRANDON:** I would like to say [14] something else if I could.

[15] **MR. GARDINER:** Okay.

[16] **MR. BRANDON:** As I spoke earlier [17] and just a few things since my time was cut a [18] little short there, I asked the STB Board —

[19] **MR. GARDINER:** Can you restate your [20] name.

[21] **MR. BRANDON:** Scott Brandon. I [22] asked the STB Board to — I guess that's kind

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[1] of redundant saying the STB Board — I asked [2] the STB to look at the needs of the many [3] residents rather than the wants of a few and [4] to do this as quickly as possible. I think [5] a 90-day voice

period was gracious, I do not [6] see it necessary — I do not see it necessary [7] dragging it on. I think this has been taking [8] longer than it needs to in my opinion. A few [9] other things, I guess that grain is a [10] problem, lower sulfur coal will solve that [11] problem, and that's basically all the other [12] things I wanted to say. Thank you.

[13] **MR. GARDINER:** Thank you. Anyone [14] else have comments that didn't get a chance [15] to provide them? Those of you who spoke I [16] appreciate your moving forward quickly, [17] please do provide your statements. Please [18] provide those at the front desk to help the [19] court reporter get it accurately and we want [20] to make sure that the key points that you [21] have, get those to us. Yes, sir?

[22] **MR. ROSTERN:** Thank you for

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[1] listening to me. I'm Bob Rostern, I'm from [2] Wolsey, South Dakota. I live between Huron [3] and Wolsey and I live on 100 acres of land [4] that DM&E wants to purchase for the main [5] operations center at Huron, South Dakota and [6] I'm also a small businessman in Huron, South [7] Dakota, running a petroleum business and I [8] would appreciate it if you would pass this [9] and get this thing moving forward. Next [10] spring would be a nice time to dig some dirt. [11] Thank you much.

[12] **MR. GARDINER:** Thank you. Yes, did [13] you want to make a comment?

[14] **MR. THORNBUSH:** My name is James [15] Thornbush. I have submitted information to [16] you previously. I just want to offer counts [17] of the traffic over the exchanges in the city [18] of Brookings. It was obtained from the [19] Department of Transportation and it shows [20] that we have approximately 4200 vehicles a [21] day over the six crossings within the city [22] limits. No exchange, except the underpass,

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[1] and that is only used at about 1300 vehicles [2] a day. There has been a 50 percent increase [3] in traffic in the last ten years on 22nd [4] Avenue and I expect that to continue rapidly. [5] My major concern is emergency vehicles if we [6] run the tracks through the city, some way for [7] an ambulance and fire trucks to get on both [8] sides of the track quickly.

[9] **MR. GARDINER:** Thank you. Any [10] others? We will conclude then. Again, feel [11] free to leave any written comments or [12] statements you have, write comments in, and [13] thank you very much for your comments. I [14] appreciate it.

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[1] **EVENING SESSION**

[2] (6:10 p.m.)

[3] **MR. GARDINER:** Why don't we get [4] started. Thank you for coming, we are really [5] glad you're here. We're here to talk about [6] the proposed DM&E expansion project, so if [7] you're here for the dancing which seems to be [8] next door, you're in the wrong room. My name [9] is Charles Gardiner and I'm going to be the [10] facilitator this evening, so my role is to [11] help make this meeting as productive as [12] possible for all of you, as well for the [13] project team that's here tonight.

[14] We're going to cover a couple of [15] logistical things and then we have a short [16] presentation. First thing we want to [17] accomplish this evening is the team would [18] like to describe the roles of respective [19] agencies, the federal agencies, that are [20] reviewing the project. So we're going to [21] cover that, we're going to provide an [22] overview of the project just a short picture

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[1] of it, also an overview of the results of the [2] Environmental Impact review and most [3] importantly we want to provide an opportunity [4] for you to provide comments to the project [5] team about that Draft Environmental Impact [6] Statement. So our agenda is in line with our [7] purpose.

[8] I'm going to cover some team [9] introductions in a moment, I'm going to cover [10] some meeting ground rules for our operating [11] procedures this evening. We're also going to [12] hear in the presentation about the Surface [13] Transportation Board, the Surface [14] Transportation Board is a federal agency. [15] We'll also hear about the roles of the [16] cooperating agencies, the other federal [17] agencies involved in the review, and an [18] overview of the project and the environmental [19] review, and then we'll get to your comments [20] shortly.

[21] Let me cover a couple of things [22] that you probably picked up at the front

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[1] table, those may help you as we go through [2] this evening here. First is a green sheet in [3] the front that has our agenda, it has some [4] other information inside, one is just some [5] written procedures of how we're going to [6] proceed with the comments. I'm going to [7] cover those in a little while as well, it [8] also has some descriptions of how to provide [9] written comments. On the back of that sheet [10] are the addresses where you can provide [11] written comments on the Draft Environmental [12] Impact Statement and some other

related [13] documents. We also have a white sheet that [14] looks like this (indicating), it's a comment [15] sheet. If you feel you want to make comments [16] tonight in writing you can certainly do that, [17] you can use this as a tool to do that, you [18] don't have to use this, you can submit [19] comments in writing either tonight or by mail [20] on this or on some other piece of paper, but [21] if you want to just make some comments [22] tonight you can do that.

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[1] There's also a half a page paper, I [2] think yours is white, that has some important [3] contact information. If you're on-line it [4] has the Surface Transportation Board's web [5] address and at that web address you can [6] access the full Draft Environmental Impact [7] Statement if you want to look at that [8] on-line. Also on here is the project [9] environmental hotline, if you have a question [10] about where the libraries are that have the [11] documents, when the end of the comment period [12] is, and those kinds of things you can call [13] the hotline and we'll get back to you with an [14] answer. The hotline is not a place to [15] provide comments, we prefer your oral [16] comments here or your written comments in [17] writing, but if you do have questions about [18] the process and procedures you can call the [19] hotline. [20] The last thing is if you do have — [21] we're going to cover some of the procedural [22] issues in the presentation — but if in the

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[1] course of that you have questions about the [2] process you can put those on this card, drop [3] it at the back desk during the meeting and [4] we'll try to take a break and answer them. [5] We're not going to try to answer questions [6] about the environmental document, we really [7] encourage you to frame those questions as [8] comments. If there's something that's not [9] clear in the document tell us that. "The [10] environmental document is not clear about [11] that," and the team will be addressing those [12] comments as part of the written responses to [13] the comments. So it is not our intention to [14] answer a lot of questions here, but you may [15] have questions about the process. We are [16] going to try to cover them in the [17] presentation, but if you still have something [18] you can fill this out and get it to one of [19] the people here with the nametags on and [20] we'll take a break at that point and answer [21] them.

[22] Let me quickly cover some ground

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[1] rules. The first is we want to have one

[2] speaker at a time, all these microphones are [3] on so they do pick up side conversations [4] which can be distracting. We also have a [5] court reporter who is transcribing your [6] comments so if there are other people [7] speaking she may miss some things, so one [8] speaker at a time is really quite important. [9] We want to honor the time limits, we have [10] quite a number of people who have signed up [11] to speak. We are having people stay to three [12] minutes so let me give you a little guideline [13] as to how much time that is. If you have a [14] written statement you can get about a page [15] and a half in three minutes. If you're [16] longer than that you might want to start [17] making some notes about what your key points [18] are and highlight those. We encourage you to [19] give us those written statements if you have [20] them with you today, they help the [21] transcriber make sure we captured everything, [22] but if you can't cover every detail that you

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[1] have in there we will be putting those in the [2] record as well and we'll take those as [3] written comments so feel free to leave those [4] with us. So summarizing is important, if [5] people before you have said your point, feel [6] free just to say I agree with that person and [7] move forward quickly. The last point is [8] respect other's opinions. This project has [9] been controversial, there are different [10] opinions about it, our role here tonight is [11] to hear all of those opinions and we need [12] your help in doing that. So you may disagree [13] with someone who is speaking, I encourage you [14] to keep that to yourself. You may support [15] people who are speaking, that's fine, you can [16] express that support, but it does interrupt [17] their time if you applaud. So those are the [18] ground rules.

[19] Now would be a good time for [20] everyone to nod and say, "Yes, we'll agree to [21] those as to how we're going to operate." Let [22] me quickly introduce the folks who are up

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[1] front. Vicki Rutson is here from the Surface [2] Transportation Board, she is the project [3] manager for the environmental review of the [4] proposed DM&E expansion. Steve Thornhill is [5] here from Burns and McDonnell, he is the [6] project manager for the consulting team that [7] is working on the environmental review under [8] the direction of the Surface Transportation [9] Board. Wendy Schmitzer couldn't be here [10] tonight, she's from the Forest Service, the [11] Forest Service is examining potential impacts [12] on Forest

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PUBLIC MEETING

Service lands. Jerry Folkers is [13] here from the Army Corps of Engineers, he is [14] going to talk a little bit about their role [15] in reviewing impacts to waterways, wetlands [16] and so forth. Charles Gardiner, that's me, [17] I'm the facilitator. So with that we'll do a [18] short presentation to cover the project and [19] the agencies and Vicki is going to start with [20] that.

[21] **MS. RUTSON:** Thanks, Charles. [22] Everyone can hear me; is that right? Again,

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[1] I'm Vicki Rutson, I'm an attorney with the [2] Surface Transportation Board Section of [3] Environmental Analysis. I'm very pleased to [4] be with you tonight and I'm looking forward [5] to hearing what you think about the Draft [6] Environmental Impact Statement.

[7] First, I would like to tell you a [8] bit about the Surface Transportation Board. [9] The Board is a federal agency located in [10] Washington, DC. The Board itself is composed [11] of three members, a chairman, a vice [12] chairman, and a Board member. Congress has [13] given the Board the responsibility of [14] licensing various railroad actions, including [15] rail construction, like the DM&E is proposing [16] here, railroad abandonment, and railroad [17] mergers.

[18] Now in February of 1998, the [19] Dakota, Minnesota and Eastern railroad filed [20] an application with the Surface [21] Transportation Board seeking the Board's [22] approval of a 262 mile new rail line

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[1] construction into Wyoming's Powder River [2] Basin. There were also smaller new [3] constructions proposed around two communities [4] and also a rebuild of DM&E's existing system [5] in order to transport coal trains from the [6] Powder River Basin. This application started [7] two processes at the Board in reviewing the [8] application. The first process is called the [9] Merits Review. Under the Board's governing [10] statutes, the Board must decide whether an [11] application meets three criteria. First, is [12] the applicant financially fit? Second, is [13] the proposal in the public interest? Third, [14] is there a public need for the proposal? In [15] December of 1998 the Board issued a decision [16] on those three criteria, the transportation [17] merits. The Board found in its decision that [18] DM&E's application had met those three [19] criteria. The Board made it very clear [20] though, that its decision was based on the [21] information submitted in DM&E's application [22] and the Board noted that all the information

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[1] wasn't before it, simply because the [2] environmental review process had just [3] started. Until the environmental review [4] process is completed, the Board said that it [5] couldn't issue a final decision on DM&E's [6] proposal.

[7] That brings us to the second [8] process of the Board, the environmental [9] review process. It's a process under the [10] National Environmental Policy Act and it has [11] several steps. It's been going on now for a [12] couple years, the step that we most recently [13] accomplished was issuing the Draft [14] Environmental Impact Statement. We did that [15] on September 27, 2000, and we provided [16] a 90-day comment period. That's a very [17] crucial step in the Environmental Review [18] process because it's your opportunity to tell [19] us what you think of the Draft Environmental [20] Impact Statement, the conclusions that we [21] made, the analysis that we did, was it clear, [22] did you understand it, was it accurate? If

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[1] not, please take this opportunity to let us [2] know. The Draft Environmental Impact [3] Statement is intended to serve a number of [4] purposes. The first is to identify and [5] evaluate potential environmental impacts of [6] DM&E's proposal and all reasonable and [7] feasible alternatives to that proposal. This [8] includes the no build option.

[9] Another purpose of the DEIS is to [10] inform federal, state and local agencies, [11] Tribes, affected communities, and all [12] interested people on what the Section of the [13] Environmental Analysis is thinking about the [14] DM&E proposal in terms of environmental [15] impact. Another purpose was to set forth SEA [16] preliminary recommendations and preliminary [17] mitigation measures. Comments are due on [18] January 5, 2001. You're free to submit as [19] many written comments as you would like after [20] that date, if you speak tonight and feel that [21] you have omitted something or think of [22] something later, you're more than welcome to

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[1] submit a written comment later on up until [2] January 5, 2001.

[3] What's the next step? When we get [4] all your comments we will then prepare a [5] Final Environmental Impact Statement. In [6] that FEIS we'll be responsible for responding [7] to your comments. If necessary, we'll [8] conduct additional environmental analysis in [9] the final. When the final is finished and we [10] issue it, the environmental record and the [11] environmental process will then be finished. [12] It's then up to the Board

to issue a final [13] decision on DM&E's proposal. At that point [14] the decision-maker, the Board, will have all [15] the information in front of it that it needs [16] to make a final decision. The Board can make [17] one of three decisions. It can choose either [18] to approve the action as proposed by DM&E [19] originally. Approve DM&E's proposal, but [20] only if certain mitigating conditions take [21] place first. Or third, deny DM&E's proposal. [22] Those are the three choices; approve, approve

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[1] with conditions or deny. When SEA issued the [2] Draft Environmental Impact Statement we were [3] working cooperatively with five other federal [4] agencies. The Board is the lead agency and [5] the five other federal cooperating agencies [6] are the Forest Service, the Bureau of Land [7] Management, the US Army Corps of Engineers, [8] the Bureau of Reclamation, and the Coast [9] Guard. We have representatives from the Army [10] Corps of Engineers with us tonight. Also [11] another federal agency, the Environmental [12] Protection Agency, has a role in this process [13] as well. EPA will be rating the Draft [14] Environmental Impact Statement, giving it, in [15] effect, a grade. With that I would like to [16] introduce Jerry Folkers from the US Corps of [17] Engineers and, again, thank you so much for [18] coming this evening and we're looking forward [19] to hearing your comments.

[20] **MR. FOLKERS:** Thank you. Good [21] evening, my name is Jerry Folkers and I am [22] the project manager within the Omaha District

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[1] Corps of Engineers. The Omaha District Corps [2] of Engineers will be responsible for viewing [3] project impact within the states of Wyoming [4] and South Dakota. The St. Paul District will [5] be reviewing impacts associated with the [6] project in Minnesota, and I would like to [7] introduce you now to Tim Fell, he's a project [8] manager working for the Corps of Engineers in [9] the St. Paul District and he will review the [10] impacts in the state of Minnesota. The Corps [11] permits jurisdiction in the matter is based [12] on Section 404 of the Clean Water Act and [13] Section 10 of the Rivers and Harbors Act. [14] Corps permits are required for discharge or [15] placement of dredged or fill materials in the [16] waters of the United States, which include [17] rivers, creeks and wetlands. Corps permits [18] are issued when it's determined that the [19] proposal is not contrary to the public [20] interest and the plans represent the least [21] environmentally damaging alternative.

There [22] are many factors which are considered during

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[1] our public interest review. Some of these [2] include wetlands and wildlife habitat, water [3] quality, safety, cultural resources, [4] floodplain values, land use, and economics. [5] Information in the Draft Environmental Impact [6] Statement and comments generated from the [7] Draft EIS and the Corps public notice and [8] comments received from the public hearing, of [9] this public hearing, will also be used to [10] make the determination whether to issue a [11] Corps permit. With that I would like to turn [12] this over to Steve Thornhill of Burns and [13] McDonnell.

[14] **MR. THORNHILL:** Good evening, my [15] name is Steve Thornhill. I'm with Burns and [16] McDonnell Engineering, we're the firm that [17] worked under the guidance and supervision of [18] the Surface Transportation Board assisting [19] them in preparation of the Draft [20] Environmental Impact Statement. What I would [21] like to do is take a few minutes just to kind [22] of hit the highlights of what the DEIS

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[1] contains and some of the conclusions and [2] results that were contained within it.

[3] The Draft Environmental Impact [4] Statement, one of the things that it includes [5] is the description of the existing [6] environment. What that is intending to do is [7] kind of paint a broad picture of what the [8] natural human environmental resources within [9] the project area are so that people have an [10] understanding of what the area is like, [11] what's out there, and kind of what the values [12] or the important things are that are within [13] the project area. It goes on from that to [14] look at what are the reasonable and feasible [15] alternatives that are proposed to meet the [16] project purposes and needs. Those [17] alternatives under the National Environmental [18] Policy Act include the no-action alternative, [19] which was evaluated in this DEIS. From there [20] once the alternatives are identified, each of [21] those alternatives is discussed as it would [22] impact the existing environment or the impact

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[1] of each alternative on the environment are [2] presented. As Vicki noted, the DEIS was made [3] available to the public on September 27 [4] of 2000, there is a 90-day comment period [5] which does conclude on January the 5th. Just [6] as far as kind of what's in there, one of the [7] things the DEIS does

is defines the purpose, [8] and need for the project and generally the [9] purpose for this project is twofold. One is [10] it would provide the financial resources, [11] through the transport of coal from the Powder [12] River Basin, for DM&E to upgrade and [13] reconstruct its existing rail system. The [14] second purpose would be to provide a third [15] and additional competitive rail carrier to [16] the Powder River Basin, therefore [17] facilitating additional competition in the [18] rail industry for the transport of coal. [19] The alternatives that were [20] evaluated to undertake that purpose or to [21] fulfil that purpose and need included the [22] no-action alternative or Alternative A as

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[1] defined in the DEIS. Alternative B which [2] generally was new construction of rail line [3] along the Cheyenne River in South Dakota and [4] Wyoming. Alternative C, which was a [5] modification of Alternative B, which removed [6] the alignment from the Cheyenne River and [7] other sensitive areas along the Alternative B [8] alignment, and Alternative D which involved [9] construction or reconstruction of additional [10] portions of DM&E's existing system and then [11] new construction of rail line adjacent to [12] existing rail corridors in the project area [13] which would again facilitate construction to [14] the mines and access to the coal mines.

[15] Just a few brief highlights for [16] each of the states that were involved in the [17] project and what we identified. In Wyoming [18] the project would involve new construction [19] to the coal mines. There would be one new [20] rail yard constructed to facilitate the [21] movement of coal. There were alternatives [22] evaluated to access the Black Thunder coal

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[1] mine and the North Antelope coal mine and [2] some of the unique characteristics that were [3] identified, and there were numerous, but just [4] to highlight a couple, would be the impacts [5] to Thunder Basin National Grassland and to [6] the many ranches and ranchers that occurred [7] throughout the area.

[8] In South Dakota, the project would [9] also include construction of new rail line to [10] facilitate access to the coal mines. There [11] would be two new rail yards constructed and [12] the existing DM&E line across South Dakota [13] would be reconstructed. There were also new [14] construction alternatives evaluated in the [15] Spring Creek area in western South Dakota, [16] the Hay Canyon area and also around the [17] community of Brookings. The unique [18] charac-

teristics that were identified included [19] impacts to Buffalo Gap National Grasslands, [20] tribal concerns, again, ranches and farmers [21] throughout the area including those both [22] along the existing rail line and the new

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[1] construction portion. Sensitive riparian [2] areas, particularly those along the Cheyenne [3] River, impact to the Angostura Irrigation [4] Project, impacts to the many communities [5] along the line, and finally impacts that [6] would be associated with either [7] rehabilitation of the existing bridge or new [8] bridge construction across the Missouri River [9] at Pierre.

[10] In Minnesota, the project would [11] involve reconstruction of DM&E's existing [12] line, there would be new construction or [13] there was new construction proposed in the [14] communities of Mankato, Owatonna and [15] Rochester. There were three new rail yards [16] that would be proposed and the unique [17] characteristics included the numerous [18] communities along the rail line, farms and [19] farmers located within the project area, Mayo [20] Clinic, sensitive repairing areas and [21] wetlands throughout the area and flood [22] control projects that are found in the

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[1] communities of Mankato and Rochester. In [2] conducting its evaluation, the STB determined [3] that a number of environmental resources [4] would be significantly impacted by this [5] project. Not all of these resources would be [6] significantly impacted by every component of [7] the project, but they would be impacted by [8] one facet or another. These resources [9] included safety, which involved primarily the [10] safety of rail highway grade crossings, [11] geology and soils, water resources, wetlands, [12] paleontological resources, cultural [13] resources, including both archeological and [14] historic, threatened and endangered species, [15] land use, noise, air quality, environmental [16] justice, aesthetics, socioeconomics and [17] cumulative impacts related to this project [18] and other proposed projects in the area.

[19] Finally the DEIS proposed measures [20] related to mitigation that could be imposed [21] as part of any project approval, should it [22] occur, to reduce or minimize the impact of

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[1] the project. In general because these [2] mitigation measures were used to apply to any [3] of the alternatives proposed they could best [4] be classified as what would be considered [5] best

management practices. Things like use [6] of silt fences or straw bales to control [7] erosion. In addition, there were numerous [8] mitigation measures that required [9] consultation and coordination between DM&E [10] and federal, state and local agencies in [11] order to address the concerns of those [12] agencies who may have jurisdictional issues [13] or concerns outside of those that the STB [14] would be in a position to mitigate. It was [15] determined however that many of the impacts [16] of the project would be difficult to mitigate [17] and that mitigation proposed may or may not [18] be effective in actually reducing the [19] impacts. Therefore an important component of [20] this process that we're in right now of [21] taking your comments involves requesting your [22] comments on what mitigation measures could be

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[1] employed that would be effective in reducing [2] the impact of the project.

[3] Lastly then, one of the things that [4] was also included as mitigation was the use [5] of negotiated agreements and those would be [6] agreements between DM&E and other entities [7] such as community groups or agencies that [8] would allow all the parties to come together [9] and agree on mitigation measures or [10] procedures which would be determined to [11] effectively reduce or minimize impacts of the [12] project. As part of development of those [13] agreements the STB provided the mechanism [14] whereby those agreements need to be submitted [15] to the Board so they can be considered in the [16] environmental review process and potentially [17] imposed as conditions of any project approval [18] should the project ultimately be approved.

[19] With that then I'll turn it back [20] over to Charles to go on with the comments. [21] Thank you very much.

[22] **MR. GARDINER:** A couple of other

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[1] quick logistical things. As we have said [2] there are really three ways to submit [3] comments; oral comments tonight, written [4] comments tonight on the comment sheet or in [5] your written statement if you brought one, [6] and then written comments by mail. As Vicki [7] described, the team will be taking all of [8] those comments and reviewing them and [9] preparing responses to those and including [10] those responses as part of the Final EIS. So [11] again I want to reiterate that we don't [12] intend to answer comments or questions that [13] you have tonight, but the process will happen [14] that the team will consider all of those [15] comments and prepare responses in the Final [16] EIS when it is

prepared.

[17] Just to summarize, the three major [18] elements that we're seeking comments on [19] tonight. The first is the Draft [20] Environmental Impact Statement itself and [21] that includes a Programmatic Agreement that [22] addresses Native American issues, it also

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[1] includes a Biological Assessment which [2] addresses issues related to threatened and [3] endangered species. So specific comments on [4] that are quite helpful, the more specific you [5] can be the easier it is for the team to [6] respond to those comments. Also as Jerry [7] mentioned the Section 404 permit application [8] related to waterways, wetland impacts, we're [9] seeking comments on that and the proposed [10] Forest Plan amendment which are part of the [11] Forest Services consideration of potential [12] impacts on Forest Service land.

[13] Your comments, we'll take them in [14] order of first federal and state elected [15] officials, if there are any here, we'll take [16] those folks first, the folks who [17] preregistered to speak, we have a list of [18] those and we'll work our way through that [19] list and then other speakers, those of you [20] who came tonight and signed up to speak or [21] people who are here who have spoken at other [22] meetings we'll take those as time permits.

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[1] Again, the ground rules, remind you we set up [2] a three minute limit, we encourage you to be [3] short and concise and summarize your [4] comments. You can provide your name and any [5] affiliation so that the court reporter can [6] capture that, and I think that's it. So, [7] we'll move on then. I am going to be timing [8] people, I'll give you a thirty second warning [9] as a sign that you ought to be wrapping up. [10] As far as I understand it right now there are [11] no state or federal elected officials that [12] have arrived to speak tonight. So let me [13] give you the first three people so you can be [14] ready to come up. The first is Eugene [15] Butler, is Eugene here? David Walder, is [16] David Walder here? Okay, you'll be on deck, [17] and Gary Larson? Great, okay.

[18] **MR. BUTLER:** Good evening. I will [19] read this so that I can cover material [20] quickly. I am Eugene T. Butler, Junior, one [21] of the oldest of three Eugene T. Butlers in [22] Brookings; the others are my son, Eugene T.

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[1] Butler, the III, and my grandson, Eugene [2] Butler, the IV. There is also a

university [3] student, Eugene M. Butler, who is not [4] related, he used to get my e-mail on campus [5] and he never forwarded it to me. I am [6] life-long resident of the state of South [7] Dakota for 35 and 1/3 years and of Brookings [8] for 30 years. Our Brookings residence has [9] been in the same location, 1626 Deer Run [10] Drive. Consequently, our property is bound [11] on the south by the DM&E railroad. Thus we, [12] my wife and I, have a keen and vested [13] interest in the DM&E coal train project.

[14] In addition to the aforementioned [15] interest I am qualified by: One, that vested [16] interest. Two, approximately eight and a [17] half years professional educational training [18] in navigational and meteorological theory and [19] practice. I have lived through the [20] pre-diesel era when railroads were steam [21] powered, fueled by coal, and all the trains [22] transported their coal directly behind the

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[1] locomotive in a coal car or tender. In [2] addition, I have traveled extensively by [3] train in the era of coal fuel trains courtesy [4] of the US War Department. Consequently, I [5] have seen the character of the neighborhoods [6] through which the trains were routed, they [7] were always degreded with coal dust.

[8] The DEIS on the DM&E project is [9] obviously a document whose subject is complex [10] and is lengthy. The section toward which my [11] comments will be principally directed is [12] Chapter four, Section 4.3.8, Air Quality. I [13] found this material to be severely limited in [14] scope. Example, "SEA identified no detailed [15] study or provided information on the amount [16] of coal dust lost for rail transportation or [17] the potential problems it could create." I [18] found this misleading and in gross error in [19] regard to coal dust. Example, "SEA does not [20] believe fugitive coal dust poses a [21] significant environmental concern." First, I [22] will present to the project director and team

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[1] a copy of a relevant article from the Wall [2] Street Journal dated Tuesday, [3] October, 12, 1993, that is titled, "Coal [4] Hauling Trains Leave Virginians Fuming in the [5] Dust." The subtitle is, "Black Powder [6] Sullies Homes and Everything in Them as [7] Railroads Seeks Remedy." Second, I will [8] forward a copy of an article from the Journal [9] Policy 1996, which informs us that, [10] "Residential Coal Dust Sullies Town. [11] Complaints concern damage to curtains, desks, [12] automobiles, lawn furniture, clothing, boats, [13] and cars. Attention from local businesses [14] center on concerns over

cross-contamination [15] of industrial projects and wind-blown coal [16] dust from trains."

[17] **MR. GARDINER:** Thank you. [18] Mr. Walder and then Mr. Larson is up next. [19] Is Barbara Walder here? Okay, great.

[20] **MR. WALDER:** I'm David Walder, my [21] family and I live along the railroad track [22] at 1308 LeGeros Drive. I urge the STB not to

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[1] grant DM&E permission to extend its line into [2] the Power River Basin because I believe the [3] whole project idea is environmentally, [4] economically and morally wrong. For DM&E to [5] make immense profits at other people's [6] expense and hardship is a contradiction of [7] the moral world. This coal train project is [8] not needed. If DM&E wants to haul coal it [9] already has the right of way and it can [10] obtain the trackage rights to enter the [11] Powder River Basin on tracks already in [12] place. DM&E does not have to lay down new [13] track on public and private land. Let DM&E [14] go forward with this project without running [15] their tracks on other people's land and we'll [16] see if it is such a viable and compelling [17] idea.

[18] I'm requesting that the DEIS be [19] rewritten, pared down so that people have [20] time to read and analyze it. Citizen [21] participation should not be denied in favor [22] of a rush to judgment. Therefore I

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[1] requesting this comment period be lengthened [2] at least 180 days after the draft is redone [3] and sent out again. I am requesting an [4] independent economic analysis of the entire [5] project. The expression "DM&E says" used so [6] often in the document is not research.

[7] I question the wisdom and the [8] legality of devaluing our property so that [9] energy consumers in other parts of the [10] Midwest can save money on their utility [11] bills. You overuse the word "however" in [12] this study. You use however to signal the [13] end of any negative remarks about the DM&E [14] project. Typically you present a few [15] harmless bland negatives and then you swoop [16] in with however and try to neutralize it. [17] You bury the negative with positive [18] statements. This practice is repetitive and [19] tactless and completely detracts from the [20] objective tone this document should have and [21] it's very biased. Your choice of the words [22] "nuisance" and "inconvenience" and "noise"

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[1] and "disturbance" appear to be nothing more [2] than carefully chosen words

that have one [3] function and that is to make the devastating [4] impact of this project appear harmless. [5] These words are not appropriate nor accurate [6] words to use in describing the devaluation of [7] real estate, the ruinization of our quality [8] of life, the threat to our safety, the [9] hazardous diesel emissions, the vibrations [10] that will shake our property and disrupt our [11] sleep.

[12] What appears to be your culminating [13] statement in this section is nothing more [14] than a writhing swirl of gibberish. You [15] state in 4.48, "Specific impacts are [16] difficult to quantify as they may be [17] significant in some areas, but not in others [18] or to one homeowner and not another depending [19] on overall real estate market of the area and [20] concerns of the buyer. Overall some impact [21] is expected, however, while the impact is [22] expected to be negative it is unknown to SEA

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[1] if it would be significant," and I submit if [2] it is unknown then you have dropped the ball, [3] you have not done the study that is required [4] in this city.

[5] **MR. GARDINER:** Thank you. [6] Mr. Larson. Is Brad Bonde here?

[7] **MR. LARSON:** I am Gary Larson and [8] I'm here as the co-chairman of the Brookings [9] Coal Train Issues Coalition, a group [10] organized in March 1998, to pursue and [11] promote an alternative to having DM&E's [12] projected heavy haul coal train traffic [13] passing directly through residential [14] Brookings.

[15] The DM&E expansion project as [16] proposed by the corporation would impose [17] significant safety, health, environmental and [18] quality of life challenges upon Brookings [19] inhabitants and particularly for those who [20] live near the DM&E right of way. We find it [21] puzzling that DM&E insists on 200 feet of [22] right of way for all new construction,

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[1] including for any bypasses of their existing [2] line, while contending that an [3] existing 100-foot right of way through [4] residentially zoned neighborhoods is plenty [5] wide for this project. We disagree. In our [6] view the company would be trying to shoehorn [7] a 21st century railroad into a 19th century [8] corridor, and the outcome would pose serious [9] danger and routine disruption for the city [10] and especially so for DM&E's neighbors.

[11] Our city government has devoted [12] long-term study and consideration to the DM&E [13] project. The conclusion consistently reached [14] is that a bypass of Brookings for DM&E's coal [15] train

traffic makes more sense than having [16] the city bisected by an entirely new [17] industrial development. Why should this [18] project, with its attendant safety and [19] environmental issues, be imposed upon the [20] maximum number of people, some of whom would [21] live in closest possible proximity to the [22] development? Our city has a bypass for

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[1] diverting Highway 14 traffic away from [2] downtown, it only makes common sense to do [3] the same thing for heavy train traffic.

[4] We acknowledge and very much [5] appreciate the support of the Brookings [6] bypass concept provided by Senators Daschle [7] and Johnson and Governor Janklow. Each of [8] these men has publicly endorsed a bypass for [9] this city and Governor Janklow in particular [10] has been very helpful in exploring ways that [11] the state can help bring this to fruition.

[12] We are also pleased to note that [13] the STB designates the B-4 alternative as the [14] environmentally preferred and most easily [15] mitigatable option for the Brookings area. [16] Compared to the other alternatives addressed [17] in the DEIS we agree that the B-4 route would [18] be the most reasonable one. We realize, [19] however, that the EIS process set forth by [20] NEPA is just that, a process, and accordingly [21] other bypass alternatives with advantages [22] over the B-4 route may need to be evaluated.

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[1] One option we believe is reasonable as a [2] reasonable alternative to B-4 is the Railco [3] proposal. This is a bypass plan offered by a [4] group of community leaders in an attempt to [5] resolve the DM&E dilemma for Brookings. The [6] Railco route would greatly reduce bypass [7] mitigation issues in that it is only half the [8] length and it would take advantage of state [9] land and existing highway right of way. The [10] route is laid out purposely to avoid home [11] sites. We realize that the Railco bypass [12] would have some impact on some rural [13] residents, but those impacts would be [14] considerably less and much more easily [15] mitigated relative to the in-town route.

[16] Even Mr. Schieffer is quoted as [17] saying of the Railco plan, "We are agreeable [18] to it as a compromise under certain [19] conditions." Unfortunately, the city of [20] Brookings and DM&E have been unable to agree [21] on those certain conditions. Thank you.

[22] **MR. GARDINER:** Thank you.

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[1] Ms. Walder and after Mr. Bonde, Scott
[2] VanderWal.

[3] **MS. WALDER:** I'm Barb Walder and I
[4] live along the railroad tracks in
Brookings. [5] My recommendation for
the DM&E Powder River [6] expansion
proposal is no build. Properly [7] con-
sidered, there are many more negatives
[8] than positives for this proposal. In the
[9] event that this project is approved for
a [10] reason which I would not know I
favor a [11] bypass of Brookings. 13 books
comprise the [12] huge DEIS document
which, because of its [13] sheer size,
cannot be read and commented on [14]
by January 5, 2001. There must be at least
[15] a 180 day period for citizens to
examine it [16] and a willingness by the
STB, if necessary, [17] to extend that 180
day time period. NEPA [18] laws do not
allow you to get away with such a [19]
massive document. Sol Simon com-
menting in an [20] October 30, 2000,
Winona Daily News story [21] notes these
NEPA requirements:

[22] "Environmental Impact Statements
shall be

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[1] analytical rather than encyclopedic."
NEPA [2] also says, "If a draft statement is
so [3] inadequate as to preclude mean-
ingful [4] analysis, the agency shall pre-
pare and [5] circulate a revised draft of
the appropriate [6] portion." Simon also
notes that NEPA warns, [7] "Agencies
shall avoid useless bulk in [8] statements
and concentrate effort and [9] attention
on important issue. Verbose [10] des-
criptions of the affected environment
are [11] themselves no measure of the
adequacy of an [12] Environmental Im-
pact Statement." In short, [13] NEPA calls
for a readable analysis, not the [14] burden
you have sent us and that analysis [15]
must not be in highly technical lan-
guage. [16] Let me cite just one example
from a noise [17] pollution and vibration
analysis which [18] obviously doesn't
speak to the common [19] citizen. That
would be Volume III-A, chapter [20] four,
Wyoming and South Dakota, page 4.3-21
[21] to 4.3-64, "Methodology and com-
puter modeling [22] are not specific
studies of the noise,

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[1] pollution or vibration impact in Brook-
ings, [2] South Dakota." They say nothing
about [3] impacts on LeGeros Drive or
Orchard Drive, [4] they say nothing about
Derdall Drive, Elmwood [5] Drive,
Olwien Street, Gilley Avenue, 14th [6]
Avenue, 16th Avenue, 17th Avenue,
22nd Avenue [7] or other neighbor-
hoods. Simply giving the [8] number of
noise receptors does not make a [9]
meaningful study for us. For the DEIS to

[10] make sense to people you must
conduct [11] specific studies and list the
impact [12] information in relationship to
specific [13] streets and avenues, homes
and businesses. [14] Therefore, I request
that a specific noise [15] pollution and
vibration study be done for the [16] city of
Brookings. Since there is no [17] guar-
antee of a Brookings bypass, I am [18]
requesting that these studies be done [19]
regardless of the ongoing bypass nego-
tiations [20] between DM&E and the city
of Brookings. We [21] have not been
provided with the information [22] we
need.

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[1] Finally, if you are concerned that [2]
DM&E cannot survive financially during
a [3] lengthy extended study of the DEIS
document [4] and its rewriting then you
should reexamine [5] your findings dur-
ing the transportation stage [6] of this
process. At that time you found that [7]
DM&E was financially fit to undertake
this [8] project and the application pro-
cess. If your [9] finding is valid, why do we
hear and read [10] that a quick decision
must be reached or DM&E [11] railroad
will not be able to continue [12] oper-
ation?

[13] **MR. GARDINER:** Thank you. [14] Mr.
Bonde and Joel Foster.

[15] **MR. BONDE:** I am Brad Bonde and
I'm [16] representing the Citizens Against
the [17] Brookings Bypass. I want to thank
you for [18] this opportunity to share
comments with you [19] tonight.

[20] I first of all want to start with [21] the
Citizens Against the Bypass Brookings
[22] petition. I have 905 signatures and of

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[1] these 905 signatures, 35 percent are [2]
represented by citizens that are living in
[3] Brookings, people affected by the
proposal. [4] They were not submitted or
collected by going [5] door to door, but
they simply added their [6] names to the
list by people who were in local [7] cafes
and restaurants. "We the undersigned [8]
citizens of Brookings County and State of
[9] South Dakota support the railroad
expansion [10] project proposed by the
DM&E, but strongly [11] oppose the
proposed STB bypass of the city of [12]
Brookings. We further support efficient
and [13] safe passage of the trains through
Brookings [14] on the existing track. We
will further [15] encourage the Brookings
county commission, [16] the Brookings
city council and all other [17] affected
government agencies to work together
[18] toward that means. Further we
strongly [19] encourage the STB to reject
Alternative B-3 [20] and B-4 as described
in the Draft EIS and to [21] adopt Al-
ternative B-2 as it relates to [22] Brook-
ings. This request is based on the lack

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[1] of statutory authority for the STB to
enforce [2] the inefficient rail con-
struction and STB's [3] failure to ad-
equately compare construction [4] im-
pacts between alternatives because of
the [5] unreasonableness of the B-3 and B-
4 [6] alternative route which has doubled
the [7] length of the two other Brookings
alignments, [8] one route by the state of
South Dakota and [9] the other by Railco
Incorporated and from [10] various other
political or other policy [11] reasons."

[12] I first want to make clear that [13]
Citizens Against the Bypass are strongly
in [14] favor of the DM&E revitalization
project. [15] The proponents — we feel
that the 16 mile [16] bypass is un-
necessary and unreasonable and [17]
redundant. The Mayor of the city of [18]
Brookings even referred to the 16 mile
bypass [19] pass as "crap" as reported in
our local [20] newspaper. The pro-
ponents of the bypass will [21] identify
safety as a concern. Living in the [22]
country we understand traffic safety

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[1] concerns. We have shown through
statistics [2] obtained from the South
Dakota Department of [3] Transportation
that train/vehicle accident [4] fatality
rates are higher in the country and [5]
that the overall accident rate per capita
is [6] higher in the country as well. It also
needs [7] to be noted that the new rail
infrastructure [8] through the city with
new signaling and [9] control systems
would greatly improve the [10] safety
along the existing rail line. Each of [11] the
through town crossings would have
safety [12] devices and quad gates, where
the proposed [13] country crossings
would merely be at-grade [14] with cross-
buck signage.

[15] The proposed bypass is [16] un-
reasonable, it is unnecessary and it is [17]
redundant and there has been no input
on the [18] plan from any of the involved
parties. [19] Landowners and nearby re-
sidents learned of [20] the proposed line
by reading about it in the [21] local
newspapers two hours before the city
[22] commission voted to accept the
proposal. It

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[1] is clearly a case of the city taking their
[2] perceived problem and placing it in
someone [3] else's backyard. Thank you.

[4] **MR. GARDINER:** Thank you. [5] Mr.
VanderWal and then Joel Foster and is [6]
Robert Foster here?

[7] **MR. VANDERWAL:** Thank you. My
name [8] is Scott VanderWal and I'm from
Volga, South [9] Dakota. First I would like
to state that I [10] am fully in support of
the DM&E's proposed [11] project, but

however I am in extreme [12] opposition to the Brookings bypass. Our [13] family owns and farms two quarter sections of [14] land that would be cut diagonally if the long [15] bypass proposal were to become reality. It [16] would be drastically devalued and the [17] efficiency and viability of that part of our [18] operation would be severely compromised. [19] This is economic loss for us, not just loss [20] of convenience or enjoyment of the property. [21] Farming diagonals means decreased efficiency, [22] lower overall yields and doubling up of

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[1] inputs along ends rows. This is not [2] reasonable.

[3] When this bypass idea surfaced we [4] were not asked or notified until the finished [5] proposal was ready to go to the STB. The [6] process was secretive and underhanded and we [7] were not asked for any input at all. There [8] is not one home or business along those [9] tracks that was purchased or built by the [10] owner without full knowledge that the [11] railroad was there. The railroad was there [12] before anything else and, in fact, the city [13] moved to the tracks when the tracks came [14] through because they knew that it would be [15] the lifeline of the city. The DM&E has [16] approached the city of Brookings with [17] numerous mitigation measures for the in-city [18] line and they have been virtually ignored. [19] In addition, having two rail lines within one [20] mile greatly increases crossings by commuters [21] and school buses. The Sioux Valley School [22] Board which is in Volga has publicly taken a

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[1] stand in opposition to the bypass based on [2] safety concerns for commuting students and [3] buses. Recent sales of property along the [4] line also show no decrease in values. So now [5] we're being told by the vocal few bypass [6] proponents that we have to accept significant [7] losses economically in the interest of [8] enjoyment of property issues within the city [9] of Brookings. I ask you: Is that [10] reasonable? I suggest not.

[11] The main purpose of the project is [12] to increase efficiency and improve service to [13] customers of the DM&E. The bypass proposal [14] would not contribute to this goal and, in [15] fact, would detract from it. Statements are [16] made in the DEIS about building spur lines or [17] possibly relocating some existing customers. [18] What a monstrous expense. This again is very [19] unreasonable. Since the city of Brookings [20] exclusively came up with the bypass

idea I [21] would strongly suggest that the city of [22] Brookings be required to pay the entire bill

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[1] for the bypass if it would be built. We [2] think that the bypass proponents are a very [3] vocal minority and that most people in [4] Brookings would say the whole bypass idea is [5] unreasonable. I suggest that if Brookings is [6] faced with raising in-city property taxes in [7] order to pay for a bypass, the silent [8] majority that we think is there would quickly [9] become a very vocal majority and they would [10] say that we're not paying for it.

[11] In summary, the Brookings bypass [12] proposal should be dropped from the [13] Environmental Impact Statement as well as [14] from the project. We as rural landowners [15] should not have to give up our land and [16] sacrifice the viability of our farming [17] operations for the bypass proposal. It's [18] unfair, irresponsible and unreasonable. [19] Please recommend that the STB drop the bypass [20] proposal. Thank you.

[21] **MR. GARDINER:** Mr. Foster. Is Ed [22] Hogan here?

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[1] **MR. FOSTER:** My name is Joel Foster [2] and I live along the B-3 and B-4 route. I [3] support the DM&E project and I support the [4] B-3 and B-4 bypass and support B-2 through [5] town. I have a hard time understanding what [6] need Brookings has shown for a bypass. The [7] city leaders have said that Brookings is too [8] unique of a town to have coal trains running [9] through it. Brookings is unique in the sense [10] that it believes that it can be situated [11] geographically between the people in the east [12] and the coal in the west and play no part in [13] getting the two together.

[14] Brookings is unique in the sense [15] that it believes it can ask rural landowners [16] to sacrifice land and livelihood for the [17] greater good, yet Brookings is unwilling to [18] go from 0 to 24 coal trains a day to relieve [19] other cities that routinely have 40 and 60 [20] and 100 or more coal trains per day. I have [21] a hard time believing Brookings is too unique [22] for trains when Fargo, North Dakota has 71

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[1] trains a day; Ames, Iowa, and St. Cloud each [2] handle 65 a day, and both these towns seem to [3] be surviving and thriving. They are doing [4] their part to supply and transport the [5] nation's energy. The Brookings bypass has [6] become a matter of luxury and convenience for [7] the city and they should pay for it in its [8] entirety. It's been said by city leaders [9] that the needs of Brook-

ings 100 years in the [10] future must be considered with having a [11] bypass. If I were here in 100 years and [12] still waiting 15 minutes for a train to pass [13] I would think my predecessors were not too [14] bright. In 100 years Brookings will have a [15] worn-out railroad through town that is 200 [16] years old. With a bypass route they would [17] have a modern track built mostly on [18] floodplain that may not be fit to use either. [19] That is exactly what B-3 accomplishes for the [20] city of Brookings.

[21] Safety between the town and bypass [22] route is a non-issue. A family in town has

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[1] said they can cross the tracks 18 times a day [2] going to and from school and work. The same [3] family in the country could cross two [4] tracks 36 times a day. It doesn't matter [5] where the tracks are, what matters is this: [6] Every time you cross a railroad track you [7] have to take on a certain amount of [8] responsibility upon yourself. If the city of [9] Brookings thinks its residents need to be [10] free from that small level of responsibility, [11] they should pay for that privilege and pay [12] for the bypass in its entirety. Again, I [13] encourage you to eliminate B-3 and B-4 and [14] wholeheartedly support B-2. Thank you.

[15] **MR. GARDINER:** Thank you. The [16] other Mr. Foster and Chad Swedlin, are you [17] here? How about Marlin Hill?

[18] **MR. FOSTER:** I'm Bob Foster, the [19] father of Joel, and it's our farm that's [20] being bisected with this bypass proposal. We [21] in South Dakota like our wide open spaces and [22] uncrowded living conditions. Some people may

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[1] feel threatened by high speed trains hauling [2] coal through their communities, but if I had [3] a choice between more people moving here from [4] out of state to gain access to our energy [5] from low sulphur coal or transporting coal [6] via the railroad to the eastern market I [7] would choose the railroad.

[8] The benefit of an ungraded railroad [9] would be improved access to markets for our [10] natural resource. Corn and soybeans, [11] woodchips, bentonite and so forth, many [12] well-paying jobs from an improved railroad, [13] more industry in the midlands of our state [14] and the prospect of added value to our [15] natural resources. Finally, fewer trucks on [16] our highways, freight is easier and cheaper [17] to move by rail than by truck, closer to [18] home. Brookings wants a bypass for coal [19] trains, they believe coal train traffic would [20] devalue trackside homes. Reports from [21] realtors do not confirm this. Listed

homes [22] sell readily without market loss. These

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[1] homes were devalued in 1999 at a 10 percent [2] devaluation because of their nearness to the [3] rail line. Since then these homes have [4] gained market value and the study may soon [5] recommend that these homes be valued at their [6] true market value and this is from the lady [7] at the courthouse.

[8] Safety in another concern of the [9] city. While it's safer to have a bypass — [10] why is it safer to have a bypass when all [11] major in-city crossings will be gated and [12] when traffic warrants it, an overpass will be [13] constructed? Compare this to a bypass in the [14] rural community where there will be many [15] unguarded crossings. A quote from the [16] preliminary DEIS report and I quote, "There [17] could be significant increase of accidents on [18] rural crossings." Does it make sense to [19] shift the burden from one to another? That [20] is what the bypass proposal will do. The [21] bypass will bisect farms and center set [22] irrigation systems causing inefficiency and

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[1] higher production costs. The bypass will [2] infringe upon the lifestyle of rural [3] homeowners who have just as much right to [4] serenity as your city dwellers.

[5] Has the STB looked at the land on [6] which the bypass will be located? Over half [7] the proposed alignment is over the aquifer. [8] The STB has labeled the land on which the [9] proposed bypass is to be located as [10] underdeveloped farmland. If the farm has a [11] center pivot it is developed. The same with [12] the conservation practices. The land on [13] which rural homes are situated is as [14] developed as city land though it is less [15] densely populated.

[16] In closing, in all the meetings [17] that I have attended on the bypass issue, [18] Brookings has never come forth with a sound [19] reason or a need for a bypass. It wasn't [20] until the city realized that they may have to [21] pay for part of the bypass is when they began [22] to meet with the DM&E officials. I thank

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[1] you.

[2] **MR. GARDINER:** Thank you. [3] Mr. Hogan, and is Daniel Humburg here?

[4] **MR. HOGAN:** My name is Ed Hogan. I [5] was — served as chair of the Mayor of [6] Brookings Ad Hoc Committee to the railroad. [7] I had hoped to never have to speak publicly [8] about the DM&E proposal again. The recent [9] information on the Railco bypass and some of [10]

DM&E's public responses were encouraging and [11] may yet provide a reasonable alternative to [12] the longer B-4 bypass. However, until the [13] DM&E decides to be a good neighbor and [14] develop a bypass route around Brookings I see [15] no option but to express support for the [16] current longer bypass identified by the STB [17] as being preferable.

[18] Today I want to focus on what I [19] consider the major environmental concerns of [20] the DM&E's proposal. First is safety. [21] Almost 1000 people a year are killed on our [22] nation's railroad tracks despite all the

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[1] safeguards of people that the railroads have [2] put in to protect people. My concern with [3] the DM&E's proposal is how many people in [4] Brookings will be killed or hurt each year [5] because of coal trains running through town. [6] More important, how many fewer children or [7] adults in the Brookings community will be [8] killed or maimed if the DM&E bypass is in the [9] heart of the city? The STB is in a better [10] position to answer this question than anybody [11] else. Each human life is a precious resource [12] to our nation. Despite all our good [13] intentions government still needs to take [14] steps, such as a bypass, to protect people [15] from harm. We did not run Interstate 29 up [16] Main Street in Brookings as we did old [17] Highway 77.

[18] Speed is another safety concern, [19] speeds will nearly triple. We're asking that [20] for safety reasons the DM&E run its route [21] around Brookings in open country just as it's [22] doing in the rest of the country and almost

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[1] all of the state. Sound and noise are still [2] another concern. Sound and noise impacts can [3] travel, open space and distances however will [4] help negate that impact. If you are [5] concerned about sound and noise talk to the [6] people in Fargo and ask them about sound and [7] noise and you may get a different viewpoint [8] than you were presented a few minutes ago. [9] Vibration, we also experience these today [10] without the sound. In reality we don't know [11] the psychological, physical and economic [12] affects vibrations will have on us because [13] coal trains are much larger than what we are [14] experiencing today.

[15] Finally, the city of Brookings [16] helped create the problem with prior zoning. [17] I'm glad to hear it's willing to help solve [18] it with money for a bypass and assuming [19] ownership of the present route through town. [20] I believe that if the STB wants to address [21] the

environmental concerns of the people of [22] Brookings it must require the DM&E to bypass

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[1] Brookings and at the same time facilitate the [2] process by allowing the DM&E to incorporate [3] the bypass into its existing request. Thank [4] you.

[5] **MR. GARDINER:** Mr. Hill and then is [6] Richard Waldner here?

[7] **MR. HILL:** Thank you. My name is [8] Marlin Hill, I was born in Brookings and [9] resided near Brookings all of my life. My [10] wife and I have spent 10 years inside the [11] city limits on Missouri Avenue, most of the [12] time was spent north of the track, but — [13] some of the time was spent north of the [14] track, but most of the years were at 205 [15] Medary and the corner of Vine Street. We got [16] firsthand experience with the trains 20 years [17] ago. I realize things are different with the [18] trains today, but you do get used to them and [19] my ambition in life was to be on the farm, to [20] return to the farm. Our greatest concern [21] about the 16 mile bypass relates to [22] springtime flooding. Our farm is on the

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[1] lower end of the Six Mile Creek watershed, it [2] runs diagonally toward the town of White. I [3] have with me two pictures of the water as it [4] flooded our property in one of those floods, [5] usually an annual event. Building a railroad [6] bed across the south side of our property as [7] proposed, will greatly antagonize this [8] situation. We were not informed of nor asked [9] to participate in any discussions or planning [10] regarding any bypass issues and we stand [11] ready to seek legal remedies if either the [12] city, the county, or DM&E make any serious [13] threat or implications to include a portion [14] of our property in this bypass. We fully [15] intend to defend our property rights. [16] Because the DM&E already owns and controls a [17] route through town, I believe that eminent [18] domain privileges cannot be used in this [19] instance.

[20] As a member of the Brookings [21] community I am very concerned that the city [22] council and the DM&E officials have yet to

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[1] secure an agreement regarding the safety [2] on 22nd Avenue at the railroad crossing. [3] With or without a bypass, this is an [4] important crossing that needs attention. I [5] feel that the bottom line position from the [6] STB should be to allow the in-state [7] in-community local residents make the [8] decision regarding the bypass. This is a [9] fairness and common sense test and that [10]

should be applied in all aspects of decisions [11] of this magnitude. The DM&E project will be [12] bogged down in the courts for a long time if [13] the STB assists in promoting any bypass. The [14] local Railco bypass plan will put many [15] semi-trailer loads of soybeans headed to [16] Volga on at least two at-grade crossings on [17] Highway 14 north and east of town and this [18] seems to be a lethal environment for a lot of [19] us. School busloads of children will also be [20] a part of that traffic flow. We need to use [21] as much common sense and fairness as we can [22] muster to reach an end to this highway

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[1] emotional situation. Thank you very much.

[2] **MR. GARDINER:** Thank you. [3] Mr. Humburg, Mr. Waldner, Is Dwight Adams [4] here?

[5] **MR. HUMBURG:** Thank you. My name [6] is Dan Humburg, I live just north of [7] Brookings. First I would like to say that I [8] have many friends and colleagues that live [9] along the present alignment in town and we [10] certainly don't wish any harm or headaches or [11] nuisances upon them. We are rural residents [12] of Brookings and we are strongly in favor of [13] the Powder River Basin project and its many [14] benefits overall to the state of South [15] Dakota. However we are not in favor of [16] shifting the burden of increased traffic on [17] the rail line to the rural residents.

[18] The reasons are myriad for that, [19] but I will restrict my comments to those of [20] safety and environmental effects. The SEA's [21] Draft EIS states that an increase in [22] accidents at rural crossings is expected with

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[1] the proposed 16 mile bypass of Brookings. [2] This is fairly logical for us as a lower [3] level of protection is offered at rural [4] crossings and approach speeds at the [5] crossings are much higher. Any bypass that [6] also includes maintaining the existing line [7] through town will result in a substantial [8] number of increased rail crossings. Diluting [9] the resources by developing two routes will [10] yield a lower level of protection along both [11] the in-town route and the bypass route than [12] could be afforded if the available resources [13] of both the DM&E and the city are [14] concentrated on establishing the safest [15] possible transit through town.

[16] With regard to environmental [17] issues, the STB document states that the [18] reason that the SEA is required to look at [19] environmental impacts of existing line [20] improvements is to comply with the Corps of [21] Engineers mandate to

consider the impacts [22] under the Clean Water Act. SEA's preliminary

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[1] EIS concludes that the negative impact on [2] wetlands and the environment would be greater [3] under the proposed bypass than under a [4] rebuild of the existing line. SEA does [5] conclude that the impacts on vibration and [6] noise receptors are greater in the case of [7] the expansion along the existing line. This [8] appears to be the only finding in the Draft [9] EIS that favors construction of a bypass. So [10] looking specifically at noise and vibration [11] the SEA document clearly shows that up to and [12] including 70 decibels, with 65 being their [13] threshold for affected noise receptors, there [14] are zero noise receptors along the existing [15] alignment affected by the wayside traffic [16] noise, until the addition of the horn or [17] whistle is considered. It must be noted that [18] since early in the process the DM&E has [19] offered to provide whistle free operation [20] with the required crossing carriers and [21] flashing lights paid for at the railroad's [22] expense. This would seem to offer a solution

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[1] that would reduce the impact and noise [2] receptors of a through-town mitigated line [3] back the zero level determined by the STB.

[4] With regard to vibration, the SEA's [5] Draft EIS concludes that structures in the [6] rural areas of the bypass may be subject to [7] more vibration impact since they have not be [8] constructed to be tolerant of adjacent train [9] traffic, as have those along the current [10] alignment. In conclusion, the conclusion [11] that I draw when I read the SEA's Draft EIS [12] is that the noise and vibration impacts of an [13] expansion along the existing line are [14] entirely manageable. Managing the safety and [15] environmental issues along any bypass is a [16] much greater challenge and potentially more [17] costly in terms of dollars and potentially in [18] lives.

[19] **MR. GARDINER:** Thank you. [20] Mr. Waldner, Is Kim Camp here?

[21] **MR. WALDNER:** I'm Richard Waldner, [22] landowner. Either the 16 mile bypass or the

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[1] Railco one would affect my land. If the [2] proposed B-4 bypass would come about, it [3] would take land to the north of my building [4] site. If the Railco proposal came about, it [5] would take land to the south of my home. I [6] am for the proposed DM&E railroad expansion [7] plan. I do believe that a bypass is not in [8] the best interest of the Brookings

community [9] or the rural area. Too many things have been [10] discussed and decided without input from [11] those that are affected by these decisions.

[12] The 16 mile bypass was decided by [13] the city, endorsed by the governor, and sent [14] to STB by the governor's office. No input [15] was asked from any of those living in the [16] rural Brookings area. Banner Engineering was [17] hired to do the study and proposed a bypass [18] plan with estimates. It's interesting to [19] note that two of the Banner Engineers who [20] worked on this proposal have also had homes a [21] short distance from the railroad. What other [22] type of decision would you expect from them?

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[1] The same thing happened when some businessmen [2] from the state of Brookings and the [3] university put together the Railco bypass [4] plan. This was presented in open meetings, [5] but again those of us in the rural community [6] were not part of that plan. In the meeting [7] we were not told the whole truth, but found [8] out after much discussion that not only [9] landowners with land who would not — I'm [10] sorry — and discussion with not all [11] landowners whose land would not be — were [12] not contacted as presented. I would [13] encourage that the STB not require either [14] bypass for approval of the DM&E's proposed [15] rail expansion. The city did not seek input [16] from the rural community. None of us in the [17] rural area that would be affected were asked [18] for input. Time and time again, many of us [19] heard about various proposals and decisions [20] when listening to the news or reading it in [21] our daily newspapers. You have heard [22] frequently today that the city did not seek

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[1] input from those in the rural community. How [2] can the STB approve either of the bypass [3] proposals since there was no input from all [4] those concerned and affected people? Thank [5] you.

[6] **MR. GARDINER:** Thank you. [7] Mr. Adams, Ms. Camp, you're up next. Is [8] Leroy Hoffman here? Okay.

[9] **MR. ADAMS:** I'm Dwight Adams, I've [10] been a resident of Brookings for 39 years. I [11] own a home on the trackside of the railway, [12] I've been in that home for 30 years. When I [13] bought my house there were two cornfields, [14] one east, one south of me. 22nd Avenue was a [15] two-lane gravel road, the pheasants went [16] through my yard and sitting with executives [17] of the St. Paul office of the Chicago [18] Northwestern railroad up in Minneapolis at [19] Viking ball games we

knew the process going [20] on in seeking the abandonment of that line. [21] Hence, we had no qualms about buying that [22] home. I am serving as an advisor to the

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[1] local citizen's committee favoring a bypass. [2] I serve on the governor's state railroad [3] study committee. I participated in the [4] Brookings Mayor's Ad Hoc Committee meetings [5] as a citizen. I served on the Mayor's [6] advisory committee for the bypass. There are [7] two basic points I would like to make based [8] on almost three years of involvement on this [9] issue, a tremendous amount of research. [10] Since I'm retired I've had time to devote to [11] doing research and study.

[12] Two points I would like to make. [13] Calling your attention, and it's documented [14] in things you already have, that a survey was [15] made, paid for by CTIC and local businessmen [16] hiring a professional research firm out of [17] Sioux Falls. The reports of that survey were [18] that 82 percent of the citizens of Brookings [19] do not favor the current alignment as [20] presented in the DM&E plan for their coal [21] trains. It should be noted that the citizens [22] of Brookings constitute 65 to 70 percent of

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[1] the citizens of the county. Only 12 percent [2] favored the railroad on the current [3] alignment. The other point I would like to [4] make and the governor's representative here [5] today talked about it, it's been mentioned [6] briefly by others, and that's valuation of [7] property. South Dakota law requires county [8] assessors to assess property at full, true [9] market value. They do this based upon sales [10] looking at sales within given specified [11] areas. As a consequence of that process this [12] year's tax notes as it came out in January or [13] February reduced the valuation on properties [14] trackside by 10 percent, across the street [15] by 5 percent. Thus no increase was imposed [16] on those homes. There are approximately 200 [17] plus homes in that category. Ballparking the [18] estimate of what the impact of that [19] devaluation, it is probably in the range [20] of \$2 to \$2.5 million dollars.

[21] When you look at sonic studies that [22] have been made and submitted by Mankato and

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[1] also a lesser one from Brookings, there are [2] conditions under which problems requiring [3] mitigation can extend out in some categories [4] to 400 feet and others to 1200 feet. There [5] are approximately 400 homes in Brookings [6] within 300 feet of the right of way. [7] Projecting

from the \$2 to \$2.5 million [8] dollars on the 200, without coal trains [9] running, just under the possibility they [10] will, then one can easily see that in five or [11] ten years if the coal trains are running you [12] might have \$10 to \$15 million or more dollars [13] devaluation. This is not only affecting the [14] homeowners, but it affects the tax base for [15] Brookings city and Brookings County. Thank [16] you. I will submit these points in writing [17] before the end of the comment period.

[18] **MR. GARDINER:** Thank you. Ms. Camp [19] and then Mr. Hoffman. Is Dale Eishold here?

[20] **MR. CAMP:** Good evening, my name is [21] Kim Camp. I work for DM&E railroad, I've [22] been here about four years. 20 years before

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[1] that I spent with Burlington Northern and [2] when I came down here I was amazed at the [3] condition of the tracks. Our track is [4] obsolete, it's worn out, most of our rail is [5] anywhere from 70 to 100 years old. We have [6] more derailments than any other railroad in [7] the United States. Most of our guys work [8] anywhere from 50 to 70 hours a week trying to [9] maintain it, and I believe if something is [10] not done this railroad is going to go under [11] and all of us will be hurt and I think the [12] whole state of South Dakota will be hurt. [13] Thank you.

[14] **MR. GARDINER:** Thank you. [15] Mr. Hoffman. Is Dale Eishold here? Joe Cech [16] will be on deck and James Wickman, are you [17] here? You're coming up shortly.

[18] **MR. HOFFMAN:** My name is Leroy [19] Hoffman. I'm opposed to the bypass, either [20] one of them. Our family moved to Brookings [21] in 1984 and we lived on Orchard Drive for [22] about two years right on the south side of

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[1] the railroad tracks. We later moved to 18th [2] Avenue south which is right off Elmwood and [3] we lived there for about 12 years. The last [4] two years we've moved north of Brookings [5] about two and a half miles. We wanted to get [6] away from the hubbub of the city, get our [7] independence out there, have a nice life for [8] ourselves out in the country. We're opposed [9] just like a lot of the other people to the [10] north, east and west of Brookings who will [11] have to cross the tracks many times during [12] the day coming and going to work. There's a [13] lot of people in Volga, Elkton, Bruce, and [14] all these other communities that do travel [15] from Brookings to work and shop and every one [16] of them will be in jeopardy

because of the —[17] a lot of the bypass options you're not going [18] to have the flare or anything else for [19] stoppage of traffic when the trains go by so [20] it's going to cause a lot of havoc that way.

[21] There's a lot of people that do [22] come from Highway 77 and that way north, a

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[1] lot of the safety concerns and inclement [2] weather for us would be like the school buses [3] and all the people, like I say, that would [4] have to work and shop in Brookings County. I [5] would like to see the people of Brookings get [6] a chance to voice their opinion on this here [7] matter, more than what they are. I know [8] there's a lot of people who are not in favor [9] of a bypass that live in town. I have talked [10] to a lot of them myself, a lot of our [11] friends, and I think that the people of [12] Brookings probably should get a very good [13] chance to vote, and that would be Brookings [14] County, the chance to vote to oppose this. [15] Thank you.

[16] **MR. GARDINER:** Thank you. Joe Cech [17] and then James Wickman and Gladys McCracken, [18] you'll be up.

[19] **MR. CECH:** I'm Joe Cech, I live on [20] Derald Drive, I've lived in Brookings for 10 [21] years, former physics instructor, I work in [22] the Brookings school district with computers.

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[1] When I was growing up I was told we had life, [2] liberty and pursuit of happiness unless we [3] infringe on someone else's life, liberty and [4] pursuit of happiness and today it seems like [5] if you have billions to invest you can have [6] it your way. Now I can't build a [7] multi-family structure on my residential lot [8] and make more income than I get from the [9] house right now. I can't build a hog [10] confinement unit inside of town because that [11] would be a nuisance to my neighbors. Both [12] the smell and noise of the hogs making noise [13] would be a nuisance. I can't do that. Why [14] should DM&E then have the right to do the [15] same thing to me and my neighbors? Why do [16] they have more rights?

[17] DM&E is not the only possible way [18] to get coal to eastern markets. We have two [19] railroads that do that well already. Using [20] the appendix from the Draft Environmental [21] Impact Statement at the existing rate, [22] the 10, the 20, the 50, and 100 tonnage

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[1] rates, the numbers don't add up. Using the [2] current political phraseology, it's fuzzy [3] math. It's assuming that the coal train is [4] at 20 metric tons. If you are

going from 20 [5] to 100 you would think you would take five [6] times it, it doesn't work out that way. 100 [7] is not listed as 40 coal trains, five times [8] eight, it's assuming this magical coal train [9] that goes to a much longer 135-car train that [10] doesn't exist to my knowledge today because [11] the couplers can't hold that. I would like [12] to know how come we're not told that the [13] reality might be a much huger number, 40, 50 [14] trains, also in the thing it lists only three [15] current trains being transferred at each of [16] those rates. Currently we have more than [17] that in Brookings and it states we're going [18] to increase our service by reducing the [19] number of trains.

[20] One final comment, my brother has a [21] boat in a slip at Prescott, Wisconsin, where [22] Burlington Northern crosses the St. Croix

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[1] River. The slip owners have secured damages [2] from Burlington Northern that requires their [3] yacht club yachts to get washed and waxed [4] every year from the water line up. My [5] brother's small boat costs over \$600 a year [6] to do, so there's definitely an effect. If [7] yachts can get washed who is going to come [8] and wash our homes and cars? Thank you for [9] your time.

[10] **MR. GARDINER:** Thank you. [11] Mr. Wickman and Gladys McCracken. Is Linda [12] Lambertz here? All right.

[13] **MR. WICKMAN:** Good evening. I'm [14] James Wickman, a DM&E employee with the [15] mechanical department. My territory is New [16] Ulm, South Dakota. I would like to take this [17] opportunity to discuss the positive impacts [18] from building this project: Safety. The [19] upgrading of the rail would end derailments [20] that have plagued the current DM&E system [21] because of fatigued rail. Through the use of [22] the new rail system there would be fewer

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[1] trucks and truck related accidents on our [2] highways and interstates. The crossings [3] would be blocked for a short amount of time [4] because of trains moving through. Next the [5] DM&E is committed to saving and improving the [6] rail service throughout South Dakota and [7] southern Minnesota. For an example of that [8] would be the growth of our businesses right [9] now here in Rainbow Lumber, Volga Bean Plant, [10] Sioux Valley Cement and others that depend on [11] the DM&E rail service.

[12] **Another issue:** The DM&E would be [13] able to provide a passenger service for the [14] first time in approximately 50 years. This [15] project would save high-

ways and interstates [16] from excessive truck wear and tear. As you [17] all know it takes about 400 semi-trucks to [18] move the same amount of freight as one train [19] moves. This project would provide many new [20] high-paying jobs. It would generate millions [21] of dollars of annual tax revenues and it [22] would provide many indirect jobs from

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[1] contractors and bringing in new business [2] opportunities. So negative impacts that [3] would result from the no action would be: [4] The growing and increase in the serious [5] energy needs of the United States would not [6] be met. Not improving this project would [7] make the United States more dependant on [8] foreign sources of energy. This project is a [9] great opportunity to make United States more [10] energy independent. The long-term future of [11] DM&E is threatened. Rail service of any kind [12] in the DM&E region would be jeopardized. [13] Safety would continue to deteriorate as the [14] rail and railbed continues to get worse, and [15] opportunities to improve its safety would be [16] lost. Let's fix our main line, existing main [17] line, and let's support this project. Thank [18] you.

[19] **MR. GARDINER:** Thank you. Gladys [20] McCracken.

[21] **MS. MCCRACKEN:** I'm Gladys [22] McCracken, I live within the city limits of

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[1] Brookings on the Highway 14 bypass. It's [2] hard not to get emotional about this issue. [3] I've lived all my life in South Dakota and [4] I've watched agricultural land be encroached [5] upon by growth and expansion. Obviously any [6] bypass of the city of Brookings by DM&E rail [7] lines will encroach on agricultural land, [8] some of which has been maintained by the same [9] family for close to 75 years.

[10] Concerns have been stated about [11] safety issues, property values, traffic flow, [12] emergency routes, highway crossings. These [13] are legitimate concerns wherever there is a [14] rail line. Our state and city government is [15] asking that we support a railroad bypass [16] which will encroach on our rural neighbors. [17] It distresses me to think they prefer to [18] divide rural acreages and the family's [19] livelihoods rather than endorsing the upgrade [20] of the existing track. It further distresses [21] me that they expect all city and area [22] residents to help finance this project in the

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[1] rural area. How many city residents truly [2] agree with the bypass proposal? Earlier [3] tonight we heard that the CAPB

group had over [4] a third of the people who signed their recent [5] petition against the Alternative B-4 bypass [6] actually were residents of the city. A small [7] group of businessmen have recommended a [8] Railco bypass. It's interesting to me that [9] these same businessmen choose not to ship [10] their products by rail and appear to have [11] little concern for fellow businessmen who do [12] ship by rail. Further they do not recommend [13] any upgrade of the in-city line, which I [14] understand will still be in use. I would ask [15] the STB to allow DM&E to upgrade the rail [16] line at its present location and not attach [17] any bypass plan to the project. Thank you.

[18] **MR. GARDINER:** Thank you. [19] Ms. Lambertz and is Judy Kroll here?

[20] **MS. LAMBERTZ:** Hi, my name is Linda [21] Lambertz and I'm a homeowner north of [22] Brookings. Here in this great country we

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[1] have a right to choose and make decisions, it [2] is our unalienable right of freedom. Somehow [3] as I see it this right has gotten lost in [4] this situation. All of a sudden a business [5] whose original existence probably brought [6] Brookings to the prosperity it has today, [7] does not have the right to run its business [8] as it sees fit, to improve its line to be [9] profitable and survive in the business world. [10] Now this business has no choice but to pay [11] for a study, and I might add restudy, for a [12] substantial number of people have already [13] sent in our views on this issue. A study [14] that has chosen to insinuate that we in the [15] sticks of South Dakota are morons and will [16] believe anything we read, i.e. the Draft [17] Environmental Impact Statement. I believe it [18] does not take a college degree or even a high [19] school certificate to see that either the 16 [20] plus miles or Railco's eight and a half plus [21] miles of virgin land being broken and [22] redistributed will have greater environmental

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[1] impacts than the line through town whose [2] impact has already been made and has settled [3] to an existence for over a century in the [4] best engineer calculated place in this area. [5] I for one have been offended by this [6] insinuation of stupidity and gullibility. [7] Perhaps you are not aware that South Dakota [8] is a poor state, we are close to or at the [9] bottom of the list for many polls for [10] salaries and per capita income, for [11] educational budgets and rankings, et cetera. [12] We do not have enough money in this state to [13] have our most important resource, our [14] children,

first priority. Here our children [15] rate education funding because gambling [16] survives. We just voted as a populous to [17] continue the use of video lottery gambling [18] resources in order not to be taxed any more [19] than we already are. [20] Now because two separate forms of [21] city government over the past two years have [22] chosen to represent a few, we are about to be

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[1] dictated to choose bridges and train tracks [2] over our children and their education. Our [3] city and state leaders seem to think millions [4] can be given to another unnecessary piece of [5] track and bridges. Track and bridges that [6] the business will fund itself in the first [7] place where they exist now. How can our [8] elected officials justify additional expense [9] when it will taken care of by the business [10] involved? How can our elected officials [11] justify this additional burden to taxpayers [12] when our children deserve the best we can [13] provide? What happened to the moral [14] conscious of efficiency and spending people's [15] hard-earned money to the wisest and most [16] efficient use?

[17] Don't get me wrong. I know a lot [18] of people, attend church with, and are [19] friends with people who live along the [20] tracks. I sympathize with them, but [21] sometimes a choice we make requires us to [22] live unfavorable consequence. They chose to

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[1] buy property by the pre-existing track and [2] now consequences are not looking favorable. [3] Still the majority, our children, the cities, [4] counties, and state's economic welfare should [5] not be penalized or burdened because of these [6] few. I implore you to choose Alternative [7] B-2, the existing track through town, and [8] help bring our unalienable rights back where [9] they belong to a people's wise common sense [10] choice. Thank you.

[11] **MR. GARDINER:** Thank you. Dean [12] Sampson and is Gerald Kluess here? Great. [13] Thank you.

[14] **MR. SAMPSON:** My name is Dean [15] Sampson, my wife, Dee, and I live on US [16] Highway 14 bypass on the north edge of [17] Brookings. We are against any bypass. We [18] own and operate a horse boarding stable on [19] the north side of Highway 14 bypass. Our [20] driveway extends to the highway bypass and [21] it's my understanding the new Railco [22] suggested eight and a half mile proposed

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[1] bypass will parallel the highway there and [2] cross my driveway.

[3] I have several questions to raise [4] with this proposed bypass. The first [5] question involves my driveway. The proposed [6] shorter bypass, as I said, would cut across [7] my driveway and according to the Air, Rail [8] Transit Department in Pierre I can't be [9] forced to reroute my driveway. Since my [10] driveway was there first it grandfathers [11] under the law, that's what they said. At one [12] of the earlier meetings we had in our [13] community I was informed I couldn't have my [14] driveway going across the railroad, they said [15] that I just legally couldn't, that was their [16] say.

[17] The second question involves noise [18] of the trains, both for my family as well my [19] stable customer's horses. We have horses and [20] we have pastures where the railroad bypass [21] would be right beside the pasture, horses [22] could be just as sensitive as humans. The

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[1] third question involves safety and I think [2] everybody is concerned about safety. We have [3] up to 100 or more vehicles turning in or [4] leaving the stable daily. This sounds like a [5] lot. Some of these are horse trailers, [6] others are retired people coming to visit [7] their grandkids, they really enjoy that. We [8] have had school buses bringing students in [9] from the surrounding schools, it gave them an [10] opportunity to see both horses and other [11] animals right in our location. I see a [12] tremendous volume of traffic on the bypass, [13] everything from, like I said, people going to [14] work, school buses, ambulances, half a dozen [15] times a day, farm to market, kids on bikes, [16] joggers and the list goes on. The new [17] proposal routing the bypass by my place [18] involves crossing the highway twice from what [19] I understand. I can't understand why they [20] had to cross it. Gates and lights as [21] suggested by the proponents of this project [22] are an invitation for traffic backups on the

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[1] highway any time of the day. These types of [2] highway crossings increase the potential for [3] major traffic pileups in my opinion. We are [4] a rural state and with many gravel roads [5] leading to Highway 14 — according to the [6] Comprehensive Land Use Plan for the Brookings [7] County printed April 15, 2000, we have a [8] large number of housing units, [9] approximately 40.4 percent out in the country [10] or small towns. That's almost half. This [11] appears to be a significant amount of our [12] population impacted in the safety area. The [13] wetlands is another thing, quickly touching [14] on, flooding. The bypass has impacted some, [15] the high-

way and the railway would do the same [16] thing. The only other thing is the real [17] estate downsizing as far as its worth could [18] really have an impact on my property.

[19] **MR. GARDINER:** Thank you. [20] Ms. Kroll and is Nicole Kurtenbach here? [21] Okay.

[22] **MS. KROLL:** My name is Judy Kroll,

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[1] I live at 606 East First Street in Volga, [2] South Dakota. My property is very close to [3] the DM&E railroad line in Volga and I have [4] several points that I would like to make this [5] evening.

[6] First, I do not support DM&E's [7] plans to become a coal hauling train. I [8] don't know why in the world we have to do it [9] in the first place. They keep telling us [10] there's going to be high-paying jobs, it's [11] going to increase the economy of South Dakota [12] and I have yet to see any specifics about any [13] kind of high-paying jobs that are going to [14] come here and how it economically is going to [15] benefit most of us that live in the state. [16] As far as I'm concerned it's just going to [17] degrade the entire quality of South Dakota.

[18] On the other hand, if this project [19] is approved and does go forward at the [20] expense of our country's air quality and [21] South Dakota's quality, I favor the B-4 [22] bypass plans. Second, in order for us to

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[1] read and comment on the DEIS document we're [2] going to need more time. I'm requesting [3] a 180-day period after the DEIS has been [4] rewritten. In its present form the study is [5] incomplete, convoluted and difficult to [6] comprehend. In the time remaining I want to [7] question some information in Volume III-A, [8] chapter 4, pages 4.3-31 to pages 4.3-63. [9] Here's what you have written or part of what [10] you have written. "The area along the DM&E [11] rail line and affected communities that would [12] experience increases in traffic or activity [13] in meeting the Board's environmental analysis [14] threshold for South Dakota are listed in [15] tables 4.3-5 through 4.3-17. Tables 4.3-5 [16] through 4.3-8 show the communities within [17] their respective counties with the number of [18] noise level sensitive receptors expected to [19] experience noise levels exceeding 65 [20] decibels. County totals are in bold and [21] include both the sensitive receptors within [22] and outside these communities. Noise

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[1] sensitive receptors within this noise level [2] due to wayside noise, wayside and horn noise [3] and horn noise only

are presented. Negative [4] numbers reflect a reduction in the number of [5] noise sensitive receptors within a given [6] noise impact category, these reductions only [7] occur in the horn noise category. Where [8] these reductions occur they are due to some [9] noise sensitive receptors in the existing [10] conditions that are within a noise conductor [11] contour due to horn noise being within a [12] contour for either wayside or wayside and [13] horn noise under future operating scenarios." [14] Well, I rest my case because I don't know [15] what that said and I don't think that that's [16] the way it's supposed to be according to [17] NEPA. Because I live very close to the [18] railroad track in Volga I want to know how [19] vibrations, pollution, coal dust and noise [20] will affect my property and quality of life. [21] As a matter of fact, in some of those places [22] that they said that exist in Brookings County

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[1] they have totally left Volga and Brookings [2] off the charts. This is very confusing [3] because of these omissions. With such [4] incomplete of a document it is useless as a [5] credible source. My life revolves around [6] research and drawing conclusions from [7] documents of many sorts including volumes of [8] government documents. From what I have up to [9] this point or what I have seen up to this [10] point, I would not accept work like this from [11] my students. I have higher standards for [12] them and I certainly expect more from my [13] government. Thank you.

[14] **MR. GARDINER:** Thank you. [15] Mr. Gerald Kluess.

[16] **MR. KLUSS:** My name is Jerry [17] Kluess, I live with my wife along the tracks [18] of DM&E at 1031 Orchard Drive and if the STB [19] should make the mistake of approving the DM&E [20] Powder River Basin project I am requesting [21] that a bypass be built around Brookings. I [22] feel it is a failed economic and

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[1] environmental judgment to allow DM&E to run a [2] coal train through barns and ranches, fragile [3] environmental areas like the Bad River, the [4] Cheyenne River, the Thunder Basin, Buffalo [5] Gap National Grasslands, Native American [6] archeological areas, land rich in fossils, [7] just so DM&E can make enough profit to [8] rebuild its line. When you grant a permit [9] for such a project you are saying that [10] economic interests are more important than [11] quiet, than clean air, than people's [12] property, than their safety, and of course, [13] their neighborhoods, cities, towns,

ranches [14] and farms that go along with it all.

[15] Whatever form it takes I do not [16] respect a government that looks the other way [17] as it approves a project knowing it's going [18] to create more harm than good. This form of [19] corporate welfare is not what this country [20] should be supporting. DM&E needs to rebuild [21] its line, but not by hauling coal when the [22] negatives far outweigh the positives. If

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[1] DM&E can't handle the expense of rebuilding [2] its line then another railroad will. [3] Business in America isn't based on government [4] safety nets being thrown under every business [5] that can't make ends meet. I have a comment [6] about your real estate views in Volume III-B, [7] chapter four, at 4.9.4.2 on page 4.9.8, You [8] say, "The SEA understand the concerns of [9] local residents along the rail line [10] particularly those currently residing along [11] the rail line." I have to ask what the [12] difference is between the phrase local [13] residents along the line and the one that [14] follows it which says, "particularly those [15] currently residing along the rail line." [16] This doesn't make much sense. But it is good [17] evidence of how carelessly you have put this [18] document together. The next paragraph [19] continues, "Increased rail operations would [20] certainly change the environment of these [21] residences, however, while these residents [22] are concerned with real estate values SEA

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[1] does not believe significant declines in real [2] estate values should occur as a result of [3] Alternative B-2." It is quite apparent that [4] you don't know what will happen to real [5] estate values when 40 trains a day pass [6] through your neighborhood. How can you claim [7] there won't be a significant decline in rail [8] trains when rail trains run through within 50 [9] feet of your property? I'll tell you why: [10] You don't know. You haven't done your [11] homework. How many of the local real estate [12] professionals that you have apparently relied [13] on for your information there at the bottom [14] of page 4.9.8 have previous real estate [15] experience in a city which has coal trains? [16] Thank you.

[17] **MR. GARDINER:** Thank you. [18] Ms. Kurtenbach. Is Paul Koepsell here? [19] Jerry Cope? Okay, you'll be up next and then [20] Dave Gedge. How about Donald Peterson or [21] Rodney Christianson?

[22] **MS. KURTENBACH:** Hello, my name is

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[1] Nicole Kurtenbach and I am operations [2] supervisor and dispatcher for the DM&E [3] railroad. Our department runs 24 hours a [4] day, seven days a week, holidays, nights and [5] weekends. My job as a operations supervisor [6] and dispatcher is to ensure the safety of all [7] DM&E employees and for the safe movement, [8] safe and efficient movement of trains with [9] balancing the trains maintenance of way on [10] and off tracks, also working with foreign [11] lines and also working with our local [12] residents to ensure their safety when we [13] operate through towns.

[14] Two things I would like to talk [15] tonight about are safety and economic impacts [16] with our expansion project. We have many [17] safety concerns right now that are impacting [18] our operations. With the record harvest this [19] last year that means record bushels, more [20] grain being hauled, and it has been very good [21] for us this past year, but also with that [22] increased business we've had increased

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[1] expenses. Increased expenses in lost [2] revenue, derailments, accidents due to our [3] deterioration of our track and also on the [4] terms of economic impact, every dollar, I [5] think it said in the paper, that is spent in [6] Brookings, I think, is passed seven times — [7] through the hands of a citizen seven times [8] before it leaves that town. I think if this [9] billion dollar expansion project, if you [10] figure out how many times that billion turns, [11] millions of dollars is going to be passed [12] through the hands of our citizens in the [13] state. It would just be one more reason to [14] attract more businesses, to keep people in [15] the state, to increase our tax revenues and [16] also help our major industry, the agriculture [17] department. So I urge the STB to rule in [18] favor of the expansion project and also not [19] to extend the comment period. We may lose a [20] good construction year next year and that [21] means a lot to us.

[22] **MR. GARDINER:** Thank you. Paul

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[1] Koepsell? Jerry Cope.

[2] **MR. COPE:** Good evening, my name is [3] Jerry Cope. I am the transportation director [4] for South Dakota Wheat Growers, we're a [5] farmer owned grain fertilizer and fuel co-op [6] headquartered in Aberdeen. I also serve on [7] the governor's committee for the DM&E [8] oversight committee. Being in Aberdeen we're [9] a little far away here, but we do have three [10] stations on the DM&E. We have one in [11] Mansfield, South Dakota, one in Redfield and [12] in

Huron, South Dakota, we have an elevator [13] as well as a new ethanol plant. [14] As a steward of the state we [15] believe that the idea of the project proposed [16] is necessary for the economic well-being of [17] the state. We believe it's beneficial, but [18] at the same time we believe it should be [19] completed safely and in an environmentally [20] sound manner and in a manner agreeable to the [21] participants. We do ship the majority of our [22] grain on the Burlington Northern railroad.

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[1] We find them to be a reliable shipper, but [2] one thing we notice on the corridor from [3] south Aberdeen where the DM&E parallels each [4] other is that where we have dual market [5] access we enjoy rates cheaper than maybe we [6] do on other points where it's just served by [7] one railroad. I mention that because any [8] time you have lower rates you can look at [9] bids to farmers and we do pay more when we [10] have lower rates. That same money goes back [11] in their pockets and they say that money [12] turns in the community. We can't forget that [13] this is a world economy. South Dakota is not [14] an island, we can't sit here by ourselves and [15] be a rural farm based economy and survive [16] without access. Access is the key in [17] marketing.

[18] We believe there are three benefits [19] to the project and number one is that access. [20] It is critical that you have access to [21] markets, it's critical that you be able to [22] ship either the raw product or a processed

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[1] product such as what comes out of the ethanol [2] plant if you're going to sell what's produced [3] in the state. The second point that we [4] believe is competitive factors that two [5] railroads running together bring and one is [6] rate competition; where you have competing [7] factors you tend to have lower rates as they [8] compete for business. The third thing we see [9] as a key is as we move through this ag [10] environment timing is critical. All the best [11] markets in the world does you no good if you [12] can't get to them. You have to be able to [13] physically have the cars, you have to be able [14] to hit the market when it wants it, without [15] that you're lost and whatever you have is of [16] no value. In summary, we would encourage [17] cooperation to complete the project in a [18] mutually agreeable fashion. Thank you for [19] this time.

[20] MR. GARDINER: Thank you. Let me [21] check these names. Donald Peterson. Rodney [22] Christianson? Good.

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[1] MR. CHRISTIANSON: Good evening, [2] I'm Rodney Christianson. I'm the chief [3] executive officer of the South Dakota Soybean [4] Processors. We are a producer [5] cooperative, 2,100 farm family members [6] throughout Minnesota and South Dakota. Just [7] to give you a background of our four years of [8] operation so far. We have generated \$200 [9] million dollars of economic impact using a [10] Brookings trade study that was done prior to [11] our initiation updating the numbers to actual [12] expenses. So there too we can say put those [13] studies into what the DM&E is doing, a [14] tremendous economic impact for our state. We [15] have returned \$9.8 million dollars to our [16] members in cash patronage. We invested an [17] additional \$10 million dollars to keep us [18] strategically competitive in our industry and [19] have invested \$19 million dollars in rail [20] equipment and rail line at our facility. [21] Without a doubt we are dependent on efficient [22] cost-effective rail transportation. Last

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[1] year we shipped 764,000 tons of product. [2] One-half of that met our customers by rail [3] transportation. Your decision will have a [4] major impact on our members, the 2,100 farm [5] families. A no decision we absolutely [6] believe will jeopardize the long-term [7] viability of continued rail service through [8] the central part of southern South Dakota. [9] Just 14 years ago there was talk of a rail [10] abandonment of this line. It's a tough [11] inefficient road and I would like to put it [12] is as we're on a minimum maintenance road [13] versus an interstate highway as we deal with [14] our transportation.

[15] A decision to force the DM&E [16] bypass, we've listened to the discussion [17] tonight, the split between the rural and the [18] local communities will only create long [19] delays and potentially kill the project. We [20] believe that your mitigation of negotiations [21] between the parties is the best route. Minus [22] the parties being able to come together we

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[1] certainly would go with the Alternative C of [2] the DEIS with the existing trackage being [3] used. Now let me give you a little bit of an [4] idea of the impact that we see, we heard a [5] little bit about competitive rates. For [6] South Dakota as a whole we are held hostage, [7] if you want to say, by one single Class I [8] railroad, the Burlington Northern Santa Fe, [9] it is the only Class I that serves our [10] railroad. In our industry, a lot of grain [11] industries, new business will not even [12] consider making an in-

vestment to come to that [13] location unless they have a competitive [14] railroad system in the same town. We have it [15] only in the same state.

[16] To give you an idea of product [17] competition, for us to ship the 50,000 tons [18] that we get out of the Pacific Northwest, to [19] ship in a carload of soybean meal versus a [20] carload of soybeans costs us \$.13 per bushel [21] more if we ship soybeans. So the BNSF [22] encourages soybeans to leave the state versus

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[1] the product. Our competitor down in Council [2] Bluffs, the differential is only \$.03. The [3] Burlington Northern Santa Fe has said very [4] clearly that they would like to see the [5] products shipped elsewhere, the raw materials [6] here, a tremendous economic impact onto our [7] state. Likewise, our same competitor [8] shipping soybean meal to Sweetgrass, Montana [9] from Council Bluffs versus us, we ship 212 [10] miles less we pay \$550 more. They [11] demonstrate by the clout that they have, [12] single, no competition, that they can set the [13] rates and have a major economic impact [14] throughout the state of South Dakota.

[15] MR. GARDINER: Thank you. That [16] concludes the preregistered speakers, let me [17] check on a couple of people we skipped over [18] early on and I'll get to the rest of you. [19] Chad Swedlin and Dale Eishold?

[20] MR. SWEDLIN: I don't have a big [21] prepared statement. I guess about a year and [22] a half ago we moved into a rural Brookings

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[1] area and about a month after we moved we [2] found out that there's going to be a possible [3] bypass and I'm just — I think a lot of [4] people are just getting sick and tired of the [5] whole, this whole big argument, you know.

[6] 100 years ago how many people were opposed [7] to a railroad being next to their house or in [8] close proximity? The town moved to the [9] railroad. Yes, it's unfortunate, I [10] understand there are people that live along [11] the tracks and they don't want the expanded [12] traffic, but they did buy the home there. To [13] push this problem off onto the rural people [14] it just doesn't make any sense and then the [15] city of Brookings, they're pushing for the [16] bypass and then they would like DM&E to pay [17] for it or most of it. So what's DM&E [18] supposed to do with the track they have [19] already? They have to upgrade that also. [20] Just the whole thing is just — the bypass [21] issue just doesn't make any sense. It's just [22] taking problems from

one area and pushing

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[1] them off onto another and I guess that's all [2] I have. Thanks.

[3] **MR. GARDINER:** Thank you. Is Paul [4] Johnson here? Bernadette DeGreif, you'll be [5] up next. The next name unfortunately I [6] really have a hard time reading it, it looks [7] like Ted Weinner, I'm guessing, is there a [8] Ted that signed up to speak? Then after that [9] Mary Schaefer. Okay.

[10] **MR. JOHNSON:** My name is Paul [11] Johnson and thank you for accepting my [12] request to address your panel in spite of the [13] fact that my request was several days after [14] the publicly declared deadline for [15] registration. To my knowledge there was no [16] public announcement for an extension of the [17] registration process.

[18] I'm a professor at SDSU where I [19] conduct research and teach on biological [20] diversity. I've been involved with the [21] scientific aspect of environmental review [22] since the mid-1970s. I'm a resident of rural

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[1] Brookings County, eight miles east of [2] Brookings. I am opposed to the project in [3] its entirety, including claims of propriety, [4] economic need and energy demand for portions [5] of the country. There is high potential of [6] permanent damage to the welfare of [7] landowners, residents and wildlife. I [8] consider the potential economic benefits to [9] the greater community and economy of South [10] Dakota by this project to be quite illusory.

[11] The DEIS compiled by your [12] contractors is an extensive and voluminous [13] document. However and regrettably, this [14] document is only a pretense with regard to [15] thoroughness and adequacy in its attempt to [16] address numerous pertinent issues. The DEIS [17] was supposedly compiled to meet the [18] specifications of the National Environmental [19] Policy Act of 1970, NEPA. Since NEPA is the [20] overriding federal law that regulates the [21] direction and potential completion of the [22] DM&E project, broad environmental issues and

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[1] policies and precepts of administrative law [2] are merely secondary issues. It is [3] imperative that the SEA and its contractors [4] regard NEPA related issues seriously. Since [5] my time is inadequate to properly address a [6] number of issues many of which were or will [7] be covered by others I would like to cite [8] only a few examples.

[9] One, the DEIS inadequately [10] discusses salient national interests that are [11] obvious effects of the project as it is [12] proposed. Issues such as mercury pollution [13] resulting from the burning of additional [14] Powder River Basin coal were poorly reviewed. [15] As such the DEIS is highly deficient and as [16] written illustrates a callous disregard for [17] the long-term health and safety of peoples, [18] foods supplies, air and water quality in the [19] eastern United States and eastern Canada. [20] Assessments of the present and nature of [21] potential effects on endangered species, [22] ecological integrity of natural communities

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[1] and long-term effects on the North American [2] biome lack the scientific rigor demanded by [3] NEPA. For example, the methodology and [4] protocols stated for surveys of plant and [5] animal populations are woefully inadequate, [6] unscientific in design and sloppy in [7] execution. Socioeconomic forecasts likewise [8] lack scientific rigor. In particular, the [9] socioeconomic forecast for the Brookings [10] region is highly biased, unrepresentative, [11] and fails to address alternatives. [12] Consequently the SEA is apparently derelict [13] in its responsibility to see that all [14] reasonable and feasible alternatives to any [15] action are implemented or addressed. As such [16] the SEA is apparently violating NEPA by [17] failing to require DM&E and the DEIS [18] contractors to compile a complete report. [19] There are only a few of the numerous glaring [20] examples of the sorely deficit documents. [21] The size of the DEIS reminds me of the old [22] adage that, "If you can't dazzle them with

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[1] brilliance then baffle them with BS." As [2] presented the DEIS appears to blatantly [3] violate the spirit and intended provision of [4] NEPA. My further comments will be presented [5] in writing. Thank you.

[6] **MR. GARDINER:** Thank you. [7] Ms. DeGrief, then Mary Schaefer. Is Tom [8] Pierce here?

[9] **MS. DEGREIF:** My is Bernadette [10] Degreif, I live at 102 58th Avenue south. My [11] husband and I live in rural Brookings. We [12] wish to state at the beginning that we are [13] not opposed to the railroad upgrading their [14] line through Brookings. We live east of [15] Brookings, we use Highway 14 on a daily [16] basis. We are concerned about the routing of [17] trains outside of Brookings in the rural [18] area. We and others who commute to Brookings [19] for work would be crossing the railroad [20] tracks that are not presently located on [21]

Highway 14. It is our understanding the [22] railroad would cross Highway 14 somewhere in

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[1] the vicinity of where the truck route north [2] of Brookings connects to Highway 14 east of [3] Brookings. The area is low. In the spring [4] and the fall we have fog many mornings and [5] nights. It is dense. When stopping on a [6] corner to get on Highway 14, looking is of [7] little help. The fog is so dense cars [8] approaching using their lights cannot even be [9] seen until they are upon the corner. With [10] windows rolled down we listen for the cars [11] because they can sometimes be heard before [12] they are seen.

[13] Our concerns with crossing the [14] railroad at Highway 14 will not be — that [15] the crossing will not be seen before a person [16] gets to the crossing. Flashing lights are of [17] little help when the fog is so dense and [18] knowing where the track is is of little help. [19] In the fog distance can seem greater or [20] shorter. When all I see is white I lose my [21] bearing as to space and distance. A [22] barricade across the highway with be of

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[1] little help if I can't see it. People living [2] in the Minnesota towns bordering South Dakota [3] work in Brookings, travel Highway 14 daily to [4] get to work as well as people from our small [5] communities of Aurora, Bushnell or Elkton. [6] They will all have to cross this railroad [7] track if built.

[8] Then there are the high school [9] students who drive to school for school [10] activities and the school buses who cross [11] that highway. We do not feel the safeguards [12] in the rural area will be in place as there [13] will be in the city of Brookings. We live [14] far enough, five miles from Brookings, to be [15] considered rural, close enough that the city [16] children come out to our gravel road to drink [17] and party and not get caught. The evidence [18] of that is in the beer cans, bottles and [19] other liquor bottles strewn around our dirt [20] road. The evidence is the kids wandering to [21] our door staggering because they are stuck [22] and wanting to use a phone. I do not know of

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[1] any parent who wants to have their kids [2] scraped off the road on a foggy dark night [3] because they didn't see the railroad [4] crossing.

[5] **MR. GARDINER:** Ms. Schaefer and Tom [6] Pierce and then Mark Behrends.

[7] **MS. SCHAEFER:** My name is Mary [8] Schaefer and my husband and I moved to [9] Brookings 17 years ago from Mi-

chigan. After [10] spending over two months looking at property [11] to build our house we choose to build north [12] of the city in an established neighborhood [13] on 42nd Street. We now have children. My [14] concern for the coal trains running through [15] or around Brookings is safety. It was said [16] by Mr. Schieffer on October 26, that there is [17] no safer place to have the trains run than [18] through the city of Brookings on their [19] present tracks where there will be in place [20] state of the art safety features along with [21] slower moving vehicles. Another concern that [22] I have is the primary annoyance of the train,

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[1] and that is the train whistle. In the city [2] the trains will be whistle free. However, in [3] the country where I live there will be the [4] whistle and that annoys me. There are no [5] sound barriers in the country to buffer that [6] whistle.

[7] **MR. GARDINER:** Thank you. Tom [8] Pierce.

[9] **MR. PIERCE:** My name is Tom Pierce, [10] I live at 520 Samara Avenue in Volga and I'm [11] a lifelong resident of the community in Volga [12] and a 16 year resident of the city of Volga. [13] I'm also an 11 year member of Volga City [14] Council, currently serving as vice president. [15] I thank you for this opportunity to address [16] the Surface Transportation Board as a citizen [17] of the city of Volga and as a representative [18] of the Volga City Council. The city of Volga [19] has taken a formal position in support of the [20] expansion and renovation of the DM&E railroad [21] through South Dakota, Minnesota and Wyoming. [22] The city of Volga recognizes the importance

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[1] of quality rail service for South Dakota and [2] the city of Volga and the industries of Land [3] O Lakes and the South Dakota soybean [4] processors located in and adjacent to the [5] city of Volga.

[6] The city of Volga has been a strong [7] supporter of ag related business and believe [8] that future development of our city depends [9] on a strong rail service option. On the 21st [10] of June, 1999, the city of Volga passed [11] Resolution 1999-08 strongly opposing the [12] proposed 16 mile bypass of the cities of [13] Volga and Brookings. It is the city of [14] Volga's position that the bypass adds undue [15] safety concerns to the rural community, the [16] Sioux Valley school system and related school [17] bus routes. The city of Volga recognizes [18] that the proposed bypass construction would [19] have to address the crossing or closing of [20] 9 [21] mile roads in the Sioux Valley

school [21] district alone. This doubles the number of [22] rail crossings that the rural community would

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[1] have to contend with as they commute to jobs, [2] school and business. I have included copies [3] of this resolution.

[4] The city of Volga has not been [5] approached for comment or invited to enter [6] into planning of the proposed bypass of our [7] city. Our first review of the plans was [8] after the plan was presented. The city of [9] Volga believes that the best place for the [10] train is on the existing track that goes [11] through Volga. We also feel that the city of [12] Volga and the DM&E railroad will work [13] together to make the four existing crossings [14] safe for our community. Thank you.

[15] **MR. GARDINER:** Thank you. [16] Mr. Behrends and Mr. Nelson and then Martin [17] Maca.

[18] **MR. BEHREND:** My name is Mark [19] Behrends, I've been a resident of Brookings [20] and the Brookings area for about 35 years. I [21] currently reside east of town which would be [22] near the proposed 16 mile bypass. Currently

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[1] I don't know what's worse: A federal [2] government that issues a Draft Environmental [3] Statement that's rather cumbersome and [4] somewhat haphazard and inaccurate or a city [5] government, or a nearby city government, that [6] likes to come up with a bypass plan without [7] consulting with their neighbors.

[8] Back to this Draft Environmental [9] Impact Statement. It looks like there is [10] kind of a cursory study of the noise and [11] vibration impact on the residents of the [12] city. I would like to know what you've done [13] in terms of studying this impact on the [14] residents and the businesses along the [15] proposed 16 mile bypass. The reason why I [16] bring it up is obviously I'm concerned about [17] the noise, having a residence near this [18] bypass, but currently I've been working at [19] starting a pottery business. It's just a [20] humble business, but it's a business. I plan [21] to make it my career and the thing about [22] pottery, it's a matter of physics. When I'm

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[1] firing these pots if I have enough vibration [2] there goes the pots and there goes my [3] business straight down the tubes. It's not [4] just my business, what about these farmers [5] who have pivot irrigation nearby, some of my [6] neighbors. I mean, these people in Brookings [7] talk about the impact on

their residential [8] property values. What about the impact on [9] business that this 16 mile bypass will cause?

[10] Also, in my area, I live pretty [11] much just two and a half miles straight east, [12] I'm concerned about what might happen when [13] this bypass is built near the Deer Creek [14] area. There's usually pretty good floods in [15] that area. I'm sure this proposed bypass is [16] going to affect that quite a bit. Also where [17] is the soil going to come to build this [18] railroad? Start digging it up you're going [19] to affect the Sioux River aquifer, that's [20] where we get our drinking water. So if we're [21] going to build that, obviously they are going [22] to have to haul in dirt which is probably

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[1] going to come out to cost a whole lot more [2] than what the city has come up with, which is [3] a rather contrived amount. Also, another [4] environmental concern up around Six Mile [5] Creek that has an endangered species of fish [6] in there, what have you done to address that? [7] Thank you.

[8] **MR. GARDINER:** Thank you. [9] Mr. Nelson and Martin Maca and Deb Tweed, [10] you'll be up shortly.

[11] **MR. NELSON:** I support the DM&E [12] Powder River expansion. I manage agri [13] business in Lake Preston, grain handling is a [14] major part of business. During harvest there [15] seems to always be grain car shortages. We [16] feel that with greater speeds the turnaround [17] time should almost double from what it is [18] today. Also I know the condition of the rail [19] is very poor, with the DM&E expansion project [20] we could guarantee a railroad for many years [21] down the road and with the quality we [22] question whether the DM&E can stay in

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[1] business. We all know how poor it is and [2] with this project thousands of farmers along [3] the line, hundreds of elevator employees and [4] million of dollars in taxes would be saved by [5] the expansion project. Thank you.

[6] **MR. GARDINER:** Thank you. Martin [7] Maca.

[8] **MR. MACA:** My name is Martin Maca, [9] I am a Brookings resident, I do not live [10] directly along the track. I would like to [11] address some issues tonight that I think need [12] to be looked at and that is two. One is the [13] quality of life that will be diminished if [14] the railroad goes directly through Brookings. [15] I'm not opposed to the expansion project, but [16] I do support a bypass. I would also support [17] a negotiation of a shorter bypass if that [18] comes to be. In terms of quality of life, I [19] think the continual

sound will be affecting [20] our quality of life, I think the fumes from [21] increased numbers of trains, I think the [22] potential for coal dust, but what really

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[1] concerns me is the safety issues. I have [2] three children, two go to high school and one [3] goes to elementary school, we average 18 [4] crossings a day to school, to stores, to [5] shopping, to friend's houses. We've all [6] addressed or at least it's been addressed [7] tonight about cars and how safe it would be [8] if it would go through the community in terms [9] of autos, but what about the kids that walk? [10] What about the kids that ride bikes? We have [11] a swimming pool in the community on one side, [12] and athletic complex is on the other side.

[13] My son is nine years old and if you [14] know nine year old boys they are daring and [15] they will try to scoot around anything, and [16] my fear is that with an increasing number of [17] train that go through the community there's [18] going to be a lot of pedestrians in danger [19] and kids trying to beat it and trying to [20] think they can sneak across it. So I haven't [21] seen anything that would address that, I [22] don't believe there's a good way to address

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[1] it. So therefore I oppose it going through [2] Brookings and would support a bypass around. [3] I also question the — we've heard a lot [4] about the increase in terms of carrying [5] agriculture crops. I guess I don't know, I [6] don't have any figures, but when DM&E is [7] doing this to haul coal I would imagine the [8] agriculture crops would go the bottom of [9] their list of things to haul and coal is [10] going to be it, and if there's room and space [11] then the other products will be hauled as [12] well. Thank you.

[13] **MR. GARDINER:** Thank you. [14] Ms. Tweed and Don Higgins, you're up next.

[15] **MS. TWEED:** Hi, my name is Deb [16] Tweed and I probably wear many different hats [17] in this issue. My husband is a DM&E employee [18] and yes, I'm still proud to state that. I [19] live less than a block away from the tracks, [20] I moved there after the expansion was [21] publicized. My daughter also lives next to [22] the tracks in the apartments on Lions, next

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[1] to Lions Park, her apartment faces the [2] tracks. That train goes within 200 feet of [3] her apartment where her sliding glass doors [4] are. I am in favor of the expansion, I am [5] not in favor of a bypass. I enjoy hearing [6] those trains, I do hear them at times. We [7] did not hear

that awful derailment that [8] happened, we did not know about it until 2:00 [9] the next afternoon and we live probably about [10] a block, we did not hear it and we don't live [11] in a real fancy house, it's considered a [12] manufactured home. We hear the trains once [13] in a while, I tease my husband about those [14] noisy old trains, but I enjoy hearing them [15] and they do not disrupt my life. I can hear [16] my TV, I can talk to my husband.

[17] When I am at my daughter's home [18] with her sliding glass doors open we're [19] sitting in her living room we can still talk [20] when the whistles are going on Medary Avenue [21] and 17th Avenue, she hears them going and [22] coming both ways.

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[1] It does not disrupt her life, it [2] does not interfere with her watching TV or [3] having a conversation. They are not that [4] awful. When we get the wireless, the [5] crossing without all the whistles, it's going [6] to be even quieter.

[7] I've been in communities with [8] those; Scottsbluff, Nebraska, I was less than [9] a block away, you don't hear those whistles. [10] I asked people who lived in Scottsbluff, [11] "Does this bother you?" They were, like, 200 [12] feet from the railroad track with the coal [13] trains going through, they had no problems [14] with them.

[15] I was just in Jefferson, Iowa, [16] where the trains go through about 45 miles an [17] hour, I was astonished that they were going [18] through there, I didn't hear them until I was [19] almost on the tracks, but they did not bother [20] anybody. I am for the expansion, but not for [21] the bypass. Thank you.

[22] **MR. GARDINER:** Thank you.

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[1] Mr. Higgins.

[2] **MR. HIGGINS:** My name is Don [3] Higgins, otherwise known as No Coal Train. [4] My mind is so bent by reading the Draft EIS [5] that I can't recall my name so you can just [6] call me No. You've heard of my distant [7] relative John Coal Train, he couldn't be here [8] tonight because he's writing another coal [9] train song called Lilly White Coal Train [10] Blues, it's about a snow job on wheels, soon [11] to be released on the Black Lung label.

[12] The last time I saw Coal Train he [13] told me to lighten up and have a little fun [14] with this project. He said, "Get them 50 [15] pounds of coal documents off your head, 50 [16] pounds is too much for anyone to carry in his [17] head or off his head." He said, "Lay that [18] burden down and go to Kansas City and have a [19] little fun." So I'm No Coal Train and

I'm [20] going to Kansas City, Kansas City here I [21] come.

[22] Now I know from all that reading

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[1] that DM&E does not go to Kansas City and [2] never will and, therefore, they can't have no [3] fun, but I'm going to Kansas City on that [4] uppity Burlington Northern coal train. I've [5] got a first-class air conditioned gondola car [6] and a one-way ticket to Kansas City. Kansas [7] City Power and Light that's where I'm going, [8] and I got company with 110 other coal cars on [9] one train and we ain't stopping for no corn [10] whiskey in Brookings.

[11] So if you pardon me, I've got a [12] train to catch. Maybe one of you will help [13] me find it, it's big and black and quiet [14] because this is a whistle-free town, and on [15] this train I'll try to read more of the Draft [16] EIS and the 404 jive.

[17] It's incomplete, it's inaccurate, [18] it's unclear, it's confusing, with no index, [19] the maps are poor, it's applicant driven. I [20] repeat, an applicant-driven EIS does not [21] quite do it to meet the standards. Yes, [22] that's the federal law along with the Clean

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[1] Air Act and the Clean Water Act. Bye now, [2] I'm going to Kansas City and I'll see you [3] there in court. Thank you.

[4] **MR. GARDINER:** Thank you. This [5] concludes the people who have signed up to [6] speak. Is there anyone else? We have more [7] time, is there anybody who hasn't had a [8] chance to speak that feels moved? Yes, sir.

[9] **MR. JOHNSON:** My name is John [10] Johnson, I live out by the bypass. I guess I [11] didn't decide to come here until tonight, I [12] read the little piece in the Brookings paper. [13] I'm for the expansion, but I'm against the [14] bypass.

[15] I guess the main thing and I don't [16] know if this committee has the right to look [17] at it, but earlier it was said that it works [18] with the government, the local and federal [19] governments. I read in the paper just a [20] little bit tonight about how the Brookings [21] City Council voted five to two or so to [22] accept the bypass.

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[1] These are elected officials. I [2] took a petition to a cafe a couple of weeks [3] ago against the bypass. I'm not a very [4] talkative person, I went and sat down with [5] people I usually have coffee with every [6] morning.

[7] There was approximately 50 people [8] in that cafe, probably three-quarters of them [9] were residents of the city of Brookings. I [10] sat the petition down, I

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didn't say anything [11] about it, and it just got passed around the [12] cafe and that thing was full and I needed [13] another sheet.

[14] I don't know where they are coming [15] with this is what the people in the city of [16] Brookings want, you know, everyone I talk to [17] just seems like this is kind of an extra [18] expense. I also was a cop for 10 years in [19] this town, the existing track needs help, it [20] needs to be redone, but every road [21] except 22nd Avenue is 25 miles an hour. It's [22] a lot easier to stop for trains at 25 miles

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[1] an hour than it is at 55 miles an hour out on [2] the bypass. Thank you.

[3] **MR. GARDINER:** Thank you. Is there [4] anyone else who hasn't spoken that wants a [5] chance? Did you want to speak again?

[6] **MR. WALDNER:** I have just one point [7] to make. There's been —

[8] **MR. GARDINER:** Can you state your [9] name again?

[10] **MR. WALDNER:** David Waldner. There [11] has been a lot of comment tonight about not [12] favoring a bypass, but favoring the project. [13] I think what we have to come to terms with [14] morally on this is that you cannot support [15] the project and complain about a bypass. [16] There are 260 or 280 miles of land in [17] southwestern South Dakota and northeastern [18] Wyoming.

[19] I have not heard one concern from [20] anybody about those farmers and ranchers [21] whose land will be violated just as your land [22] will be violated. How are we going to stand

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[1] here and say that we don't favor a bypass, [2] but that we support the project? Is it okay [3] to go through the land in southwestern South [4] Dakota and northeastern Wyoming, but not your [5] land?

[6] I certainly don't blame you for not [7] wanting this to go through your land or by [8] your acreage, but it's very hypocritical when [9] you sit here and say you support the project [10] when you know there are going to be people [11] out west that are going to have their land [12] run over, hundreds of them just like you, and [13] if you would like some of their names I would [14] certainly be glad to give them to you.

[15] **MR. GARDINER:** At the risk of [16] turning this into a debate at this time [17] between two sides of the community I'm going [18] to ask that if you have more comments that [19] you direct them up front and the folks who [20] are working the Draft EIS. Is there anyone [21] else who would like to provide comments on

[22] the Draft EIS? I really do not want to turn

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[1] this into a debate.

[2] **MR. HILL:** Marlin Hill is my name. [3] I truly would like an answer to his question. [4] I think that I have one, but I don't know [5] that it's proper or accurate. I feel that as [6] a landowner that I have rights, that because [7] the railroad has a right of way presently [8] that that is different from the situation in [9] western South Dakota and Wyoming and so the [10] rights of eminent domain are different here [11] than they are there, and if I'm wrong I would [12] like that corrected. Thank you.

[13] **MR. GARDINER:** Any new comments? [14] Yes.

[15] **MR. CECH:** Short one, Joe Cech, [16] again, living across the street from the [17] railroad. I did a lot of sound research and [18] all the numbers and decibels and all the [19] sound pressures and stuff that were in the [20] DEIS and the formulas for calculating how [21] loud it would be, most of which left out the [22] constant, so you couldn't calculate anything.

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[1] It's like saying you get the formula to [2] calculate the area of a rectangle, but we're [3] not going to give you the length or the [4] width.

[5] So we need the actual numbers and [6] the best that I can get from your data was in [7] the DEIS from jointed rail out in the country [8] by Washington Springs and the sound levels [9] there, certain distances, I came up with a [10] better explanation of what it would be like [11] in my home in Brookings. Every 21 to 29 [12] minutes, depending on what rate of travel, a [13] blender will go off in my bedroom for 18 [14] hours a day, for several minutes.

[15] The people the next few rows away [16] will hear a vacuum cleaner turning on in [17] their bedrooms in the middle of the night for [18] several minutes while the train goes past and [19] that is not including the loud horns, and the [20] loud horns that they are talking about is [21] like having a chainsaw two feet away from you [22] going wide open in the sound level.

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[1] So if you can imagine your [2] neighbors cutting down a tree with a [3] chainsaw, that's what it's going to sound [4] like for the people along the track.

[5] Now those are approximate sound [6] comparisons, it depends on humidity, [7] pressure, all the variables that are not [8] mentioned in the Draft Environmental study [9] and several of the previous

people would [10] really like to know, and I think the people [11] in the rural areas deserve a similar study so [12] they know if they are within 1000 feet, 500 [13] feet, 200 feet, 100 feet, what the sound [14] level will be in their homes and the [15] vibration levels.

[16] It states that you can have [17] structural damage up to 200 feet away from [18] the track and we have only 100 foot right of [19] way through Brookings. When our houses start [20] falling down and foundations cracking who is [21] going to pay to fix that, along with who is [22] going to pay to clean the coal dust off our

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[1] homes. Thank you very much for your time.

[2] **MR. GARDINER:** Thank you. Others?

[3] **MR. BEHREND:** Mark Behrends again. [4] I think those rural people, a lot of them, [5] that talk about supporting the project, but [6] not wanting a bypass, I think a lot of them [7] are concerned about the other farmers and [8] ranchers out there.

[9] By that I mean, they just want [10] what's fair. They want what's fair for those [11] other farmers and ranchers. I'm sure a lot [12] of them do and they want what's fair for the [13] rural people here. Is what's fair a bypass [14] plan that was just thrust on their neighbors [15] by a community that didn't bother discussing [16] it with them, is that what's fair? These [17] people just want what's fair.

[18] **MR. GARDINER:** We're looking for [19] comments on the Draft EIS.

[20] **MR. TROSEN:** My name is Mike [21] Trosen. I, like Jerry Cope, work for the [22] South Dakota Wheat Growers, my comments will

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[1] be based on the safety aspect of this [2] project. I'm a resident of Miller, South [3] Dakota. Currently we have welded rail [4] through our community, DM&E upgraded that a [5] few years ago. We probably got as good a [6] rail line as you're going to find in the [7] state of South Dakota.

[8] Trains can move through our town at [9] anywhere from 25 to 40 miles an hour [10] depending upon track conditions, time of day, [11] weather, other factors. We currently have no [12] crossings protected with cross arms in the [13] city of Miller. Highway 45 runs south [14] through Miller and constitutes Main Street.

[15] We, like the gentleman earlier, [16] have our community divided with the sports [17] complex on the south side of the tracks, the [18] main body of the town on the north. When a [19] train is going

through Miller, South Dakota, [20] right now you better be looking because all [21] there's going to be is some red lights [22] dinging, but nothing to protect the road.

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[1] We've had numerous close calls where cars and [2] trucks have almost hit the trains.

[3] Part the first things we noticed [4] about this project when the DM&E came out [5] with it was that they were going to upgrade [6] and improve the safety of the crossing [7] through the communities that they serve. [8] This is going to be a vital aspect for small [9] communities as far as safety goes because it [10] isn't going to matter if they run 1 train [11] or 40; if you're on that track when it comes [12] through and you didn't see it, you'll be just [13] as dead. We look at this as a great [14] improvement to the safety of the rail line of [15] South Dakota. We could argue for the rest of [16] the night, but as far as I'm concerned from a [17] safety aspect this railroad will be much [18] better than it is today. Thank you.

[19] **MR. GARDINER:** Thank you. Any [20] other comments? That will conclude the [21] comments this evening. I definitely [22] appreciate you all coming. Very thoughtful

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[1] comments, very helpful to the team.
[2] Again, if you have written [3] statements or you've been filling out a [4] comment sheet while you've been here feel [5] free to leave it at the table in the back and [6] we certainly welcome your comments any time [7] before January 5th. Thank you very much for [8] coming.
[9] (Whereupon, at 8:30 p.m., the [10] PROCEEDINGS were adjourned.)

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