Attachment E

Comments Received on the Final EIS

From: Kristofer Gunnar Paso
To: BlueLineExt
Subject: comment
Date: Tuesday, July 26, 2016 6:40:32 AM

Dear Kathryn O'Brien

I have a comment on the METRO Blue Line Extension Final Environmental Impact Statement.

When I grew up during the 1980's in Brooklyn Park, everybody was saying that Osseo was getting smaller and smaller due to land loss and might soon vanish.

If Osseo gets light rail, perhaps then Osseo won't die.

I think the best option in Brooklyn Park would be to have the main line follow Bottineau Blvd. direct to Osseo, and then also make a separate spur along West Broadway up to North Hennepin Community College and Target Campus.

(Maple Grove already has excellent express bus service. Maple Grove does not have need for light rail.)

Further south, don't forget to stop at North Memorial Medical Center and to stop in North Minneapolis.

Good luck!

Sincerely
Kristofer Gunnar Paso

From:	Earl Faulkner Sr
To:	BlueLineExt
Subject:	BlueLine Comments
Date:	Tuesday, July 26, 2016 10:49:05 AM

Kathryn O'Brien, Assistant Director
Metro Transit – Blue Line Extension Project Office,

The proposed Blue Line cost thus far is $1,496,000,000. Funding sources you give us are:

Metro Area Sales Tax contributes 31 % ($464,000,000)
Federal Transit Administration contributes 49 %
State of MN contributes 10 %
Hennepin County Regional Railroad Authority contributes 10 %

But, wait…….aren't all these sources one and the same thing?……."The Taxpayer". And then, Kathryn, won't there likely be over-runs in cost? And what about on-going maintenance and probable subsidies? This cost to Taxpayers is outrageous and I hope you gather I am against this project. I will also forward this email to forty more people; I hope you hear from some of them!

Respectfully,

Earl Faulkner Sr
7619 Gleason Rd
Edina MN 55439-2561

952-925-4566

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Council Action **City of Minneapolis** **File No.** 16-01108

The Minneapolis City Council hereby approves comments on the Final Environmental Impact Statement (FEIS) for the Blue Line Extension (Bottineau Corridor) Light Rail Transit (LRT) Project, as set forth in File No. 16-01108 on file in the Office of the City Clerk, and directs the Public Works Department to submit the comments to the Metropolitan Council.

Committee: TPW Public Hearing: N/A Publication: AUG 25 2016

RECORD OF COUNCIL VOTE				
MEMBER	AYE	NAY	ABSTAIN	ABSENT
REICH				X
GORDON	X			
FREY	X			
B. JOHNSON	X			
YANG	X			
WARSAME	X			
GOODMAN	X			
GLIDDEN	X			
CANO	X			
BENDER	X			
QUINCY	X			
A. JOHNSON	X			
PALMISANO	X			
DATE:	AUG 19 2016			

☒ APPROVED ☐ VETOED

MAYOR HODGES

AUG 23 2016

DATE

Certified an official action of the City Council

ATTEST:

CITY CLERK

Presented to the Mayor:	AUG 19 2016	Received from the Mayor:	AUG 23 2016

BLRT Final Environmental Impact Statement (FEIS)
City of Minneapolis Staff Comments
August 4, 2016

Staff Comments

The City of Minneapolis appreciates the opportunity to comment on the BLRT FEIS and has concluded that the FEIS adequately addresses the concerns and comments previously raised. It is understood that there are many unresolved details, some of which are summarized below that will be discussed and resolved in the final design process.

A. Design

We appreciate the design changes that were incorporated to address City concerns outlined in the DEIS process including, but not limited to:

- Inclusion of both the Plymouth Avenue and Golden Valley Road stations into the project scope and budget.
- Full reconstruction of Olson Memorial Highway, including design considerations that allows for an alignment shift that results in larger developable parcels on the south side of Olson Memorial Highway, one-phase pedestrian crossings at signalized intersections, and a lower 35 mph speed limit.
- The provision of additional signalized pedestrian crossings located at James Avenue, ½ block east of Oliver Avenue, and at Russell Avenue that were requested to improve pedestrian circulation to the stations and across Olson Memorial Highway.
- The improved design at the intersection of 7th Street and Olson Memorial Highway.

There are design elements of the project including, but not limited to, station design, Overhead Catenary Poles (OCS), Traction Power Substations (TPSS), Signal Bungalows, retaining walls, fences, lighting, cycle track design, public art (FTA funds may no longer be expended on public art), and landscaping, that due to their very detailed nature are not specifically addressed by the broader topics of the FEIS. The City of Minneapolis will continue to work with the Blue Line Extension Project Office through the Design Resolution Team process to address the issues in 60% and 90% design.

With regard to stormwater infrastructure, mitigation for impacts to the Old Bassett Creek Tunnel crossing are not fully addressed in the document. There is discussion of hydraulic impacts and that potential mitigation, but there is no discussion of the physical impacts and mitigation. Page 24 of the storm water tech memo states "Design of the BLRT guideway in this portion of the corridor is complicated by the shallowness of the old Bassett Creek tunnel near Dupont Avenue ". There is no discussion of the planned relocation of the tunnel and this will need to be resolved in final design. Temporary dewatering, erosion control, and floodplain impacts require permits from the City of Minneapolis (this detail was omitted from the document). With regard to Floodplains, it is proposed that the city of Minneapolis will be the owner of the

perpetual easements related to the proposed Bassett Creek Floodplain mitigation site. In the FEIS it states that BCWMC and the city of Golden Valley will have the opportunity to comment on the proposed floodplain mitigation. The MPRB and the city of Minneapolis must also approve the proposed plan. With regard to wetlands the replacement plan for any wetland mitigation must be reviewed and approved by the city of Minneapolis if any portion of the wetland mitigation is within the city or on land that the city holds an easement over.

There are significant topics that relate to the design of the project that are specifically addressed by the FEIS, including, but not limited to, land use plan compatibility, cultural resources, pedestrian and bicycle crossings, safety and security, tree replacement, and stormwater management, that will have an impact on physical design of the corridor and success of the project and surrounding neighborhoods. Suggested improvements are intended to ensure the project will become a success on opening day by creating a safe and walkable environment. While the FEIS adequately addresses the concerns, the City of Minneapolis will continue to work with the Blue Line Extension Project office through the Design Resolution Team process to continue to address the issues in 60% and 90% design.

B. <u>Construction Impacts</u>

Given the close proximity of homes, libraries, schools, apartments, townhomes, and cultural resources to the construction work, efforts must be made to dampen or minimize the noise and vibration caused by the project. Construction impacts pertaining to the design such as noise and vibration are covered in the FEIS.

The FEIS identifies the requirement to develop and implement a construction management plan that addresses means and methods (including communicating any detours required during construction), hours of operation, access routes, best management practices (BMPs) for mitigating dust and debris on public streets and private property. The City of Minneapolis shall be consulted in the development of this plan.

C. <u>LRT Operational Noise and Vibration</u>

The FEIS covers operational noise and vibration mitigation at length; however as previously stated in the DEIS comments, it is important that noise from bells, whistles, and horns continue to be evaluated and minimized. While some warning devices are required by federal law, policies and procedures regarding some rail operations are local (at the discretion of the Metropolitan Council). Noise and vibration mitigation covered in the FEIS is largely based upon existing conditions and modeling; a commitment by the Metropolitan Council to respond to complaints on noise after LRT operations begin and to work with City staff to resolve these complaints must be considered.

D. Traffic

The City of Minneapolis shall be consulted as final design proceeds on the reconstruction of Olson Memorial Highway with regard to signal and traffic related work, proposed detour routes, the pedestrian realm, and signage and striping.

E. Ridership

While estimated ridership has been evaluated as part of the FEIS, the City of Minneapolis would like to continue to find ways to increase ridership through development opportunities near station locations. As development opportunities arise, it is important to revisit ridership projections for this corridor to ensure that this project is as competitive as possible for federal funding. By adding secondary access to Plymouth Avenue (via a pedestrian connection from the platform to the Xerxes Ave N and 14th Ave N intersection), the 10-minute walkshed will be increased, allowing for higher projected ridership on opening day.

F. Equity

The project needs to continue to engage community groups throughout the design and construction process. Federal requirements already require DBE goals.

The Adequacy of the FEIS

On July 15, 2016 the Final Environmental Impact Statement (FEIS) was issued for public review, with comments on the adequacy of the FEIS to be accepted by the Metropolitan Council through August 15, 2016. The FEIS is considered adequate under Minn. Rule 4410.2800, subp. 4, if it:

A. Addresses the potentially significant issues and alternatives raised in scoping so that all significant issues for which information can be reasonably obtained have been analyzed in conformance with part 4410.2300, items G and H;
B. Provides responses to the substantive comments received during the draft EIS review concerning issues raised in scoping; and
C. Was prepared in compliance with the procedures of the act and parts 4410.0200 to 4410.6500.

Or, as summarized, the FEIS will be determined adequate if it addresses and analyzes the significant issues raised in scoping, responds to substantive comments on the draft EIS, and is prepared in compliance with the environmental rules. Therefore, comments by City staff on the adequacy of the document will address whether it meets those standards.

BLRT Final Environmental Impact Statement (FEIS)
City of Minneapolis Staff Comments
August 4, 2016

Recommendations

Public Works and CPED staff have reviewed the FEIS and have found that:

A. the document addresses the potentially significant issues and alternatives raised in scoping so that all significant issues for which information can be reasonably obtained have been analyzed in conformance with part 4410.2300, items G and H;

B. the document has provided responses to all substantive comments by the City received during the draft EIS; and

C. the document was prepared in compliance with the procedures of the act and parts 4410.0200 to 4410.6500.

United States Department of the Interior
Office of the Secretary
Office of Environmental Policy and Compliance
1849 C Street, NW – MS 2462-MIB
Washington, D.C. 20240

AUG - 9 2016

9043.1
PEP/NRM

ER-14/0235

Ms. Marisol Simon, Region V
Regional Administrator
Federal Transit Administration
200 West Adams Street, Suite 320
Chicago, Illinois 60606

Re: Metro Blue Line Light Rail Extension, Hennepin County, Minnesota

Dear Ms. Simon:

The Department of the Interior (Department) has reviewed the Final Environmental Impact Statement (EIS) and Section 4(f) Evaluation for the Metro Blue Line Light Rail Extension, Hennepin County, Minnesota. The Department offers the following comments and recommendations for your consideration.

Section 4(f) Comments

The Federal Transit Administration (FTA), along with the Metropolitan Council (a regional planning and coordinating body for the seven-county metropolitan area; Council), proposed the construction and operation of the Metro Blue Line Light Rail Extension (formerly the Bottineau Transitway). The project proposes to build a light rail transit system extending approximately 13 miles from downtown Minneapolis to the northwest suburbs. The Draft Section 4(f) Evaluation in 2014, identified several properties in the project study area eligible to be considered under Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303). The Department reviewed the amended evaluation in June of 2016, and concurred that there were no feasible or prudent avoidance alternatives to the preferred alternative presented. Thus, this preferred alternative will result in impacts to the Grand Rounds Historic District and the Osseo Branch of the St. Paul, Minneapolis and Manitoba Railway Historic District. We noted that the amended evaluation demonstrated efforts were made to avoid impacts to Section 4(f) resources and to find ways to reduce the severity of the impacts in consultation with the State Historic Preservation Officer and other consulting parties. We declined to concur that all possible planning needed to minimize harm to Section 4(f) resources had been employed because there was no evidence of an executed agreement document to provide a finalized set of mitigation actions for those historic properties. Upon review of the Final EIS and Section 4(f) Evaluation, the Department now concurs there is evidence that all possible planning was done to minimize harm to Section 4(f) resources.

The Department has a continuing interest in working with the FTA to ensure impacts to resources of concern to the Department are adequately addressed. For issues concerning Section 4(f) resources, please contact Regional Environmental Coordinator Nick Chevance, Midwest Regional Office, National Park Service, 601 Riverfront Drive, Omaha, Nebraska 68102, telephone 402-661-1844.

We appreciate the opportunity to provide these comments.

Sincerely,

Michaela E. Noble
Director, Office of Environmental
Policy and Compliance

TRANSMITTED ELECTRONICALLY – NO HARD COPY TO FOLLOW

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 12 2016

REPLY TO THE ATTENTION OF:
E-19J

Marisol R. Simon
Regional Administrator
Federal Transit Administration
200 West Adams Street, Suite 320
Chicago, Illinois 60606

Kathryn O'Brien
Assistant Director
Environmental and Agreements
Metro Transit – BLRT Project Office
5514 West Broadway Avenue, Suite 200
Crystal, Minnesota 55428

Re: Final Environmental Impact Statement – METRO Blue Line Light Rail Transit (BLRT) Extension, Hennepin County, Minnesota. CEQ # 20160155

Dear Ms. Simon and Ms. O'Brien:

The U.S. Environmental Protection Agency (EPA) has reviewed the Federal Transit Administration's (FTA) July 2016, Final Environmental Impact Statement (FEIS) for the Metropolitan Council's (Council) proposed METRO Blue Line Light Rail Transit (BLRT) Extension Project (formerly called the Bottineau Transitway LRT Project). Our comments are provided pursuant the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

The Council proposes to construct and operate an approximately 13-mile extension of the METRO Blue Line, starting from downtown Minneapolis to the northwest area of the Twin Cities, serving north Minneapolis and the suburbs of Golden Valley, Robbinsdale, Crystal, and Brooklyn Park. The FEIS Preferred Alternative (Proposed BLRT Extension Project) is a refined version of the Draft EIS (DEIS) locally preferred alternative (LPA).

EPA commented on the 2014 Draft EIS (DEIS) on May 27, 2014. We rated the DEIS as Environmental Concerns – Insufficient Information (EC-2). Our comments and recommendations were for additional analysis regarding the vulnerability of water resources and biological resources. In order to fully protect the environment, we recommended additional avoidance, minimization and compensation mitigation measures be identified in the Final EIS (FEIS).

Our review of the FEIS indicates that many of our earlier comments and recommendations have been satisfactorily address. However, EPA recommends FTA's Record of Decision (ROD) better address wetlands and stormwater management, wildlife crossing locations, tree mitigation and identification of measures to decrease the exposure of air toxics during project construction. See the enclosure for our detailed comments.

EPA requests one hard copy and 2 DVDs of FTA Record of Decision, when available. If you have any questions regarding this letter, please contact Virginia Laszewski of my staff at 312/886-7501 or at laszewski.virginia@epa.gov.

Sincerely,

Kathleen Joyal

for Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

Enclosure (1)

Cc (email): Reginald, Arkell, FTA Region V, reginald.arkell@dot.gov
Chad Konickson/Melissa Jenny, USACE-St Paul, Regulatory Branch, Melissa.m.jenny@usace.army.mil
Peter Fassbender/Andrew Horton, USFWS-Twin Cities Field Office, Andrew_horton@fws.gov
Lisa Joyal, MnDNR, lisa.joyal@state.mn.us

EPA Comments - Federal Transit Administration (FTA) Final Environmental Impact Statement (FEIS) – METRO Blue Line Light Rail Transit (BLRT) Extension (formerly Bottineau Transitway), Hennepin County, Minnesota. CEQ # 20160155

FEIS Preferred Alternative (Proposed BLRT Extension Project): The FEIS Preferred Alternative (Proposed BLRT Extension Project) is a refined version of the Draft EIS (DEIS) locally preferred alternative (LPA). The FEIS identifies the process used and the rational for the changes made to LPA since the DEIS. The FEIS Preferred Alternative, in part, includes the following features:

- 11 new stations (includes stations at both Golden Valley Road and Plymouth Avenue),
- Approximately 1,675 additional park-and-ride spaces at four new lots,
- Accommodations for passenger drop-off facilities,
- New or restructured local bus routes connecting stations to nearby residential, commercial, and educational land uses,
- One Operation and Maintenance Facility (OMF) in Brooklyn Park at 101st Avenue and new Xylon Avenue North, and
- 17 Traction Power Substations (TPSSs).

The proposed BLRT Extension project begins at the Target Field Station in downtown Minneapolis and follows Olson Memorial Highway west to the BNSF rail corridor just west of Thomas Avenue, where it enters the BNSF right-of-way. Adjacent to the freight rail tracks, it continues in the rail corridor through the cities of Golden Valley, Robbinsdale, Crystal, and into Brooklyn Park. It then crosses Bottineau Boulevard at 73rd Avenue to West Broadway Avenue and terminates just north of TH 610 near the Target North Campus.

Mobile Source Air Toxics (MSATs) / Air Toxics: A qualitative mobile source air toxics impacts analysis is presented FEIS. Table ES-3 Summary of Impacts and Mitigation Measures (page ES-41) does not identify the specific measures that will be undertaken to reduce short-term construction impacts to air quality during the three year construction period.

> Recommendation: Because MSATs can cause adverse health impacts, especially to vulnerable populations such as children, the elderly, and those with existing respiratory health issues, EPA recommends the Record of Decision (ROD) identify the mitigation measures that FTA and/or the project proponents will require in order to decrease the exposure of these populations to MSATs emissions during construction. Such measures may include, but need not be limited to, strategies to reduce diesel emissions, such as project construction contracts that require the use of equipment with clean diesel engines and the use of clean diesel fuels, and limits on the length of time equipment is allowed to idle when not in active use (EPA recommends idling not exceed 5 minutes).

Stormwater Management and Wetlands: Many wetlands are proposed to be utilized as basins for stormwater detention purposes. While some wetlands may have been historically excavated for detention, they should still be regulated and managed as natural wetlands. Also, any wetlands

that were excavated for detention but that have naturalized over time or those not actively used or maintained for detention should be regulated and managed as natural wetlands.

> Recommendations: EPA recommends that regulated wetlands not be allowed to be utilized for stormwater detention. We recommend FTA's ROD address this issue. In addition, the ROD should identify and commit to sustainable stormwater practices, such as rain gardens and the use of pervious or porous pavement that could be used at stations, TPSS sites, and the OMF facility to help manage stormwater.

Wildlife Crossings: EPA reiterates that bridges and upland culvert crossings are important for wildlife. EPA previously recommended that the types of potential wildlife crossing accommodations and locations be identified and discussed in the FEIS, and that the FEIS identify potential wildlife crossing accommodation locations on document Figures. The FEIS did not include any specific wildlife crossing information. Project commitments on page 5-117 are vague and non-committal. Page 6-38 (Summary Table of Mitigation) also does not mention, or commit to, installing wildlife crossings. Construction of wildlife crossings can improve habitat connectivity and benefit safety by reducing collisions between wildlife and transit vehicles.

> Recommendations: EPA recommends FTA commit in the ROD to specific considerations for crossings to promote wildlife. For example: On other Department of Transportation projects, EPA and Federal Highway Administration (FHWA) have previously agreed to a minimum width of 5-feet to be utilized in upland areas (i.e., dry areas wildlife will use to traverse beneath a bridge) adjacent to either side of the watercourse or wetland being bridged. Include specific considerations for culvert design to promote wildlife movement across the corridor and acknowledge that a lack of suitable habitat adjacent to culverts originally built for hydrologic function may prevent their use as potential wildlife crossing structures (Cain et al. 2003)[1]. EPA reminds FTA that this would not and does not preclude the installation of additional dry culvert structure(s) adjacent to a hydraulic (stream crossing) culvert installation. These adjacent dry culvert structures would act as wildlife corridors, and allow for upland wildlife movement through these adjacent dry culverts in areas where the only alternative for fauna would otherwise be to traverse through flowing water conditions, which many animals will not do.

Forest/Tree Mitigation: EPA had previously recommended the FEIS include information regarding tree removal and proposed mitigation. The FEIS does not provide this information. However, EPA understands (FEIS Appendix D) that the Council is currently conducting a survey of existing trees that may be affected by project construction, to be completed in the early fall of 2016.

> Recommendations: We recommend the ROD quantify acreage and number of upland trees to be removed by the project. EPA recommends further coordination with the U.S. Fish and Wildlife Service (USFWS), Minnesota Department of Natural Resources (MnDNR), and

[1] Reference source: Cain, A.T., V.R. Tuovila, D.G. Hewitt, and M.E. Tewes. 2003. Effects of a highway and mitigation projects on bobcats in Southern Texas. Biological Conservation 114: 189-197.

local municipalities regarding providing voluntary upland forested mitigation for these losses. Include specific information on what forest mitigation is being offered (e.g., a summary of mitigation ratios, a summary of how mitigation will be offered). If applicable, the ROD should differentiate forest mitigation provided for bat habitat impacts from forest mitigation provided for impacts to upland forest.

From:	BlueLineExt
To:	Pfeiffer, Daniel; Rasp, Ella; O"Brien, Kathryn
Subject:	FW: Citizens Acting for Rail Safety - Twin Cities Comments on Bottineau LRT FEIS
Date:	Tuesday, August 16, 2016 7:54:43 AM
Attachments:	CARSTC_Bottineau_FEIS.docx ATT00001.htm

FEIS Comment from last night.

From: Claire Ruebeck [mailto:railwatch@att.net]
Sent: Monday, August 15, 2016 10:12 PM
To: BlueLineExt <BlueLineExt@metrotransit.org>
Subject: Citizens Acting for Rail Safety - Twin Cities Comments on Bottineau LRT FEIS

Ms O'Brien:

Respectfully submitted for your consideration are the comments prepared by CARS-TC on the Bottineau LRT FEIS. Please see the attached file.

Sincerely,

Claire Ruebeck
Representing CARS-TC

Date: August 15, 2016

To: Kathryn O'Brien, Assistant Director, Environmental and Agreements
Metro Transit – Blue Line Extension Project Office
5512 West Broadway Avenue, Suite 200
Crystal, MN 55428
Email: BlueLineExt@metrotransit.org

From: Citizens Acting for Rail Safety – Twin Cities

Re: Comments on Bottineau Light Rail Transit Final Environmental Impact Statement

Thank you for the careful consideration of public comments on the Bottineau Light Rail Transit (Bottineau LRT) Final Environmental Impact Statement (FEIS). Citizens Acting for Rail Safety - Twin Cities (CARS - TC) is a regional, non-partisan, grassroots advocacy group that works with residents, legislators, and agency officials to improve rail safety to benefit the health, safety, and security of people, wildlife and the environment. CARS-TC formed in response to the exponential growth of oil and ethanol transportation by rail over recent years and strives to bring the citizen voice to bear on issues associated with high hazard freight trains going through our communities.

Light Rail Transit Located with High Hazard Flammable Trains is Incompatible with Public Safety

It is not uncommon for LRT projects to utilize grade-separated, dedicated rights-of-way. However there are LRT projects that share rights-of-way corridors with freight rail, referred to as colocation. Colocation of a LRT project with freight rail is often pursued to contain LRT project construction costs as doing so typically reduces land acquisition costs. Initially colocation of LRT and freight rail operations might appear to be a reasonable, commonsense, and efficient strategy. However given the common carrier obligation of railroads coupled with the advent of high volume shipments of oil and ethanol by rail there are serious dangers associated with collocation of passenger LRT with active freight rail.

When initial planning for the Bottineau LRT began, Bakken oil and ethanol shipments by rail were negligible to non-existent. Currently the Burlington Northern Santa Fe Railway (BNSF) operates in the rights-of-way corridor proposed for the Bottineau LRT route and frequently runs trains consisting of approximately 100 tank-cars of Bakken oil. Oil is a Class 3 flammable liquid and is considered to present high hazard dangers; see Exhibit I for Partial Listing of Oil Train Incidents.

The FEIS indicates that the Federal Railroad Administration (FRA) has been asked to issue waivers to exempt the Bottineau LRT project from certain FRA requirements and jurisdiction. Given the routing of high hazard flammable trains in the Bottineau LRT corridor, abdication of jurisdiction by the FRA does not serve the best interest of public safety.

The U.S. Department of Transportation requires rail carriers to develop a route risk analysis using 28 risk factors; see Exhibit II. It is prudent and reasonable for passenger rail route selection to be informed by the risk factor analysis that is required for freight rail routes. It does not appear that the Bottineau LRT FEIS has taken these relevant factors in to consideration.

The Bottineau LRT FEIS does not appropriately address the dangers of collocating passenger LRT with high hazard flammable (i.e., ethanol, oil, etc.) trains.

High Hazard Freight Train Liability Insurance Gaps and Indemnity

There are not U.S. federal or Minnesota state minimum insurance requirements for railroads carriers, shippers or producers of oil, ethanol or other kinds of hazardous cargo. Further there generally are not taxes imposed on the hazardous materials, such a tax could help fund an escrow account to cover casualty loss and cleanup cost associated with hazardous freight rail incidents. The Comptroller of the State of New York has recently called for federal

regulations to govern freight rail liability insurance and self-reserve funds.[1] Transport Canada has recently promulgated specific requirements for rail carriers operating in Cananda.[2] Generally in the U.S. rail carriers are not adequate insurance to cover damage caused by a catastrophic train incident which means that should an incident occur the rail carrier is likely to file bankruptcy.

The Bottineau LRT FEIS does not address the liability insurance and/or self-reserve requirements for railroads/shippers of Class 3 flammable liquids. This is a complicated topic especially when the condition of shared rights-of-way exists between freight rail and passenger LRT. Goals of a liability insurance/self-funding plan should address:

- Allocating the liability from risks between the freight railroad and the transit agency
- Managing the additional risk of colocation by developing a prudent insurance strategy
- Ensuring the safety of passengers in mixed freight and transit operations
- The willingness of freight railroads to grant access to their rights-of-way for transit operations as applicable and the costs associated with that access.
- Providing satisfactory conditions for continuing service to freight customers.
- Providing adequate compensation for property damage, environmental remediation and loss of life.

If rail carriers operating in the Bottineau LRT route do not have adequate liability insurance or the financial capacity to underwrite losses caused by a train incident the public is exposed to uncompensated losses when freight and transit disasters occur.

The Bottineau FEIS does not address this important operational concern of liability insurance and is silent on the matter of extending indemnity to rail carriers operating in the proposed Bottineau LRT shared rights-of-way corridor.

Electromagnetic Fields Created by LRT can Impede Transit and Freight Rail Signaling

LRT projects that utilize electrified overhead catenary/pantographic power lines create electric magnetic fields. Electric fields result from the strength of the electric charge, while magnetic fields are generated from the motion of the charge. Together these fields are referred to as EMF, which are invisible, non-ionizing, low-frequency radiation. High-current electronic switches and controls are capable of producing transient signals that can be transmitted along the power supply network to other electronic systems. Magnetic fields can be generated by LRT paralleling and switching stations, as well as traction power substations[4.] These fields could affect the signal systems of the freight rail carrier. EMF can result in electromagnetic interference (EMI), which can cause disruptions and possibly malfunctions in sensitive equipment. Electromagnetic arcing from the pantograph is a commonly observed phenomenon occurring year round but is more pronounced in the winter. Pantograph arcing causes interference in both traction power and signaling systems. Possibilities of radiated interference to the wireless and radio based communication and signaling are also possible to both LRT and freight signaling systems[3]. Pantograph bouncing caused by discontinuities in the feeding or track circuit systems, are of particular concern, as such scenarios are not addressed by design standards or regulations despite causing significant problems on railways that waste precious time and resources and create dangerous safety conditions due to lapses in signaling[5] performance. Neither the federal government nor the State of Minnesota has currently set emission standards for EMF.

Bottineau LRT project documents indicate the use of an electrified overhead system thereby increasing sources of electromagnetic fields in the corridor shared with the BNSF rail carrier freight operations. During a 2016 legislative hearing of the Minnesota House Transportation Subcommittee, Brian Sweeney, an executive and lobbyist for BNSF Railway, testified that electric power transmission lines cause interference with the freight rail signaling systems.

The effects of EMF on the Bottineau LRT and freight rail signaling function have not been properly studied or addressed in the FEIS and warrant further evaluation prior to the advancement of the project.

Risks of High Hazard Freight Train Operations During Construction and Operation of Bottineau LRT

BNSF currently operates in a segment of the planned route and regularly hauls high hazard flammable oil unit trains in this proposed shared rights-of-way corridor. It does not appear that the rail carrier will relocate or cease operations during the construction phase of Bottineau LRT. Further BNSF expects to operate in the shared corridor once Bottineau LRT is fully operational. The following conditions have not been adequately addressed in the FEIS and raise concerns of an increased likelihood of a high hazard flammable train incident along the proposed Bottineau LRT route:

- Construction Site Impediments and Drainage - The construction corridor will be occupied by workers, heavy equipment and typical construction debris, which will heighten the risk of derailments. Analysis of previous derailments indicates that leading causes are operator error and track failures, including track impediments. Construction can displace the supporting structures that bolster rail. On a Bottineau LRT project map, tip guardrails have been indicated, but snow build up along tip guardrails may cause derailments. Inclement weather like snow may mask destabilization of freight infrastructure and rain can washout surrounding already disturbed soils, increasing derailment risk during construction.

- Separation of Adjacent Freight and Bottineau LRT Track - project documents do not confirm AREMA guidelines are being met where the Bottineau LRT route passenger rail tracks are in a shared corridor with BNSF. AREMA guidelines require track separation of at least 25 feet.

- Operation Times and Speed Restrictions - Nighttime running of freight trains will be perhaps even more dangerous than daytime. People will be asleep in their nearby homes as trains run only feet from a construction trench. Construction debris may be left near or on tracks and may not be visible to the freight train engineer/conductor at nighttime. Final day inspection of track is an imperfect science and human error could easily miss track impediments. Derailments can happen at any speed but case studies indicate that the risk of puncture to train tank-cars carrying hazardous materials is reduced if train is traveling 10 mph or less.

The Bottineau LRT FEIS does not provide a comprehensive rail safety plan that addresses the risks of operating high hazard flammable trains in the corridor during the construction period. The FEIS does not provide a specific safety plan for operating high hazard flammable trains in the shared rights-of-way once Bottineau LRT is operational. Routing risk factors do not appear to have been addressed in the Bottineau LRT FEIS; see Exhibit II.

Emergency Planning and Incident Response Capabilities

- Emergency Planning - The railroad industry is generally exempt from the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, which was created to help communities plan for emergencies involving hazardous substances. EPCRA requires hazardous chemical emergency planning by federal, state and local governments, Indian tribes and industry. Since rail carriers claim exemption to the federal EPCRA the public and emergency planners frequently do not have the benefit of rail carriers' hazard analysis data. The Bottineau LRT FEIS does not appear to have developed route and cargo specific emergency planning protocols for the Bottineau LRT route.

- First Responder Access and Equipment Availability - In case of any chemical freight derailment, chemical fires must be fought with specialized foam products. Typically these fires are not extinguished with water, which can actually worsen a fire. Water can be used to cool rail cars that have not ignited, but foam is necessary to put them out. Limited foam is available at specific locations in Minnesota and it can take 2 hours or longer to access the necessary quantity of foam to fight a chemical derailment fire. Further the foam can contaminate ground water and cause significant health issues. In the event of a derailment occurring during construction, access for fire trucks may be limited. Fire equipment must be accessible in case of a derailment emergency. An in depth coordination between the fire department, Metropolitan Council engineers, and citizens has not been done.

The Bottineau LRT FEIS does not reflect a coordinated emergency planning and response initiative in the event of a train derailment in the Bottineau LRT route. Further the Bottineau LRT project design does not appear to

have integrated relevant safety protocols.

Final Environmental Impact Statement Adequacy Determination and Oversight

The Final Environmental Impact Statement (EIS) indicates that the Council (i.e., Metropolitan Council) will issue an Adequacy Determination for the Final EIS in accordance with Minnesota environmental law. Given that the Metropolitan Council Bottineau LRT project office along with the FTA has prepared the Final EIS, a ***conflict of interest exists with the Metropolitan Council*** being the responsible body to issue an Adequacy Determination. To remedy this conflict of interest an independent third party should be responsible for the Adequacy Determination. In Minnesota the Environmental Quality Board (EQB) provides leadership and coordination across agencies on environmental issues that are multi-jurisdictional, and multi-dimensional, as well as provide for opportunities for public access and engagement. The EQB mission is to lead Minnesota environmental policy by responding to key issues, providing appropriate review and coordination, serving as a public forum and developing long-range strategies to enhance Minnesota's environmental quality. The EQB is an appropriate agency to issue an Adequacy Determination on the Bottineau LRT Final EIS and can alleviate the Metropolitan Council conflict of interest.

Footnotes

[1] State of New York Office of the State Comptroller Letter to Secretary Fox of U.S. DOT regarding reducing risks of high hazard flammable trains, attention drawn to concerns related to the adequacy of rail carriers' liability insurance and/or self –funded reserves (4/25/2016).
http://www.osc.state.ny.us/press/releases/apr16/Foxx_USDOT.pdf

[2]Transport Canada, Liability and compensation regime under the Safe and Accountable Rail Act (January 2016)
https://www.tc.gc.ca/eng/mediaroom/infosheets-railway-safety-7683.html

[3] Peninsula Corridor Joint Powers Board (PCJPB). Electromagnetic Fields and Electromagnetic Interference - Settings, Impacts, and Mitigation Measures (2014).
http://www.caltrain.com/Assets/Caltrain+Modernization+Program/FEIR/3.5+EMF+EMI.pdf

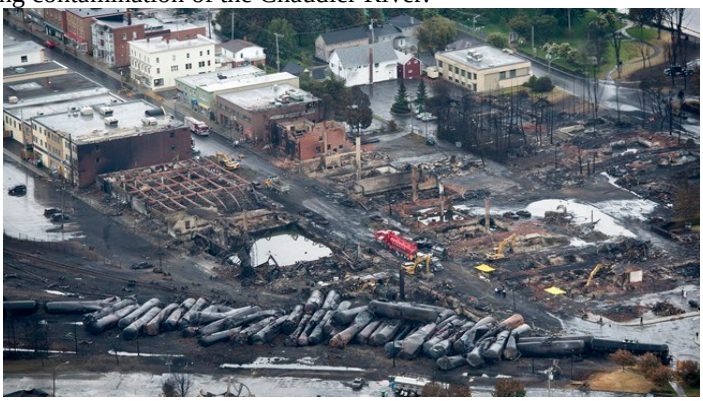
[4] Midya, Surajit. Electromagnetic Interference in Modern Electrified Railway Systems with Emphasis on Pantograph Arcing. Uppsala University, Disciplinary Domain of Science and Technology, Technology, Department of Engineering Sciences, Electricity (2008, English).
http://www.diva-portal.org/smash/record.jsf?pid=diva2%3A290500&dswid=-3322

[5]Interference Technology. Study Highlights Need to Re-Evaluate Railway EMC Standards (06/24/2014).
http://www.interferencetechnology.com/study-highlights-need-to-re-evaluate-railway-emc-standards/

Exhibit I
Partial Listing of Oil Train Incidents

There have been notable oil train incidents. The high hazard flammable trains involved in these incidents are much like the oil unit trains operated by BNSF Railway in the proposed Bottineau LRT shared rights-of-way corridor. The following selection of train incidents highlights the risks poised by oil trains in general and underscores the exacerbated risk created if Bottineau LRT is collocated with high hazard flammable trains:

- Lac-Mégantic, Canada (July 6, 2013) Oil unit train has 64 cars derail spilling 1.6 million gallons per NTSB report, causing contamination of the Chaudier River.



- Lynchburg, Virginia (April 30, 2014) Bakken oil unit train has16 cars derail spilling 30,000 gallons in the Lynchburg River per NTSB report.

- Mosier, Oregon (June 4, 2016) Bakken oil unit train has 16 cars derail spilling 42,000 gallons, contaminating the Columbia River and the town's sewer system. Local aquifers were depleted by efforts to cool burning oil cars.

Exhibit II
U.S. Federal Regulations Requiring Risk Analysis of Rail Route Selection

Federal regulation establishes minimum criteria that must be considered by rail carriers when performing the safety and security risk analyses required by § 172.820. The risk analysis to be performed may be quantitative, qualitative, or a combination of both. In addition to clearly identifying the hazardous material(s) and route(s) being analyzed, the analysis must provide a thorough description of the threats, identified vulnerabilities, and mitigation measures implemented to address identified vulnerabilities. (73 FR 20772, April 16, 2008)

In evaluating the safety and security of hazardous materials transport, selection of the route for transportation is critical. For the purpose of rail transportation route analysis, as specified in § 172.820(c) and (d), a route may include the point where the carrier takes possession of the material and all track and railroad facilities up to the point where the material is relinquished to another entity. Railroad facilities are railroad property including, but not limited to, classification and switching yards, storage facilities, and non-private sidings; however, they do not include an offeror's facility, private track, private siding, or consignee's facility. Each rail carrier must use best efforts to communicate with its shippers, consignees, and interlining partners to ensure the safety and security of shipments during all stages of transportation.

Because of the varying operating environments and interconnected nature of the rail system, each carrier must select and document the analysis method/model used and identify the routes to be analyzed.

The safety and security risk analysis must consider current data and information as well as changes that may reasonably be anticipated to occur during the analysis year. Factors to be considered in the performance of this safety and security risk analysis include:

1. Volume of hazardous material transported
2. Rail traffic density
3. Trip length for route
4. Presence and characteristics of railroad facilities
5. Track type, class, and maintenance schedule
6. Track grade and curvature
7. Presence or absence of signals and train control systems along the route (“dark” versus signaled territory)
8. Presence or absence of wayside hazard detectors
9. Number and types of grade crossings
10. Single versus double track territory
11. Frequency and location of track turnouts
12. Proximity to iconic targets
13. Environmentally sensitive or significant areas
14. Population density along the route
15. Venues along the route (stations, events, places of congregation)
16. Emergency response capability along the route
17. . Areas of high consequence along the route, including high consequence targets as defined in § 172.820(c)
18. Presence of passenger traffic along route (shared track)
19. Speed of train operations
20. Proximity to en-route storage or repair facilities
21. Known threats, including any non-public threat scenarios provided by the Department of Homeland Security or
22. the Department of Transportation for carrier use in the development of the route assessment
23. Measures in place to address apparent safety and security risks
24. Availability of practicable alternative routes
25. Past incidents
26. Overall times in transit
27. Training and skill level of crews
28. Impact on rail network traffic and congestion

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August 16, 2016

VIA OVERNIGHT DELIVERY AND EMAIL

Kathryn O'Brien
Assistant Director, Environmental and Agreements
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RE: METRO Blue Line Extension Final Environmental Impact Statement

Dear Ms. O'Brien:

On behalf of BNSF Railway Company (BNSF), I write in response to the Final Environmental Impact Statement (Final EIS) for the METRO Blue Line Light Rail Extension project (the Project) published by the Federal Transit Administration and the Metropolitan Council (Met Council) dated July 15, 2016.

At the outset, I would like to note that BNSF continues to review the Met Council's proposal to use a significant portion of BNSF's Monticello Subdivision to construct and operate the Project, and as we have expressed in numerous settings with representatives of Met Council and other members of the public sector, we have overriding concerns because of the impact of these proposals on the safety of our operations, the long-term mobility of our freight movements, the existing Metro Transit system utilization in the Minneapolis area, and the fluidity of our interstate network, do not appear to have been addressed in the Final EIS.

As we have expressed in our prior discussions and meetings with Met Council going back at least to March, 2015, and then in face-to-face meetings at the Dallas-Fort Worth and Minneapolis airports, because of the potential impact on our freight operations and statements by Minnesota public officials suggesting restrictions of our freight movement, the current proposed use of BNSF right of way presents significant problems. Because of these statements, BNSF is concerned that this project will put at risk the future fluidity and overall capacity of our freight operations both in the Minneapolis terminal area in general and in the vicinity of Target Field (particularly in light of previous governmental activity and public statements regarding this area), for which we are not aware an effective solution has been proposed or developed by the public sector. This is a problem created by government action, for which we do not have a solution; but will continue to listen for a solution that will include a long-term binding and enforceable arrangement to protect our freight capacity.

In addition to concerns we have communicated regarding the ongoing use of our freight network in these areas, below is a summary of specific concerns BNSF has with the Final EIS:

REGARDING SHARED USE OF EXISTING BNSF RIGHT OF WAY:

The Final EIS contemplates that 7.8 miles of the Project, or sixty percent (60%) of the Project's entire length, will require a shared use of BNSF's existing railroad right of way in the Monticello Subdivision. As

proposed, the Project assumes that BNSF will grant the Met Council an unknown property interest in the western half of this 7.8 mile stretch for the light rail lines, that BNSF will agree to relocate its existing track 15 to 25 feet to the west while also maintaining its current operations on the Monticello Subdivision, and that BNSF will allow the Met Council to construct permanent bridges and other soil stabilization structures directly adjacent to BNSF property and operations in areas with wetlands or poor soils. These elements of the Project's proposed shared use arrangement represent substantial, significant impacts to BNSF's current and future capacity on the Monticello Subdivision, particularly in light of previous governmental activity and public statements regarding BNSF's future use of the Monticello Subdivision. Given these impacts to BNSF and the fact that no agreement currently exists between BNSF and Met Council for the use or acquisition of any BNSF right of way, the Final EIS's assumed feasibility of the proposed shared use arrangement is at best premature and potentially altogether erroneous. Accordingly, BNSF strongly objects to the assumptions in the Final EIS regarding the Project's shared use arrangement.

REGARDING THE FREIGHT RAIL STUDY AREA:

The study area for freight rail impacts in the Final EIS is described as the 100 feet on either side of the main line in the 7.8 miles of the BNSF right of way where the Project proposes the above described shared use arrangement. BNSF, like all major interstate railroads, is a networked transportation system and as such, impacts to any one part of the network could lead to downstream impacts in other parts of the system. In the context of the Project, such potential downstream impacts would be felt most acutely in the Minneapolis area in general and more specifically in the BNSF subdivisions that directly connect to the Monticello Subdivision. The area of study for freight rail impacts in the Final EIS fails to account for the networked and interconnected nature of BNSF's rail system and should reflect a more comprehensive area of study.

REGARDING THE FINANCIAL ANALYSIS AND EVALUATION OF ALTERNATIVES:

The financial analysis and the estimated cost for the Project included in the Final EIS do not delineate the assumptions made by the Met Council with respect to the compensation BNSF would receive for the proposed shared use arrangement for the eastern half of the Monticello Subdivision and for any impacts to BNSF's operations. In addition, it is unclear whether the Final EIS's analysis of the property acquisitions and displacements that will result from the Project include property acquisitions and displacements related to BNSF's right of way. As no agreement currently exists between BNSF and Met Council for the use or acquisition of any BNSF right of way, assumptions concerning the compensation BNSF would receive for use of its right of way or for impacts to its operations, or to mitigate these impacts, are by definition speculative. Consequently, given the significant nature and corresponding value of the BNSF property interests and operational impacts at issue, BNSF believes that the financial analysis and the evaluation of alternatives in the Final EIS is incomplete and requires additional analysis.

REGARDING THE OVERHEAD CATENARY:

BNSF is concerned with the Project's proposed overhead catenary system. BNSF is not aware of any inductance study to ensure that the electrical system used to operate the Project does not interfere with any existing or future BNSF signal equipment. BNSF has also not seen a grounding and stray current study to ensure no BNSF assets will be negatively affected by stray current originating from the Project's electrical system. The Final EIS does not sufficiently take these issues and their potential impact into consideration.

REGARDING CORRIDOR PROTECTION:

As an initial matter, BNSF disputes the statement in the Final EIS that the proposed "corridor-protection treatments were closely coordinated with BNSF". As noted above BNSF has had discussions and meetings with Met Council regarding the Project for over a year, and while the Met Council has briefed BNSF on potential corridor protection treatments, BNSF has <u>not</u> accepted or approved any particular elements of the proposed corridor-protection treatments or the proposed corridor-protection treatments as a whole. In fact, BNSF has repeatedly raised significant concerns about the proposed corridor-protection treatments to the Met Council. Therefore to the extent that the Final EIS's statement that the Met Council "closely coordinated with BNSF" is

taken to mean that BNSF has accepted, approved, or in any way acquiesced to the Met Council's proposed corridor protection plan, BNSF strenuously objects and asserts that this statement is inaccurate.

Regarding the technical and engineering support for the corridor protection plan in the Final EIS, BNSF believes that the proposed systems to prevent intrusion of a freight train into the light rail network using non-FRA compliant passenger cars (or vice versa) in the event of a derailment by either need further study and a thorough technical assessment of the strength of each specific barrier component to withstand the impact force of any freight or passenger car operating in the corridor. The Final EIS's conclusions regarding the sufficiency of the proposed corridor protection systems are based entirely on a review by the Met Council staff of scholarly reports and other corridors where freight rail and light rail transit operate near each other. As a foundational matter, BNSF requires, as we have for other passenger projects throughout the nation, that any corridor protection system that impacts BNSF right of way be approved by an appropriate safety regulatory body to ensure that it is appropriately designed to protect both freight and passenger services in the event of a derailment by either service. BNSF has expressed this requirement to the Met Council on numerous occasions, but to our knowledge, the Met Council has not and has no plans to submit the proposed corridor protection system to any safety regulatory body. BNSF believes that relying on the opinion of Met Council staff alone regarding the necessity for and adequacy of the elements of the proposed corridor protection plan is insufficient and that such elements need additional review by BNSF and an applicable safety regulatory body.

Regarding the substance of the corridor protection plan in the Final EIS, BNSF believes that the conclusions in the Final EIS regarding the sufficiency of the proposed corridor-protection treatments are flawed. First, it is unclear to BNSF that the conclusions in the Final EIS regarding the ability of the proposed corridor-protection treatments to maintain separation between the freight and passengers operations in the event of a derailment are consistent with best industry knowledge and practices. BNSF does not believe that the corridor-protection treatments on which we have been briefed demonstrate and document such treatments ability to prevent collision of freight and passenger cars in the event of a derailment by either. As an example, there is both anecdotal and other data that indicates that the debris field for a freight train derailment at 40 miles per hour could extend beyond 100 feet. In the event of a derailment involving such a debris field, BNSF and the public do not have adequate information to assess the risks associated with the proposed corridor-protection treatments. Second, it is important to note that many if not most of the common corridor operations listed in the Final EIS as examples relied upon in the creation of the proposed corridor-protection treatments use FRA compliant passenger cars. In contrast, the Project will use non-FRA compliant passenger cars which are weaker and lighter than FRA compliant cars. The substantial differences between the non-FRA compliant and FRA compliant cars mean that corridor-protection treatments used for a service running one type of car may not be adequate or applicable for a service running a different type of car.

The Final EIS does not adequately take the above described issues and their potential impact into consideration, and, accordingly, BNSF believes that the analysis regarding the adequacy of the proposed corridor-protection treatments is inadequate and requires additional study and review. Furthermore, because the physical aspects (e.g., location, support structures, height, weight, etc.) of the proposed corridor-protection treatments are tied to the adequacy of the treatments' effectiveness, BNSF does not believe that the environmental impacts of the Project can be properly assessed unless and until such additional study and review determines whether the proposed treatments require modification and/or redesign.

REGARDING BRIDGES AND SOIL STABILIATION:

The Project's design calls for the construction of new bridges, platform structures, and other soil stabilization structures in areas where the Project's route goes over ponds, lakes, wetlands, and/or areas of poor soils. These bridges and structures are designed to either be on, or directly adjacent to, BNSF's existing right of way. For over 100 years BNSF has operated on a raised earth right of way on the Monticello Subdivision in these areas with water or poor soils and, as such, has a comprehensive understanding of the means and methods necessary to monitor and ensure the future stability of this right of way. BNSF has concerns not only with the design of the Project's proposed bridges, platform structures, and soil stabilization structures themselves, but with how the construction of these structures on or next to BNSF's existing raised right of way will impact the integrity and stability of that right way. In addition, regardless of whether the proposed structures physically impact

BNSF's right of way, the very existence of the structures will likely require BNSF to undertake new and additional inspections and maintenance on the line and such new activities come with an associated cost to BNSF. Given that the proposed bridges and structures potential to permanently impact on BNSF's existing right way, BNSF believes that further review and analysis of the proposed design is required before BNSF and the applicable public entities can have a full and complete understanding feasibility of and risk associated with these bridges and structures.

OVERRIDING FREIGHT RAIL MOBILITY AND FLUIDITY ISSUES:

The Project, as proposed, exacerbates the critical issues we have previously raised regarding the protection of our future freight mobility through the Minneapolis area, including the Target Field promenade deck, to safeguard future additional capacity for freight service of all kinds and commodities. Further, we are aware of several related proposals for passenger service that will also impact BNSF operations in and around the Minneapolis area. As we have communicated previously, all of the proposed passenger projects that would impact our operations need to be considered in order to evaluate use of our right of way for the Project. And again, linked to our overriding concerns of freight mobility and fluidity in this vital corridor, it is critical that there be no basis for any concern or question over freight operations at any time for any commodity through this area, consistent with FRA and other federal regulatory requirements.

As far as we can determine based upon a review of the Final EIS, these unresolved concerns are not addressed and the use of BNSF right of way in a manner that addresses these impacts and preserves BNSF's ability to continue to meet our obligations as an interstate common carrier and preserve our ability to meet the current and future freight needs of our customers across our system are critical elements to evaluate such proposals given their impact on physical feasibility, project cost, and property requirements.

Very truly yours,

Richard E. Weicher

Richard E. Weicher

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